

# **Social security and social protection, education and lifelong learning: A discussion paper for the 10th Open-ended Working Group on Ageing**

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### **1. Introduction**

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This discussion paper has been developed by an informal group brought together on their own initiative to respond to the call of the Chair of the UN Open-ended Working Group on Ageing (OEWG) inviting stakeholders to contribute ideas and proposals on the possible elements of a new international instrument. The group comprises a small number of representatives of NGOs and legal experts with the immediate goal to provide input that will support the work of civil society as well as help frame the discussion at the OEWG. As a self-appointed group, it cannot reflect the diversity of the stakeholders involved in the OEWG whose opinions need to inform the next steps. Neither do its views necessarily build on the broad and consensual positions of the organisations that its members represent.

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The rights to social security and social protection and to lifelong education and learning are both rights in themselves and empowerment rights in that they empower people to participate in society and to pursue other human rights. As such they are fundamental to supporting other rights by ensuring older persons live autonomous and independent lives and are able to fully participate within the community on an equal basis with others. While both rights are well-established under international human rights law, older persons experience unique disadvantages and barriers to their enjoyment of these rights that are not adequately addressed by existing normative standards.

This discussion paper outlines some of these unique experiences and makes recommendations for the normative elements of these rights in relation to older persons.

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## 2. Social security and social protection (including social protection floors)

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### 2.1 Definitions

Older persons have the right to social security and to social protection. The terms social security and social protection are often used inter-changeably. While the definition of social security is well-established, social protection is a more recent concept and definitions vary.<sup>2</sup>

**Social security** is security against work-related income insecurity, unaffordable health care and insufficient support from families. Social security measures are benefits, whether in cash or kind, to provide security in times of loss of income, unaffordable health care and insufficient support from families.

CESCR General Comment No.19, The right to social security, 2008:

‘The right to social security encompasses the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents.’

**Social protection** is protection against social and economic risks and shocks, poverty and deprivation. Social protection measures are different policies, programmes and interventions that reduce poverty and support people to manage the risks and shocks they face throughout their lives.<sup>3</sup>

**Social protection floors** ILO recommendation 202 on Social Protection Floors (2012) defines social protection floors as ‘nationally defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion’.<sup>4</sup>

### 2.2 Social security and social protection in human rights law

The right to social security is well established in international human rights law, for example in the Universal Declaration of Human Rights Article 22, the International Covenant on Economic, Social and Cultural Rights Article 9, the Convention on the Elimination of All Forms of Discrimination Against Women Article 11 and in Article 28 of the Convention on the Rights of Persons with Disabilities on the right to an adequate standard of living and social protection.

The Committee on Economic, Social and Cultural Rights General Comment 19 on the right to social security (2008) provides guidance on the elements of the right to social security and measures States parties should take to meet their obligations.<sup>5</sup> It also covers the right’s core

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<sup>2</sup> For a glossary of different definitions, see <http://socialprotection.org/learn/glossary/what-is-social-protection>

<sup>3</sup> World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page vi

<sup>4</sup> R202 - Social Protection Floors Recommendation, 2012 (No. 202), [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:R202](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R202)

<sup>5</sup> E/C.12/GC/19, CESCR, 2008

elements of availability, including in old age; adequacy of benefits in amount and duration; accessibility, including coverage, eligibility, affordability, participation, information and physical access; and non-discrimination and equality including gender equality. It states that non-contributory pensions are required to ensure universal protection of the right. This builds on the earlier Committee on Economic, Social and Cultural Rights General Comment No. 6 on the economic, social and cultural rights of older persons (1996) in which the Committee says that providing non-contributory old age-benefits or other assistance for those without access to other pensions or resources is necessary to fulfil Article 9 of the ICESCR.<sup>6</sup>

The Committee on the Elimination of Discrimination Against Women's General Recommendation No. 27 addresses gender equality in social security and recommends that State parties ensure that retirement ages do not discriminate against women and that pension policies are not discriminatory in any way.<sup>7</sup>

The Independent Expert on the enjoyment of all human rights by older persons recommended that states should ensure that the right social security is enshrined in domestic legislation, that schemes should be designed in line with human rights standards and that austerity and fiscal consolidation programmes should be revised to ensure the provision of basic income to older persons.<sup>8</sup>

At the regional level older persons' right to social security is enshrined in Article 17 of the Inter-American Convention on Protecting the Human Rights of Older Persons, Article 7 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa and Article 23 of the revised European Social Charter.

In addition, there are a number of International Labour Organisation conventions and recommendations that also provide standards including the Social Security (Minimum Standards) Convention, 1952 (No.102), the Old Age, Invalidity and Survivors' Benefits Convention, 1967 (No. 128) and its accompanying Recommendation No. 131 and more recently the Social Protection Floors Recommendation, 2012 (No. 202).

### **2.3 Unique disadvantages not adequately provided for in human rights law**

Despite these provisions on the right to social security and social protection, there are unique disadvantages and aspects of the right in older age which are not adequately provided for in existing human rights law, including:

- Penalties by social security and pensions systems for older persons who choose to work beyond normal retirement age.<sup>9</sup> For example, unemployment benefits are not available

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<sup>6</sup> *General Comment No. 6 on the economic, social and cultural rights of older persons*, CESCR, 2006, paragraph 30

<sup>7</sup> CEDAW/GC/27, CEDAW, 2010, paragraph 42

<sup>8</sup> A/HRC/30/43, *Report of the Independent Expert on the enjoyment of all human rights by older persons*, Rosa Kornfeld-Matte, 2015, paragraphs 102 – 105

<sup>9</sup> Report of the Independent expert on the enjoyment of all human rights by older persons, A/HRC/30/43, 2015, paragraph 107

for older persons who are entitled to a pension and thereby discriminate against older workers.<sup>10</sup>

- Disparities in life expectancy, for example, pension age in Australia is set at between 65 and 67 years of age (depending on year of birth) and life expectancy for indigenous Australians is 10.6 years lower than that of the non-Indigenous population for males (69.1 years compared with 79.7) and 9.5 years for females (73.7 compared with 83.1).<sup>11</sup>
- Provision for services and insurance for care and support for independent living in older age. The prevailing assumption that family members provide support to their older relatives has meant care and support is rarely part of the implementation of the right to social security. As a result, large numbers of older people do not have access to care and support services they need because their families do not provide those services or because they have no family members to do so.
- Unequal access to new technologies for care and support for independent living. As technologies develop unequal access to them will become an important source of inequality in older age.<sup>12</sup>
- Exclusion of older people from insurance coverage due to upper age restrictions or prohibitively high payments based on older age, for example, for health and travel insurance. This discrimination on the basis of age is currently lawful in many countries despite the resulting disadvantages for older persons in terms of their access to these forms of social protection.
- Disability in older age, both in terms of providing adequate income and support services for persons with disabilities as they age and for those for whom disability first occurs in older age.
- Age limits and other age-related barriers, which are routinely applied by States parties in legal entitlements to disability benefits and services and which impede older persons with disabilities from living independently in the community on an equal basis with others.<sup>13 14 15 16</sup>
- Age limits in benefits designed to make health care affordable.<sup>17</sup>
- Exclusion from benefits or forms of support when eligibility is determined by artificial intelligence such as algorithms.<sup>18</sup>

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<sup>10</sup> <https://ageing-equal.org/ageism-in-lifelong-learning/>

<sup>11</sup> <https://www.aihw.gov.au/reports/life-expectancy-death/deaths-in-australia/contents/life-expectancy>

<sup>12</sup> Report of the Independent expert on the enjoyment of all human rights by older persons, A/HRC/36/48, 2017, paragraph 64

<sup>13</sup> AGE-Platform Europe, Written submission to the Committee on the Rights of Person with Disabilities on Draft of General Comment on Article 5 Equality & Non-Discrimination, 2017, [https://age-platform.eu/sites/default/files/AGE\\_comments\\_on\\_Draft\\_GCArt5\\_CRPD\\_Nov2017.pdf](https://age-platform.eu/sites/default/files/AGE_comments_on_Draft_GCArt5_CRPD_Nov2017.pdf)

<sup>14</sup> Report of the Independent expert on the enjoyment of all human rights by older persons, A/HRC/36/48, 2017, paragraph 58

<sup>15</sup> Submission by the European Network on Independent Living to the 9<sup>th</sup> OEWSGA, 2018, [https://social.un.org/ageing-working-group/documents/ninth/Inputs%20NGOs/ENIL\\_Autonomy.pdf](https://social.un.org/ageing-working-group/documents/ninth/Inputs%20NGOs/ENIL_Autonomy.pdf)

<sup>16</sup> <https://www.mdfoundation.com.au/content/ndis-age-discrimination-acknowledged>

<sup>17</sup> Discrimination in Belgian health care: People 65+ are excluded from refund for consulting a psychologist <http://ageing-equal.org/discrimination-in-belgian-health-care/>

<sup>18</sup> Lorna McGregor, The ESRC Human Rights, Big Data and Technology Project, presentation at the International Expert-Conference on Human Rights of Older Persons, Vienna, 12<sup>th</sup> November 2018, <http://www.ageing.at/en/downloads/downloads-day-1-en>

- Limitations on state obligations to ensure the full participation of older persons in society through the assumption that older persons can only remain in the community or their own homes for ‘as long as possible’. For example, this limitation is codified in Article 23 of the revised European Social Charter where other groups, such as persons with disabilities in Article 15, are not subjected to similar limitations.

## 2.4 Legal guarantees

Thirty two percent of the world’s ‘working age’ population are not covered by legal guarantees of either a contributory or non-contributory pension in their older age. This lack of legal coverage is higher for women, 36 per cent of whom have no legal guarantee of a pension.<sup>19</sup> The global figure of 68 per cent of people above retirement age being legally entitled to either a contributory or non-contributory pension masks significant regional variations, ranging from nearly 100 per cent legal coverage in higher income countries down to 23 per cent in sub-Saharan Africa and 24 per cent in Southern Asia.<sup>20</sup>

## 2.5 Availability

The number of older people who actually receive a social security and social protection measures depends on effective implementation of the law and is therefore likely to be lower than legal coverage rates.

The ILO reports recent progress in making social security available to older people varies with major coverage deficits in ‘developing’ countries where the new non-contributory schemes are often too narrowly targeted and therefore exclude many older people.<sup>21</sup>

In terms of social security measures to ensure access to adequate and affordable care and support services for independent living in older age, the ILO estimates that globally, 13.6 million more formal care workers are needed to provide the care and support that older people need.<sup>22</sup>

## 2.6 Accessibility

Older persons face a number of challenges in accessing social security and social protection schemes. The ILO cites major obstacles to extending coverage as lack of political will, lack of fiscal space, high levels of informality and lack of trust among contributors and beneficiaries.<sup>23</sup> Older persons may not have adequate and accessible information on available schemes and how to claim their entitlements, or on how to maintain their schemes in cases of

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<sup>19</sup> World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page 78

<sup>20</sup> World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page 79

<sup>21</sup> World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page 98

<sup>22</sup> Scheil-Adlung X, *Extension of Social Security: Long-term care protection for older persons: A review of coverage deficits in 46 countries*, ESS-Working Paper No. 50, ILO, 2015, p.xii

<sup>23</sup> World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page 98

unemployment, disability, and similar periods of non-contribution to schemes. Older persons may not have access to schemes that are digitally based. Pensions may not be 'portable' and those older persons who have migrated or spent time working overseas earlier in their lives may not be able to receive their pension entitlements where they currently live.

In terms of social security measures to ensure access to adequate and affordable health care, 60 per cent of older people surveyed in low- and middle-income countries<sup>24</sup> and up to 10 per cent in high-income countries<sup>25</sup> say they cannot access the healthcare they need because of the cost.

## **2.7 Adequacy**

The levels of social security and social protection payments may not be high enough for older persons to enjoy an adequate standard of living and cover their needs, both material and in terms of services. An adequate income cannot only be measured in terms of paying for basic survival needs. Rather, under human rights standards, it must allow for full participation in the community and society and guarantee personal dignity.

Pensions or other social security benefits tied to poverty thresholds do not allow for full participation in society or a dignified life.<sup>26</sup> In addition the value of non-contributory schemes may be set too low and not fully compensate for lack of coverage of contributory schemes<sup>27</sup>, and for many the impact of pension reform and privatization of pensions mean that pensions do not meet adequacy standards.<sup>28</sup> Payments may also be inadequate for specific sub-populations such as older women, older persons with disabilities, older widows, older migrants, older indigenous persons and those who have never contributed to a social security or social protection scheme, to enjoy an adequate standard of living and cover their needs, both material and in terms of services.

## **2.8 Non-discrimination and equality**

Gender gaps in social security and social protection are the result of multiple, intersecting and cumulative discrimination against women throughout their lives. This includes education and wage differentials, women's disproportionate share of unpaid care work and limited access to paid and decent work, culturally-specific gendered work norms, gendered productive and reproductive roles, mobility constraints and a lack of voice and agency, and a lack of control over financial resources, violence, abuse and neglect, including in older age, and discriminatory inheritance laws in some countries.

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<sup>24</sup> WHO, *World Report on Ageing and Health*, 2015, p.91

<sup>25</sup> WHO, *World Report on Ageing and Health*, 2015, p.92

<sup>26</sup> European Minimum Income Network thematic report on older people, 2014, <https://eminnetwork.files.wordpress.com/2014/12/emin-2014-adequacy-older-people-en.pdf>

<sup>27</sup> World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page 87

<sup>28</sup> World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page 93

These inequalities render women's contributions to social security systems significantly lower than men's, leading women to experience lower coverage rates and substantially lower benefit levels. This accumulated discrimination is exacerbated by a gender bias in the design of social security and social protection systems. The conditions for entitlement, the links between benefits and past earnings, elements of redistribution, and the provision for widows and divorcees and indexation and retirement age all impact on gender inequality in older age.

Gender differences are particularly acute within contributory systems where women are less likely than men to receive a pension, and if they do, they have considerably lower benefits. Even in countries where women enjoy broad access to pensions, their benefit levels are often only a fraction of men's. In the European Union, women receive a pension that is 38 per cent less than that of men's.<sup>29</sup> The close link between contributory pensions and labour markets means that contributory pensions tend to replicate discrimination and inequalities that women experience throughout their lives. Moreover, as women live longer than men, they are also more exposed to poverty if pension benefits are not adequately indexed to take into account inflation and changes to the cost of living.

Steps have been taken to eliminate disparities in eligibility ages for pension schemes between men and women. However, this is often in the context of raising pension ages for both women and men thereby excludes older people below the eligibility age who may need require social security.

States should also ensure social security and pension systems do not penalize others, for example, older workers who choose to work beyond normal retirement age. In some countries, unemployment benefits are not available for older persons who are entitled to a pension.<sup>30</sup> Older migrant workers whose pensions are not portable are penalized as are older persons with disabilities, those who are homeless or without documentation.

## **2.9 Adaptability**

Social security and social protection measures must be adaptable to the needs of older persons and their specific circumstances and requirements. This includes adapting delivery systems and outreach information to ensure they are accessible to all older persons without discrimination or delay.<sup>31</sup>

## **2.10 Acceptability**

Social security and social protection measures must also be culturally acceptable to all older persons. To this end, older persons should be involved in the design of measures to ensure the most culturally acceptable way of implementing them.

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<sup>29</sup> Gender gap in pensions in the European Union Journalist Thematic Network Riga, June 2015

<sup>30</sup> <https://ageing-equal.org/ageism-in-lifelong-learning/>

<sup>31</sup> Sepulveda and Cyst, The Human Rights Approach to Social Protection, 2012

## 2.11 Accountability

Accountability mechanisms are an essential component of the right to social security and social protection. They provide channels for older people to make specific complaints and seek redress and participate in policy and programme development. They are important to ensure programmes function effectively, including by reducing error, fraud and corruption; ensuring that recipients receive the right amount of cash regularly, reliably and accessibly; and improving policy design.

Old age pensions and other social protection instruments based on contributory systems are prone to lack long-term safeguards regarding sustainability. All information regarding the various aspects of the actual contributions and their management should be transparent and available, along with mechanisms to ensure the financial soundness of the system for the full life expectancy of the insured population.

## 2.12 Remedies and redress

Even where complaint mechanisms exist, older people may not have information about, or feel comfortable using, complaints procedures. In a study in Mozambique, 68 per cent of older people surveyed said they did not know who to make a complaint to about their benefit from the Basic Social Subsidy Programme.<sup>32</sup> In Kenya, 37 per cent of recipients surveyed did not know who to ask if they had a complaint about their Older Persons Cash Transfer.<sup>33</sup> In some districts in Uganda, over 25 per cent of older people did not know how to make a complaint about the Senior Citizens Grant.<sup>34</sup> In Zanzibar older people reported preferring to raise a complaint with an older persons' forum than through the official complaint channel because they feared being labeled as stubborn or ungrateful.<sup>35</sup>

Older persons face particular barriers to seeking information on their legal rights and accessing legal proceedings. A recent report in Australia found that a significant number of older persons had low awareness of their rights, found it difficult to identify a legal problem and undertook minimal information-seeking. Difficulties accessing free legal assistance and legal aid, being subject to guardianship or experiencing financial abuse prevented older people from taking legal action.<sup>36</sup>

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<sup>32</sup> Pension Watch, <http://www.pension-watch.net/pensions/voice-and-accountability/mozambique-older-citizen-monitoring-data/>

<sup>33</sup> HelpAge International, *Voice and accountability in the Older Persons Cash Transfer Evidence from older citizen monitors in Kenya*, 2018

<sup>34</sup> HelpAge International, *Voice and accountability in the Senior Citizens Grant Evidence from older citizen monitors in Uganda*, 2018

<sup>35</sup> HelpAge International, *Voice and accountability in the Zanzibar Universal Pension Scheme Evidence from older citizen monitors in Zanzibar*, 2018

<sup>36</sup>The Law Council of Australia, *The Justice Report - Older Persons*, August 2018, <https://www.lawcouncil.asn.au/files/web-pdf/Justice%20Project/Final%20Report/Older%20Persons%20%28Part%201%29.pdf>

### **2.13 Normative elements of the right to social security and social protection**

**Older people have the right to social security and social protection without discrimination based on age or any other ground, so they can live with dignity and fully participate in society.**

#### **Scope**

- The right includes social security and social protection measures, whether in cash or kind, to ensure an adequate standard of living, adequate income security, access to health care, medication and assistive devices, and access to care and support services for independent living in older age.

#### **Non-discrimination and equality**

- All older people should enjoy this right without discrimination on the ground of their age or any other grounds.

#### **Availability**

- Social security and social protection schemes must be universally available and in place to ensure older people are provided with social security and social protection for the relevant risks and contingencies they face, including in relation to care and support.

#### **Adequacy**

- Older people have the right to social security and social protection measures, whether in cash or kind, that are of a high enough value, quantity and quality, and for the full period of life for an adequate standard of living and so that they can live autonomous, independent lives with dignity and can fully participate in society.

#### **Acceptability**

- Older people have the right to social assistance and in-kind social security that is appropriate and acceptable for their needs and preferences.

#### **Accessibility**

- All older persons have the right to access social security and social protection schemes without discrimination.
- Older people should have access to support in application processes for social security and social protection measures without delay, including older persons without identity documentation.
- Older people have the right and access to information on all aspects of social security and social protection schemes, including eligibility and qualification.
- Delivery mechanisms for social security and social protection measures must be adapted so they are accessible and affordable for all older people without discrimination.
- The right shall include access to, and portability of, social security and social protection measures.

**Autonomy**

- Older people have the right to unconditional, autonomous use of income from social security and social protection schemes.

**Accountability, remedies and redress**

- Older persons have the right to access procedures for complaint, appeal and redress.
- Older persons have the right to arrears of claim or payment, including but not limited to where there has been a delay in payment processing, incorrect cancellation or reduction.

### 3. Education, training, lifelong learning and capacity building

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#### 3.1 Education, training, lifelong learning and capacity building in human rights law

The right to education is well established in international human rights law, for example in UDHR Article 26, ICESCR Article 13 and CEDAW Article 10. Article 24 of the CRPD obligates States to ensure inclusive education systems and lifelong learning that is directed to ‘the full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity’.

However, this right has not been specifically applied to the context of a life-course approach to education or to education in older age in the international human rights framework.

At the regional level older persons’ right to education is enshrined in Article 20 of the Inter-American Convention on Protecting the Human Rights of Older Persons and Article 16 of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa.

#### 3.2 Unique disadvantages not adequately provided for in human rights law

Despite these provisions on the right to education, there are unique disadvantages and aspects of the right in older age which are not adequately provided for in existing human rights law, including:

- Deeply entrenched ageist stereotypes that older persons need not, cannot, and do not wish to, learn
- Age limits in access to education, training and other learning opportunities and for funding schemes, such as scholarships<sup>37</sup>
- Unequal access of older workers to employment training and career development schemes<sup>38</sup>
- Limited access to education, training and learning opportunities for older persons in care and support settings
- Unequal access to digital education, including e-textbooks, mobile learning, online learning and technology-enhanced learning, due to interfaces that do not allow for difference in vision, hearing and dexterity, unaffordable technologies or lack of access to digital skills training<sup>39</sup>
- Lack of availability of learning opportunities tailored to the preferences and learning needs of older persons
- Information not available in formats accessible to older persons

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<sup>37</sup> AGE Platform Europe Position on Structural Ageism, 2016 [https://www.age-platform.eu/sites/default/files/AGE\\_IntergenerationalSolidarity\\_Position\\_on\\_Structural\\_Ageism2016.pdf](https://www.age-platform.eu/sites/default/files/AGE_IntergenerationalSolidarity_Position_on_Structural_Ageism2016.pdf)

<sup>38</sup> Alexis Rinckenbach, Lifelong education and digital training for the elderly in France, presentation at the International Expert-Conference on Human Rights of Older Persons, Vienna, 13<sup>th</sup> November 2018, <http://www.ageing.at/en/downloads/downloads-day-2-en>

<sup>39</sup> Craig Mokhiber, Artificial Intolerance and Digital Dignity: Older Persons, Human Rights and New Technologies for Education, presentation at the International Expert-Conference on Human Rights of Older Persons, Vienna, 13<sup>th</sup> November 2018, <http://www.ageing.at/en/downloads/downloads-day-2-en>

- Unaffordable cost of education, training or skills building courses and associated costs such as transport
- Limited access to legal information and how to access legal and other complaint-making proceedings.<sup>40</sup>

### 3.3 Non-discrimination and equality

Older persons should have access to educational and learning opportunities on an equal basis with others and without discrimination on the basis of their older age. Despite, older persons experience ageism and age discrimination in relation to the right to education in different ways, for example:

- Deeply entrenched ageist stereotypes that older persons need not, cannot, and do not wish to, learn
- Age limits in education which are considered lawful under anti-age discrimination legislation<sup>41</sup>
- Age limits for scholarships and other support instruments which exclude older persons.<sup>42</sup>
- Unequal access of older workers to employment training and career development schemes<sup>43</sup>
- Funding for further education which prioritises low-level skills and qualifications that are not appropriate for older persons who already have these but need to extend their skills to remain in employment<sup>44</sup>
- Invisibility and lack of voice in shaping and choosing the content of education and learning programs aimed at older adults
- Exclusion and discrimination based on old age in participating in the teaching and managing staff of educational and learning programs for older adults.

### 3.4 Availability

Educational and learning opportunities should be available to older persons on an equal basis with others. However, age limits on enrollment and funding mean that courses and programmes are not available to older people. Funding for further education may prioritise low-level skills and qualifications that are not appropriate for older persons who already have these but need to extend their skills to remain in employment.<sup>45</sup>

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<sup>40</sup> Edwards and Fontana, *Legal Information Needs of Older People*, Law and Justice Foundation of New South Wales, 2004  
[http://www.lawfoundation.net.au/ljf/site/articleIDs/9D9D131462B745E0CA257060007D1408/\\$file/legal\\_info\\_needs\\_report.pdf](http://www.lawfoundation.net.au/ljf/site/articleIDs/9D9D131462B745E0CA257060007D1408/$file/legal_info_needs_report.pdf)

<sup>41</sup> <https://civilrights.findlaw.com/discrimination/age-discrimination-in-education.html>

<sup>42</sup> <https://ageing-equal.org/ageism-in-lifelong-learning/>

<sup>43</sup> Alexis Rinckenbach, Lifelong education and digital training for the elderly in France, presentation at the International Expert-Conference on Human Rights of Older Persons, Vienna, 13<sup>th</sup> November 2018, <http://www.ageing.at/en/downloads/downloads-day-2-en>

<sup>44</sup> <https://www.theguardian.com/education/2009/jun/09/backtoschool-accesstouniversity>

<sup>45</sup> <https://www.theguardian.com/education/2009/jun/09/backtoschool-accesstouniversity>

### 3.5 Accessibility

Educational and learning opportunities should be accessible and affordable to older persons on an equal basis with others. Despite this older workers may have less access to vocational training opportunities than younger workers. In France, for example despite access to professional development for all employees, only 28 per cent of employees over the age of 60 have access to training compared to 51 percent of employees under the age of 30.<sup>46</sup> Other factors limiting older persons' access include distances to available courses, physical accessibility issues, digital exclusion and a lack of information about opportunities.

### 3.6 Acceptability

Educational materials and information should be provided in a form that is acceptable to older persons.

### 3.7 Adaptability

Educational and lifelong learning programmes should be adapted to the preferences and learning needs of older persons. However, prison rehabilitation programmes tend to cater for younger offenders in terms of skills training and education and release programmes may not address the resettlement challenges older prisoners may face.<sup>47</sup>

### 3.8 Remedies and redress

Older persons should have access to complaints procedures and redress mechanisms when their right to education and lifelong learning is denied them.

### 3.9 Normative elements of the right to education and lifelong learning

**Older persons have the right to lifelong learning and education on an equal basis with others and without discrimination, so they can live autonomous and independent lives, fulfil their aspirations, build their skills and capacities, develop their full human potential and sense of dignity and self-worth, and participate fully in society.**

#### Scope of the right

- The right shall cover all forms of learning and education, including but not limited to tertiary education, vocational training and retraining, digital education, adult education, informal, recreational and community-based education, lifelong learning programs, and skills training in literacy, numeracy and technological competencies.

#### Non-discrimination and equality

- Older people have the right to equal access to opportunities for all forms learning and levels of education without discrimination based on age or any other factor.

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<sup>46</sup> Alexis Rinckenbach, Lifelong education and digital training for the elderly in France, presentation at the International Expert-Conference on Human Rights of Older Persons, Vienna, 13<sup>th</sup> November 2018, <http://www.ageing.at/en/downloads/downloads-day-2-en>

<sup>47</sup> Sleaf, Old age behind bars: how can prisons adapt to the needs of increasingly elderly populations? 2014, <https://www.penalreform.org/blog/age-bars-prisons-adapt-increasingly-elderly-populations/>

- Older people have the right to equal access to digital learning and education platforms without discrimination based on age.
- States shall take steps to eliminate negative ageist stereotypes and prejudices about older people's ability to learn.
- Older people have the right to the same opportunities as others to benefit from scholarships and other educational or study grants.
- Older people have the right to participate in the decision-making processes regarding the shape and content of learning and educational programs aimed at older adults.
- Older people have the right to participate as teachers and sources of knowledge and wisdom in learning and educational programs for all generations.

### **Accessibility**

- Older people have the right to affordable lifelong learning and education opportunities that fit their needs, preferences, skills, motivations, and diverse identities.
- Older people have the right to lifelong learning and education opportunities in settings that are accessible to them including in their communities and in care and support settings.

### **Availability**

- Older people have the right to equal access to opportunities of lifelong learning and education available to the general public and to learning opportunities adapted to their specific needs, skills, motivations, preferences and diverse identities.

### **Acceptability**

- Older people have the right to appropriate and acceptable lifelong learning and education opportunities that fit their needs, preferences, skills, motivations, and diverse identities.
- Older people have the right to learning and educational materials in an appropriate, accessible and acceptable format.

### **Remedies and redress**

- Safeguards must be in place to protect against breaches of the right to lifelong learning and education, including breaches of privacy and security of data on digital and online learning platforms.
- Older people have the right to accessible legal information.
- Older people have the right to accountability mechanisms that provide for remedies and redress when their rights are violated.