

Strengthening older persons' rights worldwide

We are all born equal and this does not change as we grow older. Even so, under the existing national, regional and international mechanisms, older persons are suffering from inequality and invisibility. As the proportion of older persons in the population increases, greater numbers of people will be affected directly by age discrimination and ageism, thereby increasing pressures on governments and society as a whole to respond to these challenges.

Improving the protection of older persons' rights is the best single response to enable older persons to enjoy their human rights fully, participate and contribute to their communities and collectively tackle the economic and demographic crises.

This short publication aims to foster dialogue and civil society engagement around the creation of a new United Nations (UN) convention on the rights of older persons.

What are human rights?

Human rights are entitlements and freedoms inherent to all human beings, whatever our nationality, place of residence, sex, age, national or ethnic origin, colour, religion, language, or any other status.

They are not privileges attributed to certain categories of people; human rights are held by all persons equally, universally, and forever. They are based on core principles such as dignity, fairness, equality, respect and autonomy. Human rights are relevant to our day-to-day life and protect our freedom to control our own life. They form the basis on which we can effectively take part in public decisions and call for fair and equal services from public authorities.

We are all equally entitled to our human rights without discrimination, but some people face specific challenges to their enjoyment. For example, accessibility of the built environment is a pre-condition to the enjoyment of the rights to work, education and participation for persons with a disability.

How are human rights guaranteed?

Human rights are expressed and guaranteed by law, such as international treaties and national constitutions. International human rights law lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and

fundamental freedoms of individuals or groups. While these legal texts can help raise awareness of human rights and improve the situation of people on the ground through domestic implementation, ultimately their impact will depend on how they are effectively enforced by State parties.

What are older persons' rights?

The [Universal Declaration on Human Rights](#), which was drafted by the United Nations (UN) in 1948 to set out the fundamental rights and freedoms shared by all human beings, states that "all human beings are born free and equal in dignity and rights". This means that older men and women have the same rights as everyone else and equality does not change with age.

The dialogue pertaining to protecting the rights of older persons is not about creating new rights; it is to ensure that older persons fully enjoy their rights in law and in practice on an equal basis with other members of society.

Why are we talking about a new convention on older persons' rights?

While human rights apply to everyone without age limits, the realisation of older persons' human rights is in practice impeded by negative attitudes and extensive discrimination towards older persons.

The UN is currently reflecting whether there is need to do more to attain equality across ages

and one of the options discussed is whether a new convention (binding legal instrument) would improve the protection of the rights of older persons.

Are there UN conventions on the rights of other groups?

Children, women and persons with disabilities are currently protected by dedicated UN conventions¹; this however does not mean that these treaties have created new or specific rights for these groups.

The relevant treaties explain how human rights which exist for everyone can be realized for these groups, addressing the distinct challenges which impede their enjoyment. These specific members of society are often in vulnerable or disadvantaged situations due to gender-based attitudes and practices and disabling environments which make them victims of discrimination and violation of their rights.

Moreover, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has a primary objective to protect migrant workers and their families, a particularly vulnerable population, from exploitation and violation of their human rights.

Are there human rights issues that are particularly relevant to older persons?

Although human rights should not change with age or dependency, older persons face very specific and real threats to their rights in relation to: access to pensions, health care, and education; protection from age discrimination in employment; access to goods and services, support in care settings, and protection from elder abuse.

¹ Namely the [Convention on the Rights of the Child](#), [Convention on the Elimination of All Forms of Discrimination Against Women](#) and the [Convention on the Rights of Persons with Disabilities](#)

Is “old age” adequately addressed in international human rights bodies?

No. For example, among the above-mentioned treaties, only that focusing on migrant workers explicitly refers to age as a ground of discrimination. This renders older persons invisible in law and in practice and fails to make universal rights equally effective for older persons as for other groups. For example, of 21,353 recommendations by the Human Rights Council during the first round of its peer to peer human rights review process of all United Nations Member States (known as Universal Periodic Review), only 31 recommendations referred to “elderly” people or people of “old age”².

What is a UN convention?

UN conventions are legally binding. When Member States ratify a convention, they agree to abide by the content and commit to submit regular reports to a committee of independent experts who review how well the government has enforced the treaty in its territory and thereafter make observations and recommendations.

Conventions provide Member States with a policy and legal framework, as well as implementation guidance. However, its implementation requires firstly the ratification by Member States and secondly the support and goodwill of the State to comply with its obligations, since there are no legal sanctions for non-compliance with those obligations.

Is there a need for a new convention?

Although older persons are already covered by existing human rights treaties which apply to everyone, they are not recognised explicitly under the international human rights laws that legally oblige governments to realise the rights of all people.

² Word searches and analysis were undertaken on the database of UPR-info, <http://www.upr-info.org/database/> accessed July 2012.

In reality the rights of older persons are still often ignored and sometimes totally denied, specifically in terms of chronic poverty, violence and abuse, inadequate access to appropriate quality care, disrespect for dignity and autonomy, lack of educational and recreational opportunities, little or no access to the law, and exclusion from social and political participation.

The way existing human rights instruments are applied to older persons depends upon self-regulation by individual decision-makers at the different levels of government, which also means huge discrepancies within and among countries.

Insofar as age discrimination is not explicitly mentioned in legislation, it is also difficult to address multiple discriminations based on age and other grounds, such as gender or ethnic origin. A new convention can help making rights equally effective for older persons as for other groups.

What is the Open-Ended Working Group on Ageing (OEWG)?

The Open-ended Working Group on Ageing (OEWG) is a working group of UN Member States, civil society and other stakeholders that has met annually in New York since its establishment, by a resolution at the 2010 UN General Assembly.

The OEWG's main purpose is strengthening the protection of the human rights of older persons worldwide. The mandate of the UN OEWG is to examine the existing international framework in relation to the human rights of older persons, and to identify possible gaps and how best to address them, including the possibility of new human rights instruments.

In December 2012 the General Assembly expanded this mandate to consider and report on what should go into a new international legal instrument on older persons' rights.

The OEWG also serves as a forum to discuss the challenges to the enjoyment of rights of older

persons in different parts of the world and to debate whether there is a need for additional UN mechanisms, such as a convention.

What is the Independent Expert on the rights of older persons?

The Independent Expert on the enjoyment of all human rights by older persons was established by the UN Human Rights Council in 2013.

This expert is appointed with a 3-year mandate to examine, monitor, advise and publicly report on the human rights of older persons worldwide. The expert will work to consolidate an understanding around older persons' rights and foster the implementation of measures that contribute to the promotion and protection of the rights of older persons.

The expert can undertake fact-finding missions in countries and issue reports and recommendations; prepare thematic studies that serve as a guide on norms and standards; and raise public awareness through the media.

The Independent Expert will work in close coordination with the UN OEWG and is expected to be appointed in March 2014.

Why is the Global Alliance for the Rights of Older People involved in the discussions about a UN convention on the rights of older persons?

Established in 2011, the Global Alliance for the Rights of Older People (GAROP) is a network of organisations from across the globe born out of the need to strengthen the rights and voice of older persons globally.

The mission of the Global Alliance is to support and enhance civil society's engagement at national, regional and international levels on the need for a new international instrument on the rights of older persons.

For GAROP the existing legal and policy framework is not sufficient to adequately protect nor implement the rights of older persons equitably across the life course and in

all life settings; a UN convention on the rights of older persons is therefore needed to fully understand how existing human rights apply to older persons and how they can be effectively enforced as part of the UN system.

What is the added value of a convention on the rights of older persons?

A new legal instrument would bring clarity to both the nature of older persons' rights and the responsibilities necessary to protect them.

In particular a convention on the rights of older persons can:

- codify the rights of older persons in one single document taking due account of the specific challenges related with ageing
- act as an anti-discriminatory tool to challenge prevailing stereotypes about old age
- require governments to collect data, develop indicators and other supporting instruments to underpin the monitoring process
- refocus the existing human rights obligations of Member States taking into account the challenges of people while they age and improve state accountability
- generate clarity and guidance with which civil society can work alongside the government to implement
- increase visibility of older persons in societies
- encourage structural changes and shifts in perception of ageing, guide policy change and provide the basis for advocacy
- raise public awareness in respect of older persons' rights
- create societies and environments for all ages, where older persons are able to contribute, prosper and enjoy their rights.

What can civil society do to become involved in this debate?

- 1) Although the UN OEWG meets in New York, government representatives at the UN take their instructions from their governments in capital cities. Civil society organisations, therefore, have a critical role to play at the national level in:
 - Informing government representatives in capital cities about the importance of the OEWG.
 - Encouraging their government to participate in the work of the OEWG and include them in the national delegations in the OEWG.
 - Providing information on discrimination against older persons and violations of their rights to government representatives in capital cities and in New York.
 - Meeting with government representatives to discuss issues that need to be raised at the OEWG.
 - Working with civil society and older people's groups to advocate for their rights and raise awareness of the ongoing discussions.
 - Working with journalists on media articles on older persons' rights.
 - Gather evidence of discrimination, abuse and other violations of the rights of older persons and bring them to the attention of the Independent Expert.
 - Translate and disseminate relevant material

- 2) Accredited your NGO to the OEWG process. ECOSOC consultative status is not required to participate in the OEWG process.

NGOs with an interest in older persons' rights can become accredited for the OEWG, submit information and reports to the OEWG and attend the sessions.

Individual civil society organisations and their networks can contribute as panellists to the substantive discussion of the OEWG.

- 3) Become a member of GAROP and contribute to the unified voice advocating for the convention on the rights of older persons

More information

Global Alliance for the Rights of Older People:

<http://www.rightsofolderpeople.org>