



HelpAge

International

Keeping our dignity

*What older people say about their rights
to access to justice, and to work and access
to the labour market*

Contents

3 Introduction

4 Key findings

6 Access to justice

6 1.1 Findings from the consultation

6 1.1.1 Older people's justice problems

9 1.1.2 Barriers older people face to accessing justice

11 1.1.3 The difference getting justice makes for older people

13 1.2 Access to justice in human rights law

13 1.3 Recommendations on the right to access to justice

15 2. Work and access to the labour market

15 2.1 Findings from the consultation

15 2.1.1 Age discrimination when looking for work

16 2.1.2 Barriers older people face to work and accessing the labour market

18 2.1.3 What decent work means to older people

19 2.1.4 The difference decent work makes for older people

21 2.2 Work and access to the labour market in human rights law

21 2.3 Recommendations on the right to work and access to the labour market

23 Annexes

23 1: Consultation questions

23 2: List of countries and methodology

23 3: The Open-ended Working Group on Ageing



Fedaa Qatshah/HelpAge International

HelpAge International is a global network of organisations promoting the right of all older people to lead dignified, healthy and secure lives.

Keeping our dignity

What older people say about their rights to access to justice, and to work and access to the labour market

Published by HelpAge International
PO Box 70156, London WC1A 9GB, UK

Tel +44 (0)20 7278 7778

info@helpage.org

www.helpage.org

Registered charity no. 288180

Written by Bridget Sleep

Consultation coordinated by Ellie Parravani

Front cover photo by Ben Small/HelpAge International

Design by TRUE www.truedesign.co.uk



@HelpAge



HelpAge International

Copyright © HelpAge International 2019

This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License, <https://creativecommons.org/licenses/by-nc/4.0>

Any parts of this publication may be reproduced without permission for non-profit and educational purposes. Please clearly credit HelpAge International and send us a copy or link.

ISBN 978-1-910743-65-2



Introduction

Access to justice and the right to work are two human rights that are central to our dignity and wellbeing. When these rights are protected, they have a significant, positive impact on our lives. However, many older people are denied these rights because of their older age. Older people seeking justice are often prevented from getting it. Those wanting or needing to work often face age discrimination when looking for it.

Keeping our dignity collates responses from a consultation with older people on these two key human rights: access to justice, and work and access to the labour market. These are topics for discussion at the eleventh session of the UN Open-ended Working Group on Ageing in April 2020. This report aims to inform the discussions at this and future sessions.

The consultation was carried out in July 2019 by HelpAge International Global Network members and partner organisations with 306 older people (198 women and 108 men) between the ages of 52 and 90 in 24 low-income, middle-income and high-income countries across the world, using individual interviews. Eighteen of the participants (10 women and 8 men) were living in residential care homes.

The report has two main sections: 1: Access to justice and 2: Work and access to the labour market. Each section presents the responses of older people to a set of questions about human rights, summarises existing human rights laws, and draws on older people's experiences and existing law to make recommendations for a UN convention on the rights of older people. Annex 1 lists questions asked of older people, Annex 2 covers countries participants came from and the methodology, and Annex 3 describes the Open-ended Working Group on Ageing.

Keeping our dignity is the fourth in a series of reports on areas of rights discussed at the Open-ended Working Group. It follows *Entitled to the same rights*, on what older women say about their rights to non-discrimination and equality, and to freedom from violence, abuse and neglect, discussed at the eighth session, *Freedom to decide for ourselves*, on what older people say about their rights to autonomy and independence, long-term care and palliative care, discussed at the ninth session, and *Living, not just surviving*, on what older people say about their rights to social protection and social security (including social protection floors), and to education, training, lifelong learning and capacity building, discussed at the tenth session.

Key findings



Ben Small/HelpAge International

Access to justice

1. A significant proportion of older people are not getting justice.

Seventy-one per cent of older people in this consultation said they had justice problems they wanted a solution to. More than half of these, 53 per cent, had not got justice.

2. Older people have a wide variety of justice problems they need solutions to.

The most common justice problems faced by participants were disputes over land or property (29 per cent), followed by difficulties in accessing public services they were entitled to (19 per cent). Next were problems with money and debt, or as a consumer (14 per cent), family disputes, such as divorce and inheritance (13 per cent), violence and crime (9 per cent), and problems at work, such as being unfairly dismissed (8 per cent). Other justice problems reported included accident insurance claims, housing issues and scams.

3. Older people face specific barriers to accessing justice because they are older.

Older people said they were shown disrespect by officials because of their older age. Costs of getting justice were prohibitive because of their lower income, and courts and other dispute resolution mechanisms were inaccessible. Lack of computer skills restricted their access to legal information. Long, drawn-out proceedings towards the end of their lives were another barrier.

4. Enjoying their right to justice would have a positive impact on older people's dignity and wellbeing.

Older people said getting justice would allow them to live autonomous and independent lives. It would give them self-respect, raise their self-esteem and make their life worth living. It could improve their health through better access to health services. It could improve their economic situation too, by enabling them to boost their income, invest or save for their future, and they could support their families.

5. The right to access to justice has not been specifically applied to the context of older age within the international human rights framework.

The right to access to justice needs to be applied to the unique context of older age and set out in a new UN convention on the rights of older people.

Work and access to the labour market

1. A significant number of older people looking for work are being discriminated against because of their older age.

Forty-one per cent of older people in the consultation said they had been refused work because of their older age. Men were more likely than women to have been refused work – 47 per cent compared with 38 per cent of women.

2. Older people are being refused work in a wide range of occupations and sectors.

Participants said they had been refused work in permanent, temporary, part-time and casual or daily jobs, paid and unpaid. Older women said they had been refused work in a wider range of occupations than older men.

3. Being older has a negative impact on the work opportunities available to older people who want or need to continue working.

Mandatory retirement ages, negative stereotypes about older people's ability to work, and social norms saying that older people should not work – these all limit the opportunities for older people to work, together with a lack of retraining opportunities and disregard for past experience. Poor working conditions, the limited nature of jobs available to older people, and failure to make accommodations for older people wanting to stay in employment also restrict older people's access to work.

4. Enjoying their right to decent work both earlier in life and, for those who want or need to continue working, in their older age, would have a positive impact on older people's dignity and wellbeing.

Older people said decent work was important for their economic situation. As well as an income, it would give them access to entitlements, such as insurance and pensions. It would enable them to support themselves and their families to lead dignified lives. Decent work would increase their self-esteem, enable them to live autonomous and independent lives, and make them feel accomplished and useful to society. It would allow them time for other interests, reduce their isolation, and give them a sense of purpose and belonging.

5. International human rights law does not adequately address the specific application of the right to work to the context of older age and older people.

The right to work needs to be applied to the unique context of older age and set out in a new UN convention on the rights of older people.



1. Access to justice

1.1 Findings from the consultation

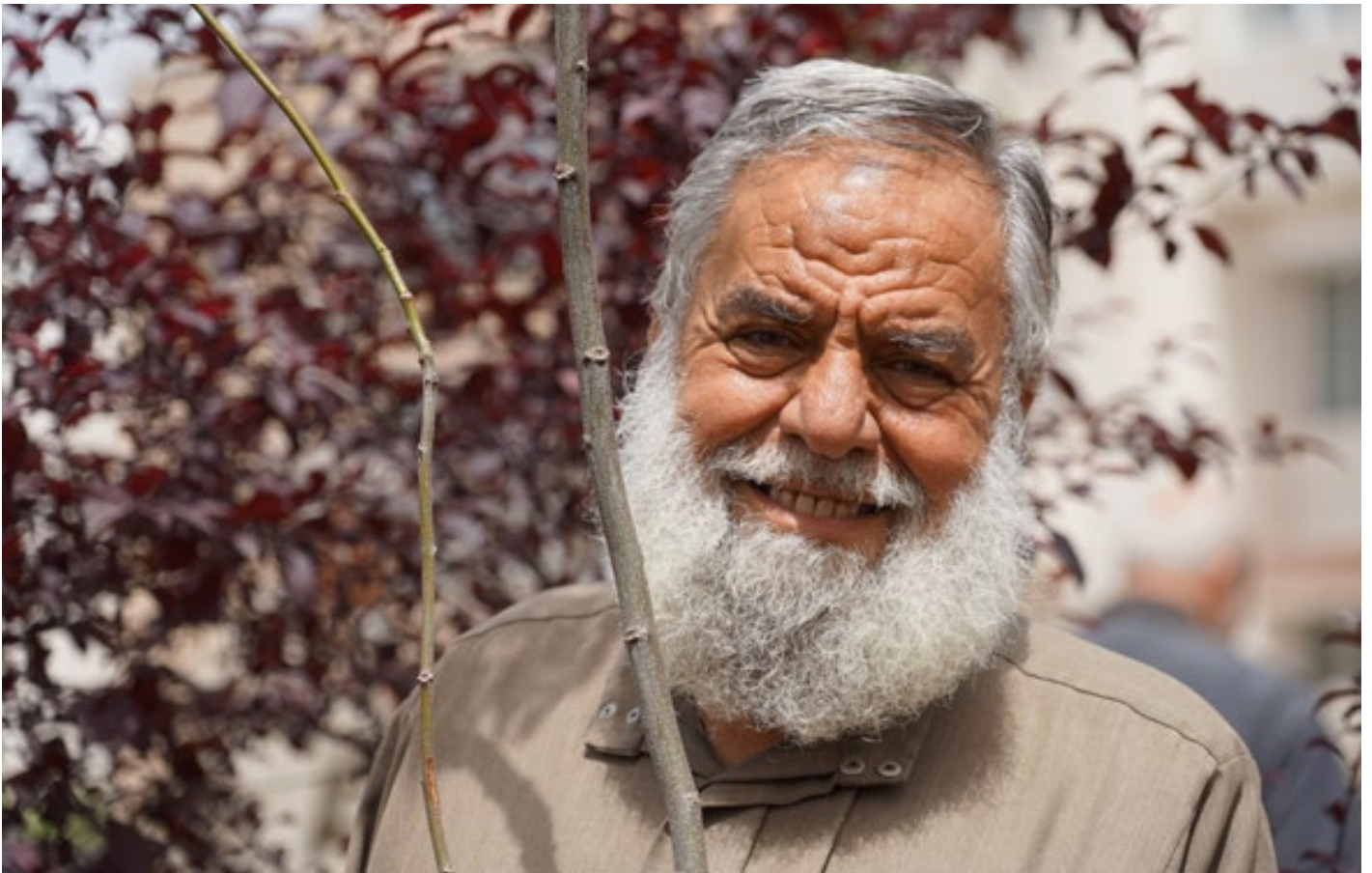
1.1.1 Older people's justice problems

A substantial majority of participants (71 per cent) said they had had a justice problem in their older age that they wanted to solve. More men than women had had a justice problem they wanted to solve – 78 per cent compared with 67 per cent of women. All of those living in a care home said they had had a justice problem they wanted to solve.

Over half of those with a justice problem (53 per cent) said they had not found a solution. Older women were a little less likely than older men to have found a solution – 57 per cent compared with 50 per cent of men. Older people living in a care home were a little less likely than those in the general population to have found a solution – 59 per cent compared with 53 per cent in the general population.

The most common types of justice problem faced by participants were disputes over land or property (29 per cent of the problems identified), followed by difficulties in accessing public services they were entitled to (19 per cent). Next were problems with money and debt, or as a consumer (14 per cent), family disputes, such as divorce and inheritance (13 per cent), violence and crime (9 per cent), and problems at work, such as being unfairly dismissed (8 per cent). Other types of justice problem reported included accident insurance claims, housing issues and scams.

Older women with justice problems were more likely than older men to report problems with violence and crime, and family disputes. Older men with justice problems were more likely than older women to report land disputes and disputes at work. A similar proportion of older women and men reported problems with money and debt, and public services.





Definition

Access to justice means getting a fair solution to a justice problem. Examples of justice problems include disputes over land or property, family disputes (such as divorce and inheritance), problems at work (such as being unfairly dismissed), problems with money and debt or as a consumer, difficulties in accessing public services you are entitled to, violence and crime, and discrimination. Getting a fair solution may involve using the courts or another mechanism outside the courts, such as community justice centres, mediation or paralegal support.

Land and property Participants reporting disputes over land or property said these were with family members, neighbours, tenants or others. Disputes were over ownership, access, use of land without permission, unauthorised construction, loss of title deeds or lack of official registration, and land boundaries.

“I have a parcel of land inherited from my deceased parents and no proper land documents. A neighbour claimed part of my lot. This person is abroad and I find it hard to communicate with him. He is uncooperative about my suggestion to resurvey the land to get the exact boundaries and measurements.”

68-year-old woman, Philippines

Some participants said they were trying to reclaim land or property after they had been forced to move away. Others had had their land unlawfully seized or sold. Some said they faced eviction.

“There’s an attempt by the owner of the property to throw my family out of the apartment where I live. The contract is in the name of my father who has died. I’ve delegated a lawyer, attended the court hearings and brought witnesses. The case has been going on for 15 months.”

69-year-old man, Egypt

Public services Participants without official identification or with mistakes on their ID cards said they had difficulty accessing public services. Other participants spoke about being unable to make doctors’ appointments online and being refused discounts they were entitled to. They also talked of long waiting times to receive their entitlements, or mistakes in the entitlements they received, such as the wrong amount of pension being paid to them because of errors in online records. Some said they were unable to access health services. Others said they were mistreated by health professionals or refused treatment because they were “too old”.

“I have problems with my sight. When I visited an optometrist, I was told that considering how old I was, I shouldn’t pursue any treatment. I contacted the public complaints mechanism for patients about this but got no response.”

80-year-old woman, Serbia

Money and debt Participants reporting problems with money and debt, or as a consumer, said these included falling further into debt by being unable to pay high interest rates on their loans, or facing penalties for non-repayment. Some said they had inherited their late spouse’s debts. Some had not been paid back money they had lent to others or faced problems as a guarantor for another person’s loan, or had tenants who did not pay the rent. Some had received incorrect utility bills, had not been refunded for over-payment, or had been over-charged by service providers.

“I live in a retirement home and am 100% immobile. My finances are handled by the institution. After my expenses are deducted, I get the rest of the money in cash. They never provide me with the calculation and I suspect they are taking much more for the medication than is realistic, as I only use the medication for hypertension and regulation of body fluids.”

82-year-old woman, Serbia



Family disputes A number of participants said they were involved in disputes about divorce, either their own or another person's. Some were trying to divorce their spouse. Some had been refused a divorce. Others had to deal with court cases concerning their adult children's divorces. One had lost all contact with their grandchildren as a result of a custody court order.

Participants also reported disputes over inheritance with their siblings, adult children, other family members, and, for women in polygamous marriages, their co-wives. Widows whose names were not on the land deeds said they had been forced to leave the property by other family members. Others had to deal with disputes as the executor of a will. Some said they were unable to claim their inheritance.

“My husband left my brother in charge of the family house in Cuzco, but when my brother died, his son took the house and ignored the other heirs. Restoring our inheritance has been an expense of energy and money.”

65-year-old woman, Peru

Violence and crime Some participants said their property had been damaged, or their property or money had been stolen. Some said they had been physically attacked after being accused of witchcraft, or assaulted by a stranger or care provider. Some had been subjected to sexual, physical or psychological violence by family members.

“I needed justice and consulted a lawyer about the abuse from my now ex-husband. He didn't want to offer me a divorce. The abuse was total violence. I told him that if he gave me a divorce, I would leave the property that belonged to me. The lawyer told me, ‘Sincerely, in Argentina, there's no justice.’ I left everything, but I'm alive.”

77-year-old woman, Argentina

Some participants said they had been forced to live in care homes against their will.

“I was left unattended at a care home by relatives.”

67-year-old man, Mauritius

Problems at work Participants' problems at work included being forced to go part-time, or to take a lower-paid position for no apparent reason. Other problems included not being paid, being harassed or bullied by co-workers, or feeling under constant pressure to leave. A number of participants spoke about being dismissed without their salary or redundancy payment, or being dismissed for no apparent reason.

“I had been working for a security company for one year, but one day my boss stopped me working immediately without saying there was any misconduct or giving any other reason.”

66-year-old man, Tanzania

Some participants said they had been replaced by a younger worker on a lower salary, or dismissed because of their older age.

“I was dismissed from work as a stonemason because I'm old. This was a plan hatched by the young site manager who wrote to the director citing my age as the reason for wanting to sack me.”

78-year-old man, Kenya

Other justice problems included late payment or disagreements over accident insurance claims, difficulties getting a licence to trade, and scams and cons over provision of care and support, healthcare, and utilities, such as gas and water.

“Eleven months ago, some people came and promised us a water connection for 1,100Rs (US\$15). But until this day they have never come back.”

60-year-old woman, India



Ben Small/HelpAge International

1.1.2 Barriers older people face to accessing justice

A number of participants said they had obtained justice through the courts or other mechanisms, such as complaints procedures or within the family or a community group, without encountering any barriers.

“The issue has been solved through the inclusive self-help group.”

74-year-old man, Myanmar

Some participants felt that being older gave them an advantage. Officials had treated them with respect. Their age gave them a different perspective, more experience and knowledge, and the confidence to know their rights and avoid problems in the first place. Some felt that age itself was not a barrier to getting justice; rather, it was lack of connections and influence, or lack of advice.

“I think that the real problem wasn't my age, but not having someone to advise me on this procedure.”

59-year-old man, Rwanda

For others, their path towards justice was not as smooth. Some said their older age itself was a barrier to getting justice.

“The concept of justice is for everyone but oftentimes cultural bias favours the young and the strong over the weak and the worn.”

71-year-old man, Philippines

Some participants said they had less chance of getting justice and having their rights respected because they were older. They said older people were not listened to, valued or respected. Some spoke about being treated with disrespect by court officials or being harassed by the police. They said the legal system was not friendly to older people, including paying less in damages because they were older.

“I was paid less compensation because of my age and because I was not working anymore. It didn't seem fair to me.”

69-year-old woman, Spain

Some said the costs were too high for an older person with limited income. Some had no money to pay lawyers.

“Because of my low personal income as a pensioner there was no opportunity to hire a lawyer. I had to defend myself in court.”

56-year-old woman, Russian Federation

Others said they could not pay corrupt officials and other costs involved, for example, transport or paperwork.

“The difficulties I encountered were bureaucratic and financial. A lot of documents and certificates were issued and the costs were around 7,000 lei [393US\$]. This amount is my pension for seven months.”

60-year-old woman, Moldova

Some said they had no support when making complaints.

“Access to a lawyer is limited and it’s impossible to stand up for yourself.”

75-year-old woman, Kyrgyzstan

Some participants could not access information online because they did not have computer skills, or needed support with paperwork. Others said they did not know their rights, or did not have the right information or knowledge because they were older. Some said their lack of education meant they could not follow court proceedings.

“It was very hard for me entering a court and telling the police what my son had done, as I’m not literate. I felt uncomfortable meeting with the police and senior officials when I didn’t know anything or what to do with my son.”

62-year-old woman, Cambodia

Some said there was no local court to go to. Others found the legal or complaints system inaccessible because they did not have the computer skills to view documents, or because the system did not accommodate their particular needs.

“The court sessions are long and the place is crowded. It’s difficult for someone as old as me to wait a long time in the courtroom when my health condition doesn’t allow it.”

69-year-old man, Egypt

Others were afraid to go to court, or did not want to go, because they were not sure of winning their case, or because their claim was denied, or they thought the legal system was corrupt. Others said it was difficult for older people to speak out and make complaints because they were ashamed or did not want to make a case against a family member.

“I don’t want to file a complaint against my son because customs and traditions do not accept a mother doing such a thing.”

70-year-old woman, Jordan



Some participants who had not found a solution to their justice problem said their case was still pending. Some thought the length of the court case was too long.

“This process took 10 years to be resolved.”

74-year-old man, Lebanon

Some felt proceedings were deliberately drawn out to wear them out or in the hope they would die before the case was resolved.

“The insurance company refused to pay because, according to them, my lawyer was asking for too much money for a very old person. I’m still waiting for the judgement. I believe they have spun out this procedure for two years, hoping that I could die before [it’s resolved].”

65-year-old man, Rwanda

Others had given up fighting their case because they felt they were getting nowhere, or because they lacked the strength to pursue the claim or did not have long to live.

“Let’s be realistic, I don’t have many years to live as an older person, so it’s not worth losing siblings over land. Though if I was young, I would definitely fight for my inheritance.”

60-year-old woman, Jordan

Some had not tried to get justice.

“I never tried to get justice. I thought there was no solution for this [abuse and neglect by family members]. Everyone is busy at home. My son goes to work every day, so he also has no time to talk to me. There are lots of problems like this.”

76-year-old woman, India

1.1.3 The difference getting justice makes for older people

A large proportion of participants talked about the positive impact getting justice had had, or would have, on their dignity and wellbeing.

“[Getting justice would mean] having my financial rights [respected] and keeping my dignity within my family and my community.”

66-year-old man, Jordan

Some said getting justice would give them peace of mind and make them feel safe and secure. It would improve relationships with family and neighbours. Knowing that justice had been served would give them personal

satisfaction. It would restore their faith in the justice system and show that honesty was valued in the community. They would be able to sleep at night and live a more peaceful life.

“After so many years, I was happy to see justice finally done. I can now sleep, happy knowing that the stigma has been taken off my family’s name.”

67-year-old woman, Serbia

They would feel more confident, supported and independent.

“The difference would be that I could stay in my own home and take care of myself.”

72-year-old woman, Rwanda (care home resident)





Some said they would feel complete, and that their life would be meaningful and worth living. For others, getting justice would give them self-respect, raise their self-esteem and enable them to keep their dignity.

“If I could solve this, my life would be different, happy and dignified.”

72-year-old man, Nepal

For others, the impact was, or would be, on their physical wellbeing. They could access and pay for health services.

“I feel I can live longer without fear since I can access any hospital at any time without queuing.”

74-year-old man, Uganda

The economic impact of getting justice was, or would have been, significant for some participants. Some said it would have boosted their income. It would have meant they could buy land or get a house for themselves and their family. Others could have invested in their future, providing for their retirement as well as supporting other family members.

“Getting the piece of land would have improved my life and that of my family. I intended to put up a family home and start some project to boost the family income. It would have especially secured my retirement income to enable me to live independently.”

72-year-old woman, Kenya

Others said they had, or could have, started a business or continue working. It would mean they would no longer be dependent on others.

“This [result] made me gain my freedom. I sold some of the property to start a business that’s now sustaining me.”

62-year-old woman, Uganda

For others, getting justice would mean being able to participate in different aspects of life as full members of society.

“I would be able to actively participate in society and contribute to health, social and economic development like others.”

60-year-old man, Myanmar

1.2 Access to justice in human rights law

The right to access to justice has not been specifically applied to the context of older age within the international human rights framework.

The right to access to justice is guaranteed under international human rights law as part of the right to equal recognition before the law in Article 6 of the Universal Declaration of Human Rights, Article 16 of the International Covenant on Civil and Political Rights and Articles 5 and 12 of the Convention on the Rights of Persons with Disabilities.

Access to justice is also guaranteed under other rights related to justice. Article 8 of the Universal Declaration of Human Rights and Article 2 of the International Covenant on Civil and Political Rights guarantee the right to an effective remedy. Article 9 of the Universal Declaration of Human Rights guarantees the right to freedom from arbitrary arrest or detention. Articles 10 and 11 of the Universal Declaration of Human Rights and Articles 14 and 15 of the International Covenant on Civil and Political Rights guarantee the right to a fair trial. Equality before courts and tribunals is guaranteed under Article 14 of the International Covenant on Civil and Political Rights.

Access to justice is guaranteed to persons with disabilities under Article 13 of the Convention on the Rights of Persons with Disabilities and to children under Articles 37 and 40 of the Convention on the Rights of the Child.

At the regional level, older people's right to access to justice is enshrined in Article 31 of the Inter-American Convention on Protecting the Human Rights of Older Persons and Article 4 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa.



Fedaa Qatashshah/HelpAge International

1.3 Recommendations on the right to access to justice

These recommendations on the normative elements of the right of older people to access to justice in a new UN convention are informed by older people's experience as reported in this consultation and existing international and regional human rights law. No older prisoners were consulted for this report but they have been included here because of the particular threats to justice that they face.

Older people have the right to access to justice on an equal basis with others.

Older people have the right to accommodations in all legal and administrative proceedings at any stage to facilitate their effective role as direct or indirect participants, and prevent unnecessary delay in legal proceedings, particularly in situations of immediacy.

Older people have the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against them or for the determination of their rights and obligations of a civil, labour, fiscal or any other nature.

Older people have the right to prompt, effective and appropriate remedies and redress.

Guarantees under the law

- Access to justice for all older people should be guaranteed.
- Older people's legal standing and legal agency should be guaranteed on an equal basis with others and not be denied on the basis of age.
- Legal aid for older people should be guaranteed and not restricted on the basis of their own or their family's income.

Non-discrimination

- Older people should have access to legal services, including legal assistance and legal aid, on an equal basis with others.
- Older people should be able to be equal and active participants in all aspects of the justice system, as plaintiffs and defendants as well as judges, lawyers, jury members or members of other legal tribunals and institutions.
- No stage of judicial or non-judicial proceedings should be influenced by ageist stereotypes.

Availability and accessibility

- Justice entities and related emergency and support services, such as legal aid, shelters, hotlines and counselling, should be maintained, funded, affordable and available to all older people in whatever setting they live.
- Courtrooms, legal tribunals and other justice-related facilities should be accessible to all older people.
- Older people should have access to alternative, non-judicial pathways to justice, such as one-stop community justice centres, community mediators, paralegal support, complaints and grievance mechanisms, restorative justice schemes, ombuds procedures, or specialist commissioners or inspectors.
- Reasonable accommodation should be made for individual older people's support needs to enable them to access justice and victim support.
- Information and public education programmes about their legal rights and access to justice should be made available to older people in appropriate and accessible formats.
- Older people should be supported to participate effectively at all stages of legal proceedings.
- All older people, without discrimination, should have access to the necessary documentation to enable them to claim their entitlements and seek redress if their rights have been denied.
- All those working in the administration of justice and law enforcement, including the judiciary, police and prison staff, should have adequate and appropriate training on ageing and the rights of older people.

Remedies and redress

- Older people should have access to prompt remedies and redress, which are appropriate, effective and holistic, including rights of appeal, restitution, indemnity, compensation and reparation.
- Older people should not be discriminated against on the basis of their age in the award of any damages.
- Non-judicial dispute resolution mechanisms, such as ombuds procedures, specialist inspectors or commissioners, community mediators, paralegal support and complaints and grievance mechanisms, should be available to older people.



Sebastian Ormachea/HelpAge International

Older prisoners

- Prison regimes should accommodate the needs of older prisoners, including necessary physical adaptations, protection against violence and extortion, appropriate educational and vocational opportunities, and support with reintegration into the community.
- Older prisoners should have equal access to services, including physical, mental and cognitive health, dental, hygiene and hospice services, and social and other support services available to the general population.

2. Work and access to the labour market

2.1 Findings from the consultation

2.1.1 Age discrimination when looking for work

Answers to the question of whether participants had been refused work because of their age suggest that a substantial proportion wanted, or needed, to look for work. Nearly half of men (47 per cent) and more than a third of women (38 per cent) said they had been refused work because of their older age.

“I was a teacher. I applied to work when I was 56 and they refused to hire me because of my age.”

84-year-old woman, Lebanon

Participants said they had been refused work because of their older age in a wide range of occupations and types of employment, including permanent, temporary, part-time and casual or daily labour, both paid and unpaid.

Older women said they had been refused work in a wider range of occupations than older men. These included farm labour, butchery, cleaning, childcare, working for an international non-governmental organisation, washing dishes, being on the local school board, being on the village committee, construction, laundry, teaching, public service, translating and engineering.

Older men said they had been refused work in agriculture, masonry, teaching, public service, construction, gardening, healthcare and security.

Of those who said they had not been refused work because of their age, both women and men said this was because they were not looking for a job, or they had not looked for one since they had retired, or there was no work available.

Only a very few participants said they were self-employed or still working.

Definition

The right to work and access to the labour market means everyone has the opportunity to make a living from work that they freely choose. It includes safe and fair conditions at work, access to training, and a wage that is enough for an adequate standard of living for the worker and their family. It also includes the right not to be unfairly denied work. Work that meets these standards is often known as “decent work”.





2.1.2 Barriers older people face to work and accessing the labour market

Some participants said their older age had no effect on the work opportunities available to them. For some, this was because they were self-employed. Some were not looking for work, because women did not look for paid work in their community, or they did not wish to work at this stage in their lives. Others said that the barrier was their poor health or an impairment, and not their older age.

“I haven’t applied for a job. I’m having trouble moving right now, making me stay home all the time.”

65-year-old woman, Palestine

A few felt that being older improved work opportunities. Some said they were regarded highly for their integrity. Others said they had more experience and skills to contribute.

“I have had more opportunities because of my experience.”

67-year-old woman, Chile

However, the vast majority said they felt that being older limited the opportunities available to them.

“Older people just do not have the same opportunities.”

65-year-old woman, Spain

Some said they were refused work because employers thought they would get hurt more easily than younger workers, and so were a higher risk. Others said it was because they did not have the physical strength. Some said it was because they had no education or lacked new technology skills. Some said they were refused work because they were on a pension. Others said it was because younger people wanted to be trained by other younger people, or because older people were more expensive to hire than younger workers.

“I used to work as a translator, but they refused [to hire me] because I don’t know how to use a computer. No one wants to hire an older person, we’re not as good as youngsters at technology. Plus, they’re much faster. Also, companies hire fresh graduates to give them lower salaries than experienced translators.”

60-year-old woman, Jordan

Some older women said they were refused work because of their older age combined with other factors, such as being a woman, being widowed, lacking an education or having a disability. Some said their families would not let them work.

“My children stopped me from raising livestock such as pigs and chickens. They think I could lose the profit and the capital they put in. They feel I’m weak and could get a serious health problem, and then they would have the burden of taking care of me. However, I still want to work and earn some money to contribute to the family expenses.”

56-year-old woman, Cambodia

Some said that there were not enough jobs and no retraining for people over retirement age.

“I’d like to start a new profession, but there’s no system for retraining older people in the country.”

57-year-old woman, Russian Federation

For others, the problem lay in the law, with mandatory retirement ages forcing them out of work.

“Being an older woman with disabilities, my opportunities to get new decent work are limited, mainly due to mobility problems; more so now that I’m over 60 years old, the official retirement age.”

68-year-old woman, Kenya

A number of participants spoke about negative attitudes to older workers. They said employers preferred to hire younger people, sometimes putting age limits in job advertisements.

“In job advertisements, a certain age is required for applicants, for example, under 35 years old. This affects the employment opportunities of those who are older.”

66-year-old man, Jordan

Some said employers and others in the community ignored older people’s past experience.

“A thing I noticed when I retired is that suddenly you’re no longer needed as an expert. With my experience as a psychologist and director of a seniors’ care home, I couldn’t apply for a position on the supervisory board of a public service just because I’m old or retired. I think that the older generation is too quickly cut off from the ‘active’ working environment, since we could be a great support to younger generations at the start of their careers.”

71-year-old man, Slovenia



Ben Small/HelpAge International

Others said employers thought older people worked less than younger people, that it was hard for them to understand what to do, or that they were unable to perform at work.

“It’s perceived by so many people that older people have no ability to perform their tasks and that they’re outdated.”

71-year-old man, Tanzania

Some said older people were no longer expected to work.

“The opportunities get more limited as we grow old. We’re only supposed to do household chores or get involved in religious activities.”

52-year-old woman, Nepal

For many, there were no jobs available that were appropriate for them. Some said they lacked the skills. Some said they had mobility problems. Others said the jobs available were too physically demanding. Some said they were too tired to apply for work.

“Ageing causes me fatigue and stress when doing the housework so I couldn’t apply for any jobs.”

62-year-old woman, Palestine

Others said they were in too poor physical, mental or cognitive health.

“I think there aren’t many job opportunities for me as an older person, other than manual work or farming. Our health is not as strong as before and we don’t have the capacity to find a good job.”

52-year-old woman, Cambodia

A number of participants said the only jobs available for older people were in casual, unskilled and low-paid work, or jobs considered to be inferior in some way.

“Old age is an almost insurmountable obstacle when applying for a job, except for the most difficult and dirty work.”

66-year-old woman, Kyrgyzstan

Some said that, when they reached a certain age, they were forced to accept a lower paid job or one at a lower level.

“I have to admit that I felt bad when I was put on a different type of contract after my retirement. This is very stressful. I feel like a ‘spare wheel’ that the institution depends on. When there are no other applicants for vacant positions, they fill them with retired teachers.”

64-year-old woman, Moldova

2.1.3 What decent work means to older people

Work that meets the standards set out in existing international human rights law is often known as “decent work”. Decent work for many of the participants was work that paid a high enough wage for them to meet their own and their families’ needs, their housing, food, medical, travel and other expenses. Some said they should be able to pay for the things they enjoyed doing. Some said the salary should be enough to enable them to invest in their future.

“Decent work to me is work that would pay enough to sustain one while working, as well as during retirement to enable independent living.”

90-year-old woman, Kenya

Some felt work needed to be regular and reliable to be decent, with job security and respect for contracts. Others said decent work included benefits such as a pension, health insurance, sick leave, maternity leave and compensation for any injuries or damage at work. Some talked about working conditions being safe and secure, with respect for working hours and leisure time, and opportunities for promotion.

“[With decent work you] have all the rights, such as a good salary, bonuses and vacations.”

70-year-old woman, Peru

For some, work that was decent made accommodation for a person’s particular needs and abilities, whether related to an impairment, health condition or other attribute.

“Decent work takes into account your health and suits your ability. I, for example, can supervise the younger doctors and monitor their performance, and carry out some treatments that do not need physical strength.”

73-year-old man, Egypt

Some said work was decent when it gave them self-respect and self-worth, made them feel valued or secure, and enabled them to maintain their dignity.

“Decent work would be like owning a hardware shop selling cement and iron sheets, which I can close and open at will. A job that enables me to maintain my dignity.”

62-year-old woman, Uganda

Being treated fairly was central to decent work for a number of participants. They said there should be equal pay for equal work, impartial treatment, no harassment, no fear of being manipulated or exploited, and no sense of shame or stigma.

“Decent work for me is work that a person does without shame.”

69-year-old man, Rwanda

Some said decent work allowed people to be creative, improve themselves, develop their potential, achieve their life goals or prove themselves.

“A decent job is one that allows you to develop your skills and competencies.”

74-year-old woman, Argentina



HelpAge International Moldova



2.1.4 The difference decent work makes for older people

Some participants said they had had decent work, either when they were younger or in their older age. Others said they had not. The vast majority said decent work would have, or would have had, a positive impact on their lives.

Some said that decent work would give them enough money to provide for themselves and their families, and they would not need to be dependent on their children. Some said they would be able to pay for medical expenses, better food and clothing, or social, cultural or religious activities.

“Having access to decent work and receiving a good salary means living decently and with dignity without relying on other people. I wouldn’t have to worry about purchasing my daily necessities such as food and medicines. Perhaps I could even share with other people in need.”

72-year-old man, Philippines

Some said that, if they had decent work, they could pay for younger family members’ education, solve their children’s financial problems or avoid debt themselves.

“If I could get decent work, I would not fall into big debt like I have these days.”

71-year-old woman, Cambodia

Some said they would be able to expand their businesses, save, invest in their future or get a pension.

“I’d have a stable source of income. I wouldn’t wait for the harvest to have money. I’d have my pension. Farmers don’t have that. Without a pension we plant until we die to provide for our daily needs.”

67-year-old man, Philippines

Some of the residents in care homes said they would have been able to live where they wanted, if they had had decent work.

“If I had had decent work, I would have been able to get treatment for my mental problems and have my own home.”

60-year-old man, Rwanda (care home resident)



Paiboon Yeelar/POPDEV

A large proportion of participants spoke about the importance of decent work for their emotional wellbeing and how it would preserve their dignity. Some said decent work would increase their self-esteem, and make them feel proud, respected, accomplished, satisfied with life or valued.

“[It makes a] huge difference. I feel like a complete person when I see my work being valued.”

73-year-old woman, Serbia

Others said decent work would make them feel useful to society and give them a chance to utilise their skills and expertise. They would no longer feel helpless or unnecessary.

“I would feel useful. I need to work, so having access to decent work would be encouraging to me as a human being.”

60-year-old woman, Mauritius

Some said they would not have to depend on their children or be considered a burden to them. They could live independently.

“Having a decent job affects people very positively because you feel good about yourself and you do not have to depend on anyone.”

66-year-old woman, Spain

Others said that decent work would enable them to live autonomously.

“Having access to decent work and a regular income would make me feel proud and confident. I could spend my income as I wish with no need to get approval from my family.”

62-year-old woman, Myanmar

Others said that decent work would motivate them to be productive, or give them the time and energy for other interests or family life.

“My old age would have been happy with my grandchildren.”

65-year-old man, Nepal

Some said decent work would give them a sense of belonging. It would increase their social contact with other people, enable them to stay busy, and reduce their loneliness and isolation.

“I would have a better standard of living. I would feel integrated into the community. I suffered acute depression after I stopped working. Retirement for me was like a sentence to isolation, loneliness and a denial of capacities and experience. If we continued to work, we would not live this nightmare.”

60-year-old woman, Moldova

Some said they would feel happier, less stressed or nervous, and more secure about their future. Others said they would feel their life was more worth living or had not been in vain.

“I would feel differently, not like I feel right now – that my life was in vain and that I had to accept the decisions that other people made without asking me first.”

66-year-old man, Serbia

2.2 Work and access to the labour market in human rights law

International human rights law does not adequately address the specific application of the right to work to the context of older age and older people.

The right to work is protected in international human rights law under Article 23 of the Universal Declaration of Human Rights, Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights, Article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women and Article 27 of the Convention on the Rights of Persons with Disabilities. Migrant workers' rights are protected under the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, the only international human rights convention to explicitly prohibit discrimination on the grounds of age.

At the regional level, older people's right to work and employment is enshrined in Article 18 of the Inter-American Convention on Protecting the Human Rights of Older Persons and Article 6 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa.

2.3 Recommendations on the right to work and access to the labour market

These recommendations on the normative elements of the right of older people to work and access to the labour market in a new UN convention are informed by older people's experience as reported in this consultation and existing international and regional human rights law.

Older people have the right to decent work on an equal basis with others.

Older people have the right to dignity at work, to just and favourable working conditions, including equal opportunities and equal remuneration for work of equal value, to safe and healthy working conditions, including protection from harassment, and to the redress of grievances, on an equal basis with others.

Older people in receipt of a pension have the right to work.

Older people have the right to determine when, at what pace and to what extent to withdraw from the labour force.

Older people must not be held in slavery or servitude and must be protected on an equal basis with others from forced or compulsory labour.



Guarantees under the law

- The right to work and access to the labour market in older age should be universally guaranteed.
- Discrimination against older people, including harassment, on the basis of age should be prohibited in all matters related to employment, including recruitment, continuance of employment, career advancement, retirement policies, and safe and healthy working conditions, in both the formal and informal sectors.
- Intersectional discrimination, namely the combined effect of two or more characteristics, such as age, gender or disability, should be prohibited in all matters related to employment.
- Mandatory retirement ages should be prohibited.
- The right to flexible or gradual retirement schemes and flexible working practices for older workers should be guaranteed.
- States should have a duty to consider the differential impact of all their decisions, in particular age-based policies, on older people.
- Employers should have a duty to ensure that reasonable accommodation is provided to older people in the workplace.
- Affirmative action programmes to promote the hiring of older people should be allowed.

Non-discrimination and equality

- Every older person should enjoy their right to work without discrimination.
- Labour policies should account for the particular needs and characteristics of older people, and workplaces should be suitable in terms of working conditions, environment, working hours, and organisation of tasks.
- Older people with caregiving responsibilities should have access to flexible working conditions on an equal basis with others.
- Employers should shape their organisational culture in order to eliminate ageism and age discrimination.
- Older people should be able to exercise their labour and trade union rights on an equal basis with others.



HelpAge International Moldova

Availability and accessibility

- Employment opportunities and career advancement for older people should be promoted, as well as support for locating, obtaining, maintaining and returning to employment.
- Older people should have access to career-development, technical and vocational guidance programmes, placement services, and vocational and skills development programmes.
- Older people should have access to the labour market, including physical access to workplaces, access to information about employment opportunities, training, and reasonable accommodation for their particular needs and abilities.
- Opportunities for older people's self-employment and entrepreneurship should be promoted.

Remedies and redress

- Older people should have access to the necessary mechanisms to make complaints and seek redress for denial of their right to work and access to the labour market.
- There should be a shifting burden of proof, so that once a person shows differential treatment apparently based on age, the responsibility for proving otherwise lies with the employer.
- Older people should not be discriminated against on the basis of their age in the award of any damages.

Informal or unremunerated work

- Older people should enjoy fair and safe conditions of work when undertaking informal or unremunerated work.
- Older people's informal or unremunerated work should not limit their opportunities to be engaged in paid work.
- Appropriate and effective measures should be put in place to protect the rights of older people working in the informal sector.

Annex 1: Consultation questions

Access to justice

1. In your older age, have you wanted, or tried, to find a solution for a justice problem?

Examples of justice problems include:

- disputes over land or property
- family disputes like divorce and inheritance
- problems at work such as being unfairly dismissed
- problems with money and debt, or as a consumer
- difficulties in accessing public services, like healthcare or pensions, that you are entitled to
- being the victim of violence, crime or discrimination.

Please explain what your justice problem was and what, if anything, you tried to do to find a solution.

2. Did you find a solution? If you did, did you face any difficulties or barriers on the way? If you did not find a solution, why not?
3. What difference did being an older person make to your experience and the solutions available to you?
4. What difference would, or did, solving your justice problem make to your life?

Work and the labour market

1. Has anyone refused you work because of your older age, or because of perceptions about your older age?
2. How does being older impact on the work opportunities available to you?
3. We often talk about the importance of having decent work. What does decent work look like to you?
4. What difference would, or does, having access to decent work make to your life?

Annex 2: List of countries and methodology

Argentina	Lebanon	Republic of Korea
Cambodia	Mauritius	Russian Federation
Chile	Moldova	Rwanda
Egypt	Myanmar	Serbia
India	Nepal	Slovenia
Jordan	Palestine	Spain
Kenya	Peru	Tanzania
Kyrgyzstan	Philippines	Uganda

A total of 306 older people took part (198 women and 108 men). They were invited to respond as individuals. Their responses have not been weighted in any way. The participants were self-selecting, so they are not a representative sample of older people.

We would like to thank the following for their support in conducting the consultation with older people:

Ageing Nepal, Alzheimer's Association Lebanon, Coalition of Services of the Elderly (Philippines), DIS-MOI (Mauritius), El Wedad Society for Community Rehabilitation (Palestine), Fundación Oportunidad (Chile), GRAVIS (India), HelpAge Cambodia, HelpAge España, HelpAge International Africa regional office, HelpAge International Eurasia and Middle East regional office, HelpAge International Kyrgyzstan, HelpAge International Moldova, HelpAge International Myanmar, HelpAge International Tanzania, HelpAge Korea, House of Projects (Russia), Institute for Development Research Advocacy and Applied Care (Lebanon), ISALUD (Argentina), Jasmine Center for Care of the Elderly and People with Special Needs (Egypt), Society Znaniye (Knowledge) of Kamensk-Uralsky (Russia), Mesa de Trabajo de ONGs y Afines sobre Personas Adultas Mayores (Peru), NSINDAGIZA (Rwanda), Red Cross of Serbia, Sisterhood is Global Institute (Jordan), Uganda Reach the Aged Association, Volga-Don (Russia), ZDUS (Slovenia).

Annex 3: The Open-ended Working Group on Ageing

The Open-ended Working Group on Ageing was set up by the UN General Assembly in 2010 to identify possible gaps in the existing international human rights framework in relation to older people and how best to address them, including the possibility of new human rights instruments.

<https://social.un.org/ageing-working-group>





Shashank/HelpAge International

Find out more:

www.helpage.org/what-we-do/rights

HelpAge International
PO Box 70156, London WC1A 9GB, UK
Tel +44 (0)20 7278 7778
info@helpage.org
www.helpage.org

 @HelpAge  HelpAge International