

HelpAge International submission on the normative content related to the contribution of older persons to sustainable development

13th Session of the Open-ended Working Group on Ageing, 2023

Definition

Older persons have the inalienable right to development, by virtue of which they are entitled to participate in, contribute to and fully enjoy civil, political, economic, social, cultural, and environmental development that is indivisible from and interdependent and interrelated with all other human rights and fundamental freedoms.¹

Older persons' right to development is an integral part of their human rights and must be realized in conformity with the full range of civil, political, economic, social, cultural, and environmental rights.²

Scope of rights

Participation

Older persons have the right to active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.³

Equality and prohibition of discrimination

Older persons have the right not to be discriminated against in their contribution to and participation in development on the basis of age or any other status.

The right to equality and to non-discrimination:

- Prohibits discrimination in all areas of life regulated by law, on the basis of age and all other grounds.
- Prohibits all forms of discrimination, including direct and indirect discrimination; denial of reasonable accommodation; harassment; multiple discrimination; intersectional discrimination; and discrimination based on association and perception.
- Provides that age-based distinctions may only be justified where necessary, appropriate and proportionate to a legitimate aim. Stereotypes based on age or other grounds cannot serve as an objective or reasonable justification, and certain forms of discrimination, such as harassment, can never be justified.

¹ See Working Group on the Right to Development, Second revised text of the draft convention on the right to development, 2022, UN Doc. A/HRC/WG.2/24/2, Article 4 (1).

² Ibid, Article 6 (2).

³ Ibid, Article 4 (2).

State obligations

General

All natural and legal persons, peoples, groups and States have the general duty under international law to refrain from participating in the violation of older persons' right to development.⁴

Obligation to fulfil

Each State Party shall take all necessary measures, including legislative measures, individually and through international assistance and cooperation, with a view to progressively enhancing the right to development for older persons.

To this end, each State Party shall take all necessary measures at the national level, and shall ensure, inter alia, equality of opportunity, including through digital inclusion where applicable, for all older persons in their access to basic resources, education, health services, food, housing, employment, and social security and protection, and in the fair distribution of income, and shall carry out appropriate economic and social reforms with a view to eradicating all social injustices.⁵

Equality and non-discrimination

States Parties have an obligation to tackle ageism in all its forms and to identify and remove barriers to equal participation for older persons in all areas of life, including:

- Permitting and requiring the adoption of positive action measures designed to advance equality for groups exposed to discrimination, including older persons. These measures should be proportionate, time limited, and subject to regular review to ensure their continued legitimacy.
- The adoption of a comprehensive program of awareness-raising, education, training and other measures, alongside other measures necessary to combat prejudice, stigma and stereotypes including ageism and other discriminatory stereotypes that may affect older persons.

States Parties have an obligation to enact statutory equality duties, which should:

- Require the adoption of equality impact assessment (EIA) to identify, anticipate and eliminate the discriminatory impacts of policies before they are adopted.
- Ensure the adoption of specific equality policies and strategies that inter alia promote the equal participation of older persons in society; and provide for the mainstreaming of the rights of older persons in the development of all other policies and strategies (for instance, those concerning employment, education, and public planning or decision-making).⁶

Access to justice

States Parties have an obligation to ensure older persons' access to justice, including:

⁴ Ibid, Article 7.

⁵ Ibid., Article 12 (2).

⁶ HelpAge International, [Advancing equality for older people](#), 2022, London, HelpAge International.

- The establishment and adequate resourcing of institutions empowered to enforce the legal framework.
- The amendment of national rules governing evidence and proof in discrimination cases.
- The provision of legal aid and assistance, alongside procedural accommodation and accessibility measures, to remove financial and physical barriers to justice.⁷

Data collection

States Parties have an obligation to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the right of older persons to contribute to sustainable development. The process of collecting and maintaining this information shall:

- Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of older persons;
- Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
- The information collected shall be disaggregated as appropriate, including by age, gender, disability, race and ethnicity. The information collected will be used to help assess the implementation of States Parties' obligations and to identify and address the barriers faced by older persons in exercising their rights.

States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to older persons and others.⁸

Implementation

States Parties shall designate one or more focal points within government for matters relating to the implementation of the UN convention on the rights of older persons and shall establish or designate a coordination mechanism within government to facilitate related action in different sectors and at different levels.

States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the Convention.

Civil society, in particular older persons and their representative organizations, shall be actively involved and participate fully in the monitoring process. States Parties shall provide the necessary support to enable their meaningful participation at all stages of the monitoring process.⁹

⁷ Ibid.

⁸ See Article 31 Convention on the Rights of Persons with Disabilities (CRPD).

⁹ See Article 33 CRPD.