**QUESTIONNAIRE FOR THE PREPARATION OF THE THEMATIC REPORT**

**REPORT ON NATIONAL SYSTEMS OF PROTECTION OF HUMAN RIGHTS OF OLDER PERSONS IN THE AMERICAS**

1. **PRESENTATION**

**The Unit on the Rights of Older Persons of the Inter-American Commission on Human Rights (IACHR) conducts the following public consultation with the objective of collecting information about the rights and good practices of OAS Member States in the recognition and effective guarantee of the rights of elderly persons.**

In its 2017-2021 Strategic Plan, the Inter-American-Commission on Human Rights prioritized the issue of older persons[[1]](#footnote-1), in order to promote, protect and ensure the recognition and full enjoyment and exercise of their rights, under conditions of equality, with a focus on their participatory inclusion in society. Within its Work Plan, the Unit on the Rights of Older Persons intends to support the IACHR in the development of new standards on the issue to promote, protect, and ensure the full enjoyment and exercise, in equal conditions, of all the human rights and fundamental freedoms of the elderly, in order to contribute to their complete inclusion, integration and participation in society.

In this regard, in its Strategic Plan, the IACHR considered it necessary to identify synergies, to advance in the building of Inter-American standards on the issue, as well as to develop new working mechanisms, in particular, to promote the ratification and implementation of the Inter-American Convention on Protecting the Human Rights of Older Persons and to shed light on the situation of this population group through the system of cases, precautionary measures, hearings and monitoring work.

Consequently, the Commission decided to create the Unit on the Rights of Older Persons, (UHROP), in the framework of the 162nd Extraordinary Period of Sessions held from May 22-27, 2017, in Buenos Aires, Argentina, with the mandate of promoting the mechanisms which make up the Inter-American System of Human Rights to protect the rights of the elderly. Subsequently, the UHROP held, on October 24, 2017, a Regional Public Consultation on the issue in the city of Montevideo, Uruguay,[[2]](#footnote-2) for the purpose of receiving suggestions and identifying the priority lines of work of the aforementioned Unit, so that a diagnosis could be made on priority issues in the region. This consultation permitted the identification of various issues of essential relevance to move towards the protection of the rights of the elderly.

The Commission observed, on the one hand, that States are interested in working on the topic, and that some countries have even already ratified a specialized instrument for the protection of the elderly[[3]](#footnote-3). However, the Commission does not have sufficient information about the concrete situation of older persons in OAS Member States and on the existing frameworks at the national level for the protection of their rights. In this regard, the Commission considers that, in the face of a growing population, the absence of policies, practices and standards on the protection of the human rights of older persons must be urgently addressed by States.

On the other hand, the Montevideo Consultation allowed to identify some important issues that should be included in States’ public agendas in relation to the access of the elderly to decent housing, social protection and health. In addition, the Commission, in its Thematic Report on Poverty and Human Rights, noted that the main concerns regarding human rights are in the care of the elderly, the awareness of their reality and the rights of the elderly rights, health, pensions, discrimination, mistreatment and work.[[4]](#footnote-4)

Therefore, the Commission understands that the promotion, protection and recognition of full enjoyment and effective access in conditions of equality of older persons to all fundamental rights and freedoms is essential, with a focus on prioritization, inclusion, integration and participation in society. For this purpose, it is necessary to know the legislative and other measures adopted by States to affect the ideal of access of the elderly to their rights.

Based on these considerations and as a response to the information presented at the Montevideo Consultation, the IACHR considers it necessary to prepare a report on the subject of the human rights of older persons, which identifies the existing national systems for their protection, as well as the challenges and good practices in the matter. In that sense, the report will present recommendations to States in relation to the integral protection of the elderly.

The information presented in the report will be based on primary and secondary sources. Regarding the primary sources, the Commission will send this questionnaire to States, civil society and specialists on the topic, and will use the information received through the different activities carried out in the fulfillment of its mandate, such as, for example, in public hearings and working meetings held before the Commission, as well as through the system of cases and precautionary measures, and in other related activities.

Additionally, in relation to secondary sources, the report will be based on official public information obtained from State sources; reports, resolutions and pronouncements of intergovernmental organizations; studies of non-governmental organizations, both national and international; academic research; and information published by the media.

1. **OBJECTIVES**

This questionnaire seeks to collect information for the preparation of a regional report on the rights of older persons. The questionnaire aims to obtain information from the Member States of the Organization of American States (hereinafter “OAS”), from civil society organizations, intergovernmental entities, as well as from anyone interested in sending information about the questions contained herein.

1. **INSTRUCTIONS**
   1. The questionnaire can be answered partially or totally, depending on the available information;
   2. Research, reports, and other documents already prepared and/or published that are relevant to the topic may be submitted;
   3. The 30 questions can be answered with regards to the situation of older persons depending on the information available or on the approach of the work of the Member States of the OAS, of civil society organizations, intergovernmental entities, as well as of any person who is interested in sending information about the questions included;
   4. Please send the answers to the questionnaire before **December, 31, 2018**, by email to: cidhmonitoreo@oas.org. **Please indicate “Older Persons Questionnaire - (Name of Country)”** as the subject of the email. Please do not send duplicates. In case it is not possible to send an email, the questionnaire may also be sent via fax to the number +1 202 458 3650, or by post to:

*Unit on the Rights of Older Persons*

*Inter‐American Commission on Human Rights*

*Organization of American States*

*1889 F Street, NW*

*Washington, D.C.*

*20006*

1. **QUESTIONNAIRE**

Provide the information that is considered to be the most pertinent and/or most significant and/or relevant in relation to each of the points mentioned below.

In order to analyze the information received in a systematic manner, the questionnaire consists of 4 blocks that seek to gather relevant information (not exhaustive) on the following: general information regarding the rights of older persons and the current legal framework (Block 1), data collection (Block 2), protected rights (Block 3) and intersectionality with other groups (Block 4).

1. **QUESTIONS**

**BLOCK 1 - FRAMEWORKS FOR THE PROTECTION OF THE RIGHTS OF OLDER PERSONS**

1. Provide the normative references, including a copy of them, on constitutional norms, laws, regulations, guidelines, judicial decisions, projects and public policies that recognize or develop the rights of the elderly in the following areas:
   1. Right to equality and non-discrimination;
   2. Right to health and informed consent in matters of health;
   3. Right to independence and autonomy;
   4. Right to freedom of expression;
   5. Right to social security and pensions;
   6. Rights to food, water, sanitation and housing;
   7. Right to political participation and community integration;
   8. Rights to live free of all forms of violence;
   9. Eradication of isolation, abandonment, overcrowding, disability treatment, and other forms of inhuman and degrading treatment against the elderly.
2. Identify the obstacles and challenges encountered in the creation and effective implementation of said laws, regulations, guidelines, judicial decisions, projects and public policies related to the protection of the rights of older persons.
3. Identify the institutions at the national, departmental/state/provincial and municipal levels and their respective competence frameworks in charge of the protection of the rights older persons and their interinstitutional articulation.
4. Identify the existence of specialized agencies for access to justice and reparations for the elderly, as well as for the investigation of situations of violence against older persons.
5. Indicate the budgetary allocations of public expenditure for the operation and implementation of the public policy regarding the protection of the rights of older persons. Indicate whether there is a prioritization in public policies and spending, which implies the allocation of material, financial and human resources for the protection of the rights of the elderly. Indicate whether there are international cooperation programs for the protection of the rights of older persons, and if so, indicate in detail the operation and results of the program as well as the details of the entities involved at the national and international level.
6. Identify affirmative measures that have been adopted to guarantee the differential and/or preferential treatment of older persons and their social, economic, educational, political and cultural integration.
7. Describe the process of construction of the policies for the protection of the rights of older persons, and identify the mechanisms for their participation in the construction of these policies.

**BLOCK 2 - DATA COLLECTION AND MONITORING**

Indicate whether there are mechanisms for data collection and analysis of information relating to older persons and what they consist of, as well as whether the public policy includes indicators to measure their results in order to monitor and evaluate progress and challenges, and for accountability.

**BLOCK 3 – PROTECTED RIGHTS**

1. *Right to equality and non-discrimination:*
2. Indicate whether there are programs, policies and regulations related to aging and old age aimed at combating the factors of multiple discrimination that may arise, including women, people with disabilities, people of different sexual orientations and gender identities, migrants, people in situations of poverty or social marginalization, Afro-Descendants and Indigenous Peoples, the homeless, persons deprived of their liberty, persons belonging to ethnic, racial, national, linguistic, religious and rural groups, among others.
3. *Right to independence and autonomy:*
4. Indicate the measures adopted by States to guarantee the independence and autonomy of older persons, in particular regarding the choice of their place of residence, home care services, residential care, community support services, with a focus on social inclusion and strengthening the family nucleus.
5. Identify the policy of institutionalization of the elderly, as well as the regulation of public and private care homes, and the mechanisms and institutions involved in the oversight of said services.
6. *Right to participation and community integration:*
7. Indicate the measures adopted by States to guarantee the active, productive, full and effective participation of the elderly in society, including mechanisms to eliminate stereotypes and prejudices based on age, as well as the existence of intergenerational social programs.
8. *Right to live free of violence:*
9. Indicate the measures adopted by States to protect older persons from various forms of abuse, including economic abuse, and mistreatment in all of its forms, including physical, psychological and sexual; abandonment and neglect inside and outside the family nucleus, both in public and private institutions.
10. Indicate the measures adopted to investigate and punish violence against older persons.
11. Indicate the measures adopted by States in the short and long-term to prevent and eradicate violence against the elderly and mistreatment in care institutions.
12. *Social security and labor rights:*
13. Indicate the measures adopted within States’ social security systems to guarantee the elderly an income that allows them to achieve a dignified life.
14. Indicate the measures adopted by States in terms of adequate employment, productive training and working conditions for the elderly. In particular, indicate measures to ensure the economic independence of said persons.
15. *Part 1: Right to health:*
16. Indicate the intersectoral policies of comprehensive health care, including policies for the promotion, prevention and care of both physical and mental illnesses at all stages, palliative care and rehabilitation of older persons.
17. Indicate whether a policy of preferential treatment and universal access to comprehensive health services exists in the States, including palliative care services, as well as the coverage of medicines needed to treat the diseases that have the highest incidence rate in older persons, including those destined to palliative care.
18. Indicate whether in the States there exist programs of traditional, alternative medicine and with a focus on the uses and customs of older persons belonging to indigenous and Afro-Descendant peoples.
19. Indicate whether there are specialized service programs to treat chronic degenerative diseases such as dementia and Alzheimer’s.
20. *Part 2: Informed consent in matters of health :*
21. Indicate the mechanisms for investigating and sanctioning violations related to the lack of obtaining informed consent regarding the health of older persons.
22. Indicate the existing mechanisms to guarantee the consent of the elderly in a prior, informed, free, voluntary and express manner in the decisions related to their health; existing exceptions to such consent, and alternative measures in such cases.
23. Indicate the existing procedures to ensure the access of older persons to their clinical records.

**BLOCK 4 - INTERSECTIONALITY WITH OTHER GROUPS**

1. Provide information on the situation of vulnerability and enjoyment of rights of the elderly. In particular:

a. Women;

b. Indigenous peoples;

c. Afro-Descendants;

d. Human rights defenders;

e. Persons deprived of their liberty (in state custody, either in penitentiary systems or in other centers of deprivation of liberty);

f. Migrants, internally displaced persons, refugees, victims of human trafficking, asylum-seekers and stateless persons;

g. People living with HIV;

h. People with disabilities;

i. LGBTI;

j. Peasants; and

k. Homeless persons.

Please include any other information and/or documentation that you deem appropriate.

1. According to the American Convention on Protecting the Human Rights of Older Persons, “Older Person” is considered to be a person aged 60 or older, except where legislation has determined a minimum age that is lesser or greater, provided that it is not over 65 years. [↑](#footnote-ref-1)
2. IACHR, IACHR calls to participate in the public consultation on the Unit on Older Persons, October 13, 2017. <http://www.oas.org/es/cidh/prensa/comunicados/2017/159.asp> [↑](#footnote-ref-2)
3. The countries that have ratified the Inter-American Convention on the Protection of the Rights of Older Persons to date are Argentina, Bolivia, Chile, Costa Rica, El Salvador and Uruguay. [↑](#footnote-ref-3)
4. IACHR, [Report on Poverty and Human Rights](http://www.oas.org/en/iachr/reports/pdfs/Poverty-HumanRights2017.pdf), OEA/Ser.L/V/II.164, 7 September 2017. Para. 463. [↑](#footnote-ref-4)