

CONCEPTUAL FRAMEWORK, UNDERLYING PRINCIPLES AND POSSIBLE SCOPE OF A NEW LEGALLY BINDING INSTRUMENT ON THE HUMAN RIGHTS OF OLDER PERSONS

**Discussion paper prepared by the
Global Alliance for the Rights of Older People (GAROP)
30 January 2026**

Executive summary

This paper has been prepared by the Global Alliance for the Rights of Older People (GAROP) as a background discussion paper for the organizational session of the UN Human Rights Council's Open-ended Intergovernmental Working Group to elaborate an international legally binding instrument on the human rights of older persons (18 to 20 February 2026).

The purpose of the paper is to stimulate substantive discussion by Member States, civil society organizations and other stakeholders about how the intergovernmental working group should approach the elaboration of the new instrument. The paper puts forward recommendations on the key features of a convention, including an appropriate conceptual framework for the treaty, its underlying principles and the general obligations of States parties to the treaty.

The paper is not intended to be an exhaustive or final statement or to provide a detailed article by article proposal for a convention. Nor does the paper set out in detail the lists of rights and issues that should be included, nor the detail of appropriate international and national monitoring and implementation procedures, though it sets out some general considerations that should be taken into account on these matters.

Nor does the paper consider the important issue of modalities of participation of older persons and their representative organizations, as well as of other stakeholders, in the drafting process, as GAROP has addressed these issues in other documents.

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A. INTRODUCTION

1. The decision of the UN Human Rights Council in resolution 58/13 to establish an intergovernmental working group “with the mandate of elaborating and submitting to the . . . Council a draft international legally binding instrument on the human rights of older persons”, represents an important new stage in advancing the protection of human rights of older persons under international human rights law.
2. The focus of work at the international level now moves from documenting the nature, extent and causes of the widespread violations of the human rights of older persons, the limitations and deficiencies of the international human rights framework, and inadequate international and national legal and policy responses, to the formulation of an international legal response in the form of an international legally binding instrument (“treaty” or “convention”).¹
3. This paper has been prepared by the Global Alliance for the Rights of Older Peoples (GAROP) as a background discussion paper for the organizational session of the UN Human Rights Council’s Open-ended Intergovernmental Working Group to elaborate an international legally binding instrument on the human rights of older persons (18 to 20 February 2026). The purpose of the paper is to stimulate substantive discussion by Member States, civil society organizations and other stakeholders about how the intergovernmental working group should approach the elaboration of the new instrument.
4. The paper puts forward recommendations on the key features of a convention, including an appropriate conceptual framework for the treaty, its underlying principles and the general obligations of States parties to the treaty. It is not intended to be an

¹ Under international law a treaty is an international legally binding written agreement between two States (“bilateral”) or more than two States (“multilateral”). Treaties may also have other designations – for example, “Covenant” or “Convention”. In the context of the United Nations human rights systems, with the exception of the two International Covenants on Human Rights, human rights treaties adopted by the UN are normally designated as “Conventions”. In this paper “international legally binding instrument”, “treaty” and “convention” are used interchangeably.

exhaustive or final statement or to provide a detailed article by article proposal for a convention.

5. The paper draws on the international and regional discussions that have taken place over the last decade and a half about improving the international human rights framework to better protect the rights of older persons, as well as on a growing body of theoretical, empirical and conceptual academic literature that has been developed in the last two decades in the field.
6. The paper does not set out in detail the lists of rights and issues that should be included in the treaty, nor the detail of appropriate international and national monitoring and implementation procedures. Nonetheless, it sets out some general considerations that should be taken into account on these matters. GAROP will present further discussion papers and proposals as the work of the Intergovernmental Working Group progresses.
7. Nor does the paper discuss the important issue of modalities of participation of older persons and their representative organisations, as well as of other stakeholders, in the drafting process. GAROP has addressed these issues in other documents.

B. GENERAL APPROACH

7. The drafting of a human rights treaty involves substantive and technical aspects. In order for any new treaty to be effective, it must clearly address the problems, challenges and barriers that have been identified and their root causes.
8. A new treaty must be clear about the conceptual framework and the fundamental principles which underpin its structure, scope and content. These will determine the material scope of the treaty (the nature of the issues addressed, and the substantive rights and obligations it contains), its personal scope (which persons or entities are covered by the treaty's obligations) and its relationship and contribution to existing international human rights standards. It is thus important to set out and reach a working consensus on the conceptual framework, fundamental principles and scope of the new treaty before embarking on the detailed drafting of individual rights and obligations.
9. A new legally binding instrument (treaty) on the human rights of older persons should be a comprehensive instrument, incorporating an overall vision of transformative change, substantive rights, State obligations and national and international frameworks for accountability.
10. Older persons, in all their diversity, are entitled to the full and equal enjoyment of all human rights and fundamental freedoms. The treaty should reflect an understanding that ageing is a natural and universal part of the human experience and affirm that "old age" or "being old" are social constructs. It should recognise that an older person's experiences over their course of their lives can significantly affect the enjoyment of

their rights in older age and the treaty should be attentive to the intersecting factors that shape the experience of ageing.

11. The treaty should further acknowledge that the experience and meaning of older age is shaped by social and cultural norms and societal expectations and is not tied to any specific chronological threshold. It should accordingly include a description of older persons or older age which allows for context-appropriate application and which ensures that any discrimination perpetrated because of ascribed or presumed older age is covered by the treaty.
12. The treaty should be based on a holistic conception of older persons as rightsholders who have a right to full legal personhood (including the enjoyment of full legal capacity), who are full participants in their societies and who are entitled to enjoy the full range of human rights and fundamental freedoms guaranteed under international, regional and national law.
13. The treaty should be informed by and respond to the lived experiences of older persons. Full and meaningful participation and engagement in the drafting process by older persons and their representative organizations is a right and an essential element of the process, in order to ensure the instrument's legitimacy and effectiveness.
14. The drafting process for the treaty should also draw fully on the wealth of material that has been presented to Member States through the General Assembly's Open-ended Working Group on Ageing, the Human Rights Council, the UN Independent Expert and to other international and regional bodies. It should also be informed by the rich body of existing scientific and academic research.
15. The treaty should recognise that ageism – understood as “the stereotypes, prejudice and discrimination directed towards others or oneself based on age”² that lead to discrimination against, and exclusion, hatred and devaluing of older persons -- alone or in interaction with other attitudinal, environmental and societal barriers is a root cause of many human rights violations in older age. The treaty should thus include obligations on States parties to eliminate all forms of ageism, and should identify not just internalised and interpersonal ageism but also systemic and institutional forms of ageism which operate across the range of the human experience. Systemic and institutional ageism can manifest themselves structurally through laws, cultural practices, technologies, markets and institutional design (for example, algorithmic age bias, exclusion from innovation ecosystems), and the treaty should accordingly include obligations on States parties to eliminate all forms of ageism.

² World Health Organization (WHO) et al. *Global Report on Ageism* (Geneva, Switzerland, 2021)

16. The treaty should recognise that discrimination on the basis of age and other violations of the human rights of older persons are a denial of the fundamental right to equality and human dignity.
17. The treaty should not only be *remedial* in its approach, seeking to prevent and remedy existing violations of the human rights of older persons. It should also be *transformative* in its outlook, setting out aspirations and a rights-based framework that requires positive changes to social structures and attitudes which will enable older persons to realise their full potential and enhance their participation in all aspects of life.
18. The treaty should seek to reshape institutions, rather than merely adapting existing systems, to enable the autonomy, agency and participation of older persons in all aspects of society, across extended lifespans.

C. SUBSTANTIVE SCOPE

1. *Reaffirmation, further development and innovation in human rights and fundamental freedoms*

19. A new legally binding instrument should build on the full range of human rights and fundamental freedoms embodied in existing United Nations human rights treaties and other instruments relevant to the human rights of older persons. It should also include areas and dimensions of rights that are not addressed adequately or at all in existing human rights instruments.
20. New concepts, formulations and interpretations of existing rights will likely be required to address areas involving not only longstanding and but also relatively recent distinctive, heightened or cumulative patterns of discrimination against older persons. These areas could include issues such as violence, abuse, neglect and exploitation of older persons, lifelong learning, artificial intelligence, work and economic independence, digital access and inclusion, access to palliative care, climate change, older persons and disasters, humanitarian emergencies and conflict situations, among others. By addressing these issues explicitly in relation to older persons the convention would go beyond the protections afforded under existing human rights treaties.
21. The treaty should reaffirm the application of all human rights to older persons in all their diversity and also specify how these general statements of rights should be applied to situations commonly, specifically or disproportionately experienced by older persons at risk of multiple, cumulative or intersectional discrimination.
22. The treaty should be formulated as a series of affirmations of human rights and freedoms, stating that older persons enjoy human rights and fundamental freedoms on an equal basis with others and without discrimination of any kind. The affirmation of rights in the treaty should be accompanied by clear statements of the obligations of States parties to promote, respect, protect and fulfil the rights guaranteed.

2. Equality and non-discrimination - Prohibition and prevention of ageism and age discrimination – Substantive and transformative equality

23. The treaty should include a general guarantee of equality and non-discrimination on the basis of age (including in combination with other personal or group characteristics), in addition to guarantees of other human rights. The treaty should contain definitions of ageism and age discrimination against older persons. It should draw on and further develop existing international standards on equality and non-discrimination, including those articulated in the United Nations core human rights treaties and practice under them. It should also address the ways in which such standards have not been consistently applied and remain conceptually and normatively under-developed, in relation to older persons and older age.
24. The guarantees of equality and non-discrimination on the ground of age in the instrument should thus embody the concepts of *substantive* and *transformative* equality.³
25. The treaty should also explicitly recognise that intersectional, multiple and cumulative discrimination, including for example discrimination against older women, older persons with disabilities, older Indigenous people (among many others), fall under the prohibition of age discrimination.
26. The definition of age discrimination should also include the denial of reasonable accommodation or adjustments for an older person; this concept should be available across all the rights in the treaty and not just limited to a small number of rights such as access or employment.
27. The treaty should contain explicit obligations to prohibit and prevent ageism and other forms of age discrimination by public and private actors.

3. Consistency with existing human rights treaties

28. The treaty should build on, expand and strengthen existing international human rights law guarantees that are consistent with the human rights of older persons. It should not include provisions that permit exceptions, limitations or restrictions that reduce the level of protection for human rights guaranteed under other United Nations treaties.
29. The drafting process should take into account relevant regional treaties and non-binding normative statements and practice as appropriate, recognising the contribution that such documents make, while also taking into account the need for the treaty as a universal human rights instrument to respond to the needs of all regions

³ See, eg, the discussion of these concepts by the Committee on the Elimination of Discrimination against Women in *General recommendation No 25 on temporary special measures*, [CEDAW/C/GC/25](#) (2004); by the Committee on the Rights of Persons with Disabilities in *General comment No 6 on equality and non-discrimination*, [CRPD/C/GC/6](#) (2018); by the Committee on Economic, Social and Cultural Rights in *General comment No 20 (Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights))*, [E/C.12/GC/20](#) (2009).

and cultures. It should also acknowledge that despite these various instruments and frameworks, older persons continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world. The treaty should therefore ensure that no existing limitations, exceptions, or biases that have constrained the full and equal enjoyment of human rights by older persons are carried forward or replicated in its provisions: it must instead remedy gaps and shortcomings that have historically limited the full and equal realization of human rights in older age.

4. *Applicability to the actions of State actors and private, non-State actors*

30. The treaty should clearly set out the obligations of the State and public authorities not to violate the rights of older persons and also the positive obligations of the State to fulfil those rights.
31. The treaty should also explicitly set out the obligations of the State party to take all necessary measures to ensure that private actors do not violate the human rights of older persons and to give effect to their positive obligations in this regard.

5. *Explicit right to a remedy*

32. The treaty should explicitly guarantee the right to access justice, including the right to a remedy under national law, for violations of the rights and freedoms embodied in the treaty by either State/public bodies or private actors. Remedies must be accessible to older persons, including those with disabilities, low literacy levels or limited access to digital technology or who face other barriers to access.

D. STRUCTURE

33. As noted above, the new treaty should be a comprehensive instrument, guaranteeing the full range of existing human rights and fundamental freedoms, and affirming and tailoring their application to the situations older persons face. It should include a full catalogue of human rights and fundamental freedoms, as well as general obligations including non-discrimination that apply across the specific rights.
34. A rigid division between different types of rights may not be appropriate; the goal must be to formulate rights guarantees in a way which responds effectively and in a targeted manner to the situations of older persons.
35. A suggested structure would be:
 - Preamble
 - Purpose, scope, concepts and definitions
 - General principles that underpin the convention
 - General obligations of State Parties that apply across the convention
 - Specific human rights to be included in the convention
 - Implementation, monitoring, data collection and accountability mechanisms
 - Formal and administrative matters.

1. Preamble – setting the scene and providing the rationale for the treaty

36. The treaty should articulate in its Preamble the historical and current social practices of discrimination and exclusion of older persons that make a new treaty necessary. In particular it should refer to ageism as a widespread phenomenon that crosses cultures and borders and that directly and indirectly limits the enjoyment of human rights and fundamental freedoms by older persons, with ageist stereotypes and attitudes often underlying discrimination and other human rights violations against older persons.
37. The Preamble should also acknowledge that the increased longevity of individuals and the related profound demographic changes have transformed our societies and lifecourses and intergenerational relations, with international human rights law yet to fully address or adapt to these realities. A new treaty provides the opportunity to ensure that universal human rights are effectively applied in the context of longer lives, for the benefit of individuals, communities, and society as a whole, and to respond proactively to the evolving human experience of ageing. The treaty should be formulated with sufficient flexibility so as to require States to remain responsive to *evolving ageing contexts* in order to address future emerging gaps in the promotion and protection of human rights of older persons.
38. The Preamble (and other provisions) should include reference to the diversity of older persons and the importance of understanding intersectional discrimination (including multiple and cumulative forms of discrimination) whereby a person's experience reflects not just their older age but other characteristics such as race, ethnicity, gender, disability, socio-economic, geographic isolation or disadvantage and other relevant statuses, as well as the accumulation of disadvantage over the life course.
39. The Preamble should also acknowledge the important role of a new instrument to positively transform the narratives and social constructs about ageing and older persons.

2. Statement of underlying principles

40. The Intergovernmental Working Group should consider including a set of *General principles* in the opening articles of the Convention. These would serve to clearly and succinctly state the underlying values of the treaty and provide an interpretative guide that runs through all the subsequent provisions of the instrument.⁴ These should

⁴ See, eg, Convention on the Rights of Persons with Disabilities:

Article 3 - General principles

The principles of the present Convention shall be:

- a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;
- d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

include, but are by no means limited to the following and should be complemented by further principles specifically applicable to the situations faced by older persons:

- Non-discrimination
- Equality, including gender equality
- Respect for inherent dignity, individual autonomy including the freedom to make one's own decisions, and independence of person
- Full, meaningful and equal participation and inclusion in society
- Accessibility
- Consistent with existing human rights standards.

3. *General obligations*

41. The treaty should articulate States parties' general human rights obligations in relation to each of the articles within it. These should include, but are not limited to:

- Adopting all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the treaty.
- Taking specific measures to ensure equality in law and in practice.
- Guaranteeing the protection and promotion of the human rights of older people persons where relevant in all policies and programmes.

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- e. Equality of opportunity;
 - f. Accessibility;
 - g. Equality between men and women;
 - h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

See also Inter-American Convention on Protecting the Rights of Older Persons, art 3:

General principles that apply to the Convention:

- a) Promotion and defense of the human rights and fundamental freedoms of older persons;
- b) Recognizing older persons, their role in society, and their contribution to development;
- c) The dignity, independence, proactivity, and autonomy of older persons;
- d) Equality and non-discrimination;
- e) Participation, integration, and full and effective inclusion in society;
- f) Well-being and care;
- g) Physical, economic, and social security;
- h) Self-fulfillment;
- i) Gender equity and equality, and the life course approach;
- j) Solidarity and the strengthening of family and community protection;
- k) Proper treatment and preferential care;
- l) Differentiated treatment for the effective enjoyment of rights of older persons;
- m) Respect and appreciation of cultural diversity;
- n) Effective judicial protection;
- o) Responsibility of the State and participation of the family and the community in the active, full, and productive integration of older persons into society, and in the care of, and assistance to, the older person, in accordance with domestic law.'

- Refraining from engaging in any act or practice that is inconsistent with the rights in the treaty.
- Taking all appropriate measures to eliminate discrimination against older persons based on age, either as a sole factor or in combination with another factor or factors by any person, organization or private actor.
- Taking all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination on the basis of age.
- Undertaking or promoting research on ageing and on issues particularly affecting older persons, and ensuring data is collected, disaggregated, analysed, utilised and disaggregated by all ages, without an age cap, sex/gender and other relevant categories.
- Providing accessible, appropriate information to older persons on their rights and entitlement to benefits and resources.
- Taking all appropriate measures to allow for older persons' full and effective participation in society and decision-making processes. In the development and implementation of legislation and policies to implement the convention, including the monitoring of its implementation nationally and internationally, and in other decision-making processes concerning issues relating to older persons, States Parties shall closely consult with and actively involve older persons and their representative organizations.
- Developing policies and taking all appropriate measures, including awareness campaigns, to combat ageism and promote intergenerational solidarity and cooperation and positive images of ageing, encouraging the dignified and respectful treatment of older persons.

E. MONITORING AND IMPLEMENTATION PROCEDURES

42. The drafting of the treaty provides an opportunity to consider innovative monitoring and implementation procedures alongside well-known existing procedures. Such procedures could include obligatory independent expert international procedures for the regular monitoring of States parties' implementation of the treaty (including communications, reporting and inquiry procedures). These procedures should provide for the full and meaningful participation of older persons and their representative organizations and national human rights institutions in that procedure.
43. The treaty should also provide for a role for civil society organizations (in particular older persons' representative organizations) and national human rights institutions to promote and monitor the implementation of the treaty, and should address the roles of executive government, Parliaments, local authorities, the judiciary and civil society bodies in its monitoring and implementation. The elaboration of this treaty will provide

opportunities to explore and implement further innovative measures in relation to monitoring and implementation procedures.

F. DOCUMENTING THE DRAFTING HISTORY OF THE TREATY

44. The drafting history of the treaty (“preparatory works”/”*travaux préparatoires*”) may play a significant role in the interpretation and application of the convention once it has been adopted and enters into force. Under the rules applicable to the interpretation of international treaties set out in Articles 31 and 32 of the Vienna Convention on the Law of Treaties 1969,⁵ in particular Article 32, the preparatory works may play a role as a subsidiary means of interpretation of the provisions of a convention. The *travaux préparatoires* of the existing human rights treaties, preserved and collected in official UN compilations and/or academic treatises, have often been drawn on to interpret those instruments by the treaty bodies themselves, States parties (governments, courts, Parliaments), international courts, tribunals and commissions, advocates, scholars and others.
45. It is important that there be an authoritative record of the discussions that take place at the Intergovernmental Working Group in the form of official summaries or summary records issued as official United Nations documents.⁶ Meeting papers should also be collected and made available on a website that is preserved and continues to be available for consultation after the Working Group has completed its work.⁷ It would also be useful to have any oral recording of the meetings of the working group made publicly available. We understand that if the meetings are streamed on UNTV they will be available but also recommend that these recordings be brought together in one specific website with other IGWG material and not stored only on the UNTV website. The potential use of AI to facilitate the process of generating an accessible and complete documentary record should be explored, if that has not been done already.

⁵ https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

⁶ Maintaining the public availability of the full website and documentation of the UN General Assembly Open-ended Working Group on Ageing is also important to the drafting process and to subsequent interpretation of the treaty.

⁷ See, for example, the combination of official documents, informal papers and NGO summaries of the negotiations of the Convention on the Rights of Persons with Disabilities still maintained on the website of the UN Department of Economic and Social Affairs: www.un.org/development/desa/disabilities/resources/ad-hoc-committee-on-a-comprehensive-and-integral-international-convention-on-the-protection-and-promotion-of-the-rights-and-dignity-of-persons-with-disabilities.html.