



Normative elements of the right to autonomy and independence

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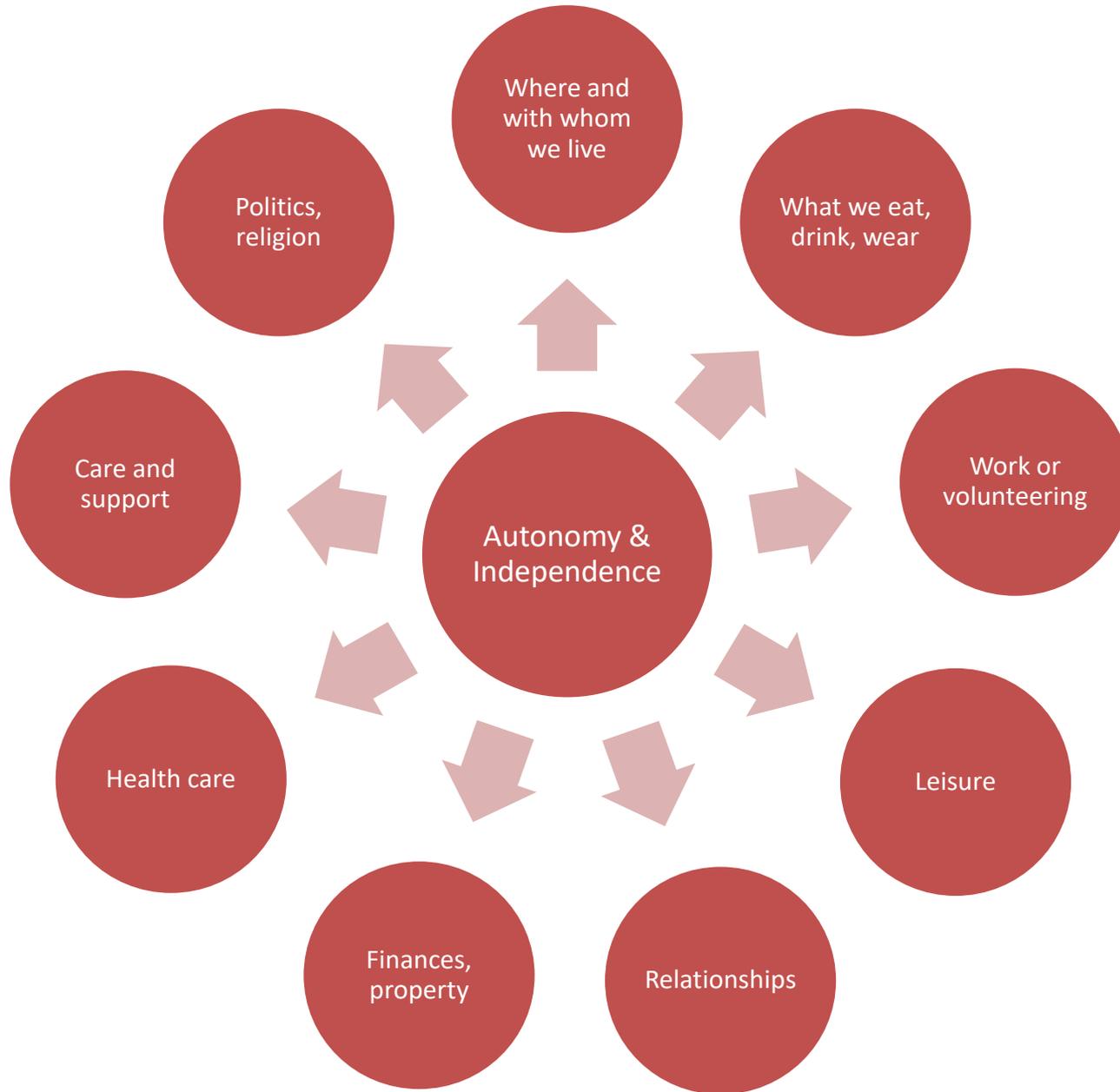
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Autonomy and independence over ...

HelpAge

International



International human rights standards

Equal recognition before the law

- Universal Declaration of Human Rights, Article 6
- International Covenant on Political and Civil Rights, Article 16
- Convention on the Elimination of All Forms of Discrimination Against Women, Article 15
- Convention on the Rights of Persons with Disabilities, Article 5.1 and Article 12

International human rights standards

Right to a private life

- Universal Declaration of Human Rights, Article 12
- International Covenant on Political and Civil Rights, Article 17.1
- Convention on the Rights of Persons with Disabilities, Article 22.1 and Article 23.1

Regional human rights standards

- **Inter-American Convention on Protecting the Human Rights of Older Persons**

Article 7: Right to independence and autonomy

Article 11: Right to give free and informed consent on health matters

Article 30: Equal recognition before the law

- **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa**

Article 4: Access to justice and equal protection before the law

Article 5: Right to make decisions

Regional human rights standards

- **The EU Charter of Fundamental Rights**

Article 25: The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

- **Council of Europe recommendation
CM/Rec(2014)2**

III. Autonomy and participation (9-15)

B. Consent to medical care (36)

Suggested normative elements

Affirmation

Scope

State obligations

Suggested normative elements: Autonomy and independence

Affirmation

1. Older persons have the right to personal autonomy and independence over all aspects of their lives in line with their will and preferences and on an equal basis with others.

Suggested normative elements: Autonomy and independence

Scope

1.1 Older persons have the right to enjoy legal capacity, to make decisions, to determine life plans and to lead autonomous and independent lives in line with their will and preferences and on an equal basis with others. This includes the right to have those decisions respected.

Suggested normative elements: Autonomy and Independence

State obligations

2. States Parties shall take appropriate and effective measures:

2.1 To ensure older persons have **access to services**, including support to exercise legal capacity, which enable them to exercise their right to autonomy and independence including support necessary for them to make, communicate and participate in decisions.

2.2 To ensure **mechanisms** designed to enable the exercise of older persons' right to autonomy and independence recognise older persons' right to legal capacity on an equal basis with others in all aspects of life.

Suggested normative elements: Autonomy and Independence

State obligations

2.3 To ensure older persons have **access to a range of support services** in order to support independent living and inclusion in the community, and to prevent isolation or segregation from the community. Such support should be available on an equal basis in home, community and residential settings to ensure older persons' enjoyment of their right to choose where and with whom they live.

2.4 To ensure older persons living in **shared residential settings** are provided with specific and tailored support services to exercise their right to autonomy and independence in order to accommodate any cultural, spiritual, professional and environmental challenges of these facilities.

2.5 To ensure the **full, effective and meaningful participation** of older persons in family, social, cultural, economic, public and political life and educational and training activities.

Suggested normative elements: Equal recognition before the law

Affirmation

1. Older persons everywhere and at all times have legal capacity and the right to equal recognition before the law on an equal basis with others.

Suggested normative elements: Equal recognition before the law

Scope

1.1 Older persons have **legal capacity** on an equal basis with others in all aspects of life.

1.2 Older persons have the right to **designate one or more trusted persons** to assist them to make decisions based on their instructions, will and preferences.

1.3 Older persons have the right to make **advance directives** to express their will and preferences in advance.

1.4 Older persons have the right to **participate in, and challenge, any decisions** that interfere with the exercise of their legal capacity, including decisions that seek to substitute, or offers or requests to support, their decision-making.

Suggested normative elements: Equal recognition before the law

State obligations

2. State Parties shall take appropriate and effective measures:

2.1 To ensure older persons have **access to the mechanisms and support** they may require to exercise their legal capacity in accordance with their will and preferences, and on an equal basis with others.

2.2 To ensure older persons have access to **appropriate and effective safeguards** to prevent abuse in the exercise of their legal capacity, and to respect their will and preferences in accordance with international human rights law, including the right to legal counsel; and which are free of conflict of interest and undue influence and are tailored to the older person's circumstances.

Suggested normative elements: Equal recognition before the law

State obligations

2.3 To ensure effective **access to justice and redress** for older persons including through provision of procedural accommodations and special measures to prevent unnecessary delay in the legal process.

2.4 To ensure **appropriate training** in this area for support and trusted persons, support and other service providers, including but not limited to notaries and medical personnel, and those working in the administration of justice, including police and prison staff.

Thank you

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