

Workshop on Advancing the Campaign to Elaborate a United Nations Convention on the Rights of Older Persons

11 December 2016

Outcome Report

On 11 December 2016, advocates of a proposed Convention on the Rights of Older Persons (the convention) met at New York University's School of Law to share experiences and develop strategies to advance the campaign ahead of the seventh session of the UN Open-Ended Working Group on Ageing (OEWGA) and beyond. Participants comprised representatives of non-government organisations, National Human Rights Institutions (NHRIs), universities and the UN as well as members of the public and one government official. They came from a range of countries such as Canada, Switzerland, Mongolia, Tanzania, Cameroon, Australia, Korea, the UK and the US.

In 2010, the UN General Assembly voted to establish an open-ended working group, the OEWGA, to review the 'existing international framework of the human rights of older persons' and to identify 'possible gaps and how best to address them'. The General Assembly extended and expanded the mandate of the OEWGA in 2012, requesting it to consider 'proposals for an international legal instrument to promote and protect the rights and dignity of older persons'. This was a major coup for those advocating the elaboration of a convention as it represents a positive step towards achieving this end. While many consider that the adoption of a convention will eventually occur, the process of generating political support for drafting one has been slow.

The experience of establishing previous UN human rights treaties has shown that a strong and dense transnational advocacy network can make a significant contribution to influencing states' positions on developing a treaty and in expediting the drafting process. This can be achieved through strong domestic campaigns, increasing the number and diversity of network members, marshalling resources, strong coordination and communication between civil society (as well as between civil society, state, NHRI and UN advocates), and the deployment of effective advocacy strategies in domestic and international settings.

The rationale for the workshop was to provide an opportunity for to discuss ways in which civil society might more effectively mobilise its resources, develop its advocacy, and collaborate with influential allies (including NHRIs) to ensure that the momentum to establish a convention was sustained and enhanced going forward. The goals of the workshop included:

- (1) Clarifying the international legal and political process for elaborating a new convention
- (2) Sharing lessons from key national campaigns to advocate for a convention
- (3) Identifying actions to strengthen national campaigns
- (4) Identifying strategies for collective action beyond the 7th OEWGA meeting

The workshop was organised by the Australian Human Rights Centre, Faculty of Law, University of New South Wales, Sydney Australia and HelpAge International, with support from the Asia Pacific Forum of National Human Rights Institutions and the Center for Human Rights and Global Justice at NYU's School of Law. The following sections summarise the main points of presentations and subsequent discussions.

1. THE INTERNATIONAL LEGAL AND POLITICAL PROCESS FOR ELABORATING A NEW CONVENTION

Reasons for optimism: recent developments

- When the OEWGA first commenced its work, it was almost impossible to start a discussion with many countries on the elements of the possible convention. The situation now is slightly different. The suggestions made at the workshop – that there would be a greater recognition by States of the need to discuss the substance and content of a new international instrument – were subsequently confirmed at the 7th OEWGA session.
- It was likely that the OEWGA would adopt a decision put to it by the Bureau to permit NHRIs enjoying ‘A’ status to participate formally in the proceedings of the Working, from the 8th session in July 2017. [The OEWGA adopted the draft decision without objection on its first day. This decision was the result of much effort; it was not an easy process and there was resistance from many countries.]
- The report of the Independent Expert on the enjoyment of all human rights by older persons (the IE) had been submitted to the Human Rights Council (HRC) in July 2016 for consideration. One of the main conclusions of the IE was the need for an international convention. The discussion of the IE report and with the IE at the 7th OEWGA would be one way to impress on all those present the need to establish a convention. The mandate of the IE was also extended by the HRC in 2016.
- The recent adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, following on the earlier adoption of the Inter-American Convention on Protecting the Human Rights of Older Persons, and developments in Europe, such as Council of Europe’s non-binding recommendations on older persons.
- Slovenia had held an International Conference on Ageing in April 2016 which was attended by civil society, key states in Europe and the IE among others where the subject of a convention was discussed.
- The Global Alliance of National Human Rights Institutions (GANHRI) officially launched its Working Group on Ageing at the start of 2016 to promote the formulation of a convention and to promote their human rights. This built on earlier work by the Asian Pacific Forum of NHRIs and the European Network of NHRIs, both of which had previously adopted positions supporting the elaboration of a convention.
- The ASEM Expert Forum on Human Rights of Older Persons had been held in 2016 as a follow-up to the ASEM Conference on Global Ageing and Human Rights of Older Persons in October 2015.
- The Group of Friends of Older Persons had been formed in Geneva to promote the rights of older persons (not specifically a convention).
- Portugal will host a UNECE Ministerial Conference on Ageing in September 2017.

Generating a “critical mass” of states

The point was made that it is important that the decision to move to draft a convention is taken at the right time, when there is sufficient political agreement to move forward. The risk of moving too early is that the discussions will only take place among those States which support a convention and this might increase the likelihood that any treaty will not enjoy broad support and will receive low numbers of ratification (as in the case of the International Convention on the Protection of the Rights of All Migrant Workers) and therefore the treaty might have minimal impact. The next step in the process is to bring in more states to discuss the elements of a proposed convention as a means of generating a critical mass of support.

2. THE INTERNATIONAL POLITICAL AND INSTITUTIONAL CLIMATE

The crisis of the human rights project

The importance of the context within which advocacy take place was underlined by one presenter. Human rights are increasingly viewed as a project of the elite and irrelevant to ordinary people. Mainstream human rights organisations should be supporting older persons' rights, as they are affected by global austerity measures. Civil society needs to demonstrate what human rights do for ordinary people facing major problems with housing, care, etc. One presenter argued that advocates of a convention will not have achieved their objectives unless there is a public discourse on the rights of older persons that empowers people to understand their position in life and gets other people to look at them in a completely different way. The Convention on the Rights of Persons with Disabilities had created the space and activism that shifted perceptions.

The over-burdened treaty body system

This may not be the best time to be advocating for a new international treaty. Many States are not happy with the proliferation of treaties and treaty monitoring committees, the associated reporting burdens on States and what is perceived as unproductive duplication in the work of some of the committees. Although States have expressed reservations over the years about this proliferation, they have nonetheless continued to establish new treaties and new treaty bodies. There are ongoing efforts to reform the treaty body system, though previous efforts have not resulted in major structural changes, due to opposition from some States, civil society and a number of the treaty bodies. Advocates of a convention must think about how they should respond to concerns about the impact of yet another treaty and treaty body on the current system and how it would fit into the current reform process. However, one participant insisted that older persons need a treaty and a treaty body of their own.

Standard political objections: costs, bureaucracy, uncertainty

Ministries of Finance often object to a convention because of the expected costs it would entail. In reality, however, for many European countries that do not support a convention, it is not an issue of money as the standards will not be much higher than currently exists. Bureaucratic arguments are also used to justify opposition to a convention as states are cautious about creating additional reporting burdens that another treaty monitoring body would create. The principal issue, however, is the lack of understanding surrounding the elements of a convention, how it would be enacted and the obligations of states. In many cases, the standards are not going to be higher than what we have in some countries, in many cases they will be much higher and in other cases it will be the same.

UN convention vs. other options

The possibility of alternatives to a convention that might not undermine the call for a new treaty was also raised. The question was raised whether an optional protocol to an existing treaty might be valuable as a “Plan B” as long as it did not undermine the ultimate goal of elaborating a free-standing convention. There was also discussion of whether regional instruments, such as the Inter-American Convention, might be adequate to ensure the rights of older persons are addressed provided they receive a high number of ratifications. It was also discussed whether developing UN principles on the rights of older persons – as some states in Europe have proposed – might be a logical and incremental step towards establishing a legally binding instrument. Some participants, however, cautioned against compromising too quickly, suggesting that the focus of the campaign should be narrow and that advocates should not accept anything less than an international legally binding instrument.

3. STATE OF THE UNION: THE NATIONAL AND INTERNATIONAL CAMPAIGN

Engaging civil society

Engaging civil society on the rights of older persons and the convention has, in Mongolia and Tanzania, included involving older persons in rural and urban communities, civil society groups, especially human rights NGOs, and older persons' organisations. In Cameroon, meetings have taken place with older and younger persons and parliamentarians to discuss the 2016 report of the Independent Expert. Specifically, greater engagement of older persons themselves might address the apathy among many towards a convention. Ageism can be internalised by older persons themselves and many do not feel that they have a right to equal treatment. Unlike in the African countries just mentioned, civil society in the UK took a strategic decision not to go to the public at this stage in the political process but rather to reach out to a diverse range of organisations (of and for older persons, persons with disabilities, development, human rights) that have expertise that the government would recognise and respect.

Engaging politicians and civil servants

Participants mostly said they had tried to engage with their Ministry of Affairs and/or the Ministry in charge of older persons such as the Ministry of Labour and Social Affairs. One participant (UK) noted that they had identified champions within government to ensure that any opposition to a convention would not be the result of ignorance or misunderstanding. Because ageing does not sit within one department in the UK, it was important to ensure both that one arm of government took ownership of this issue *and* that the issue of a convention was on the agenda across government departments. They emphasised the importance of engaging with individuals within government who could make a difference on these issues. In some national contexts, government officials who address older persons' issues in their political platforms were directly targeted as well as older diplomats.

Mobilising older persons' organisations and networks on other issue areas

The human rights approach is not automatically embraced by older persons' organisations in Europe and this may also be so elsewhere. Some organisations hold the position that this approach might further marginalise older persons and are unclear how it fits into the more familiar Active Ageing framework. It is also viewed by many as too legalist and as antagonising civil servants. Participants further highlighted the importance of forming alliances around different constituencies, including advocates of workers' rights, tax justice, the environment, development groups, women's rights groups, children's rights groups, organisations of persons with disabilities and general human rights groups. Disability groups/DPOs in particular should be fundamental allies because of shared concerns with older persons such as dementia, issues of autonomy, isolation, independent living etc.

Research as an advocacy tool

NHRIs and academic institutions can carry out projects to analyse domestic legislation and policies to identify strengths and weakness of the current system relating to the human rights of older persons. Based on the outcome of such studies, policy advice can be provided to the governments and parliaments on the direction and main elements of a convention. For example, the National Human Rights Commission of Korea started drafting a Comprehensive National Report on the Human Rights of Older Persons in 2016. This is particularly important to illustrate to some governments where the situation of older persons in their country needs improvement.

4. RECOMMENDATIONS: INCREASING NETWORK STRENGTH AND IMPACT

Mobilising older persons' organisations and older persons themselves

At this stage, the decision to engage older members of the public who are not organised within an institution in the campaign to establish a convention should be based on each national context and NGOs' strategies of influence.

Ways of generating interest in organisations of and for older persons can include:

- Identifying resistance to the human rights discourse
- Aiming for consensus through discussion about how human rights apply to older persons
- Giving groups ownership over the rights agenda rather than only focusing on a convention
- Aligning human rights with the philosophical and theoretical underpinnings of their work to-date by using concepts they are familiar with, such as dignity and choice, but put them in a human rights framework
- Highlighting measurable outcomes brought about by a human rights approach that will have an impact on the everyday lives of the older persons
- Starting with draft language and making it practical - something they can take to their government.

Forging links with networks working on other issues

Strategies for effectively forming organisational alliances with other groups (e.g. women's human rights groups) include asking groups how they see how the rights of older persons from the perspective of their issue areas which might form intersections and identify blind spots (rather than asking them outright to support the campaign). Taking a life-course approach to ageing and elder rights might also be effective.

Participation in the wider UN System

It is important to engage with various UN bodies, such as the World Health Organisation, Humanitarian agencies, UNESCO and the ILO and ensure that states supportive of a convention attend the relevant meetings. Efforts have been made to ensure the inclusion of the rights of older persons in all HRC meetings, such as in side-events.

Establishing a new global coordinating body

It was suggested that a new international Steering Committee should be established to take up the coordination role that the Global Alliance on the Rights of Older Persons had previously played. The new steering committee should comprise three to five members and would have the role of working to support better coordination of the work of the organisations working on the campaign for a convention. In the short term, it would be helpful if a dedicated full-time employee or consultant were able to be appointed to undertake this coordination and dissemination role, as this would be a significant advantage for the more effective prosecution for the campaign. Age International and HelpAge International indicated that they might be in a position to fund such a coordinator and provide technical support and space for about six months. More financial resources will be needed beyond that (and offers were made to assist with the fundraising effort). Care should be taken to ensure the coordinator does not duplicate the work of existing members of the advocacy network. Ideas might be gleaned from the CRPD process to further clarify the role of the coordinator. Age Demands Action, HelpAge International's grassroots movement of campaigners around the world, might be a model for a new campaign methodology.

The responsibilities of the coordinator would include:

- Managing the website, which should be regularly updated to notify members of new information and events, and contain a common message on the issue of a convention.

- Helping to showcase the activities and achievements of network members, focusing on linking national, regional and international activities and amplifying voices from countries in regions of the world where there has been less discussion.
- Identifying different forums in which to talk about convention.
- Acting as a global focal point to connect the activities of members and perhaps identifying regional focal points.

Tactics for the 7th session and subsequent sessions of the OEWGA

Advocates should:

- Strategically cultivate champion states through, for example, organising side-events which have both Northern and Southern state sponsorship.
- Distil multiple interventions into one joint intervention where possible, and speak with a single, concise voice, especially since diplomats in New York are much less familiar with human rights than their colleagues in Geneva. The elder rights community might draw on the experience of the International Disability Caucus and similar groups in other standard-setting exercises for ideas on how to effectively present the common positions of the NGO community.
- Make efforts to ensuring increased increasing support for the attendance at the OEWGA, and strengthening the visibility of, African supporters of a convention.
- Appeal to different states/blocs by emphasising different aspects of the rights agenda (e.g. European states might be interested in some aspects/rights but not others).
- Be well-prepared for a substantive discussion on the rights of older persons at the 8th OEWGA. Many states will be reluctant to discuss the scope of a convention, so this will need to come from civil society.
- Engage states on their statements from the Q & A and challenge their claims by asking, for example, how they concretely propose to “implement MIPAA better”.
- Ask states that cannot afford to send someone from the capital to the OEWGA to send a statement to be read by their representative in New York.
- Identify the issues that have not been addressed at previous sessions and suggest that they are addressed in the future.
- Host side-events on a convention at the OEWGA and invite hostile or ambivalent governments to sponsor it. If the event is well-attended, this might send a message to governments that there is strong support for a convention.
- Be more provocative at the OEWGA

Bridging internal divisions within governments

Civil society must work to bridge divisions within governments. Sometimes the Ministry of Social and Family Affairs (or relevant line ministry) can take a different position on the question of a convention to that of the Ministry of Foreign Affairs. Ministries of Finance are also very cautious about new treaties of this sort. Advocates should try to engage all relevant government ministries and departments and, in cases where there is no clear responsibility for older persons within government, they should encourage one to take a leadership position. There is also a need for civil society to (a) inform diplomats within permanent country mission in New York about the OEWGA process and the position of their respective government in their capital on the issue of a convention and (b) highlight any inconsistencies between statements made by permanent country missions in New York and Geneva on the issue of a convention.

Tactics to advocate for a convention with governments

Advocates should:

- Urge governments to actively participate in the OEWGA.
- Avoid (where appropriate) calling on a government to publicly support a convention but rather

invite them to discuss the elements of an international instrument.

- Acknowledge what governments that are opposed to a convention say (even if you disagree with them) as a means of entering a dialogue.
- Use “carrots and sticks” to both highlight the positive features of the state in question regarding the protection and promotion of the rights of older persons, and identify what else needs to be done (therefore highlighting the need for a convention).
- Secure written commitments supporting a convention from political parties when they are in opposition
- Establish links between a convention and national laws and interests e.g. in Mongolia, civil society linked proposed government legislation on older persons with the need to establish a new convention and, in the UK, they encouraged government officials to view their engagement in the discussions surrounding a convention as a means of promoting the UK’s interests
- Use global events, such as the International Day of Older Persons, to highlight the need for a Convention and the rights of older persons more broadly, and invite senior government representatives to officiate
- Organise regular meetings with NHRIs, civil society and government officials to commence a serious conversation on a convention and/or maintain government interest and momentum.
- Use the media to raise awareness of the public about the rights of older persons

Framing demands to governments

Civil society’s responses to the climate of austerity and treaty fatigue should be a moral one. That is, it should not be a question of money; the point can be made that progressive fiscal tax reforms can support this. Civil society should actively engage with the issue of resources. One participant proposed two potential ways of framing the campaign: first, linking the convention to the development agenda, arguing that it could advance the achievement of the Sustainable Development Goals; and second, using the celebration of the 70th anniversary of the Universal Declaration of Human Rights in 2018 to highlight the rights of older persons, perhaps employing slogans such as "Renewal not Retirement" or “Human rights can’t be made to retire”. This could also be a possible IDOP global theme.

Regional meetings

It would be valuable to organise regional meetings to bring together all the major parties in a region to form a regional position on a convention and its possible attributes. This would also increase regional diversity among advocates. For example, in the case of the International Campaign to Ban Landmines, seven conferences were hosted by seven different middle powers to draft an international treaty banning landmines. Similarly, in the case of the CRPD, regional "Expert Meetings" were held in several regions to discuss substantive issues related to the development of a convention which contributed to the official drafting of the treaty at the UN. Several regional economic commissions deal with human rights issues and so could be one institution to host such meetings.

Conclusion

A number of participants commented that the opportunity to meet for a day before the OEWGA to receive updates, share information and to discuss and coordinate strategies had been a very useful one, and expressed the hope that a similar meeting might take place before the next session of the OEWGA.

Workshop on Advancing the Campaign to Elaborate A United Nations Convention on the Rights of Older Persons

9.30am–9.45am	Registration
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Part One: Taking Stock and the 7th OEWGA Strategy

Time	Session	Speakers
9.45am–10.00am	Welcome by Event Organisers and Sponsors	Andrew Byrnes, Australian Human Rights Centre, Faculty of Law, UNSW Lee Sung-ho, Chair of Global Alliance of National Human Rights Institutions (GANHRI) Working Group on Ageing Bridget Sleaf, HelpAge International
10.00am-10.30am	Introductory Remarks: Taking Stock <ul style="list-style-type: none"> • Overview of process and support for establishing a convention • Opportunities at the 7th OEWGA for civil society 	Mateo Estrémé, Deputy Permanent Representative of Argentina to the United Nations, and Chair of OEWGA
10.30am–11.30am	Update on Key National Campaigns and the International Network <ul style="list-style-type: none"> • Examples of national campaigns and their domestic outcomes: lessons learnt 	Amarsanaa Darisureen, Centre for Human Rights and Development, Mongolia Elisha Sibale Mwamkinga, The Good Samaritan Social Service Trust, Tanzania
11.30am–12.30pm	Increasing Civil Society's Impact at the 7th OEWGA <ul style="list-style-type: none"> • What could be incorporated in organisations' position papers or statements: lessons learnt from previous meetings and application to 7th OEWGA • How to approach government representatives and what information to give them • What other strategic activities not already planned should be undertaken at the 7th OEWGA (e.g. NGO declaration, specific interventions) 	Ignacio Saiz, Center for Economic and Social Rights Rosemary Lane, UN Department of Economic and Social Affairs, and Christian Courtis, UN Office of the High Commissioner for Human Rights Susan Somers, New York NGO Committee on Ageing and the International Network for the Prevention of Elder Abuse
12.30pm–1.30pm	Lunch break	

Part Two: Increasing Network Strength and Impact

Time	Session	Speakers
1.30pm–2.30pm	Widening the Advocacy Network <ul style="list-style-type: none"> • Empowering and mobilising older people • Forging links with networks on other issue areas 	Nena Georgantzi, Age Platform Europe and PhD Candidate, NUI Galway Duncan Wilson, Public Health Program, Open Society Foundations
2.30pm–3.30pm	Working with States: the domestic and international realm <ul style="list-style-type: none"> • Influencing governments at a domestic level • Influencing the agenda of the Group of Friends of Older Persons and Permanent Country Missions in New York and Geneva 	Felice Gaer, Jacob Blaustein Institute for the Advancement of Human Rights and the UN Committee against Torture Bill Mitchell, National Association of Community Legal Centres, Australia Silvia Perel-Levin, Geneva NGO Committee on Ageing and the International Longevity Centre Global Alliance
3.30pm–4.00pm	Break	

Part Three: Where to From Here?

Time	Session	Speaker
4.00pm–5.30pm	<ul style="list-style-type: none"> • Summary of strategies for the 7th OEWGA • Taking forward collective civil society action beyond the 7th OEWGA 	Chris Roles, Age International