



THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK TO PROTECT THE RIGHTS OF OLDER PERSONS

71st Anniversary of the United Nations Universal Declaration of Human Rights

NGO Committee on Human Rights

UN Church Center, New York, 9 December 2019



United Nations Human Rights

Office of the High Commissioner for Human Rights



Overview of international human rights treaties

Universal Declaration of Human Rights



International Covenant on Civil and Political Rights

International Covenant on Economic, Social and Cultural Rights

Specific phenomena

International Convention on the Elimination of All Forms of **Racial Discrimination**

Convention against **Torture** and other Inhuman, Degrading Treatment or Punishment

Convention on **Enforced Disappearances**

Specific groups

International Convention on the Elimination of All Forms of Discrimination against **Women**

Convention on the Rights of the **Child**

Convention the rights of **Migrant Workers** and members of their families

Convention the rights of **persons with disabilities**

The international human rights mechanisms

Treaty-based Bodies

Charter-based Bodies
(Human Rights Council)

ILO
Conventions

CESCR

CEDAW

CRPD

Universal
Periodic
Review

Special
Procedures

Regional
mechanisms



How to access them to protect older persons?

- **Complaint mechanisms of treaty bodies (e.g. OP CCPR, OP CESCR)**
- **State/Shadow reports for Treaty Body country reviews**
- **Universal Periodic Review submissions**
- **IE Older Persons has a mandate to receive complaints and undertake country visits**



Limitations of existing UN human rights mechanisms to protect older persons

- Lacking specificity
- Lack of agreed international standards
- Uneven coverage by UN HR mechanisms
- Lack comprehensive national legal and policy framework focused on older persons
- Lack of disaggregated data
- Weak accountability system



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Normative progress in strengthening the human rights of older persons



Why an international treaty on older persons?

- To provide a comprehensive and systematic framework for the protection and promotion of all our human rights in older age
- To articulate how each human right specifically applies to us in older age
- Older persons as rights-holders
- To inform and bring closer alignment among varying national legal and policy frameworks
- To provide for a strong implementation, monitoring and accountability system



What normative changes would provide clearer and more effective protection and enjoyment of the rights of older persons?



Discrimination

Existing IHRs framework:

- Founding principle that “all human beings are born free and equal in rights and dignity” (Art. 1 UDHR)
- Absence of explicit provisions on age discrimination in core international human rights conventions
- Discrimination based on age is only explicitly prohibited in the International Convention on Migrants (art. 1.1 and 7)
- Limited visibility and protection against age discrimination

What is needed:

- International recognition that all people of any age are equal before and under the law
- Prohibition and guarantee of effective legal protection against all forms of discrimination on the basis of age, including intersectional discrimination



Autonomy and Independence

- Existing international human rights treaties do not provide a clear definition of these rights
- **Need for normative provisions that recognizes older persons right to:**
 - Personal autonomy and independence over all aspects of their lives on an equal basis with others
 - Choose where and with whom to live
 - An independent living and full inclusion and participation in the community
 - Enjoy and exercise legal capacity and to make own decisions
 - Policies on public and private financing of continuing support services



Violence, Neglect and Abuse

- Human rights mechanisms have recognized older persons as a vulnerable group requiring special measures of protection against violence and abuse
- Invisibility and inadequate attention given to the phenomenon of violence against older persons and age-sensitive responses
- **The need to define how the right to freedom from violence and abuse specifically applies to older persons and in old age**
- Adoption of legal provisions to prevent, investigate, punish, and eradicate acts of violence against older persons, and reparation
- Prohibition of harmful traditional practices against older women
- Effective complaint mechanisms



Social Protection

In most instruments, e.g. UDHR, ICESCR, formulated in general terms:

- Right to adequate standard of living, social security and social protection, including right to income security through employment, access to health care and services, and social services
- Encompasses the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia from (a) lack of work-related income caused by (...) old age (...) GC 19
- **The normative international framework should focused on progressively achievement of universal coverage and guarantee adequate old-age benefits to ensure access to necessary goods and services and allow life in dignity**
- Contributory and non-contributory schemes should be in place. Non-contributory pension schemes as an effective tool for poverty reduction



Health and Social Care

- The right to health is recognized by numerous international human rights instruments.
 - Article 12 of the ICESCRs: *The right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*
 - Lack of specific provisions on older persons, such as those which exist for other groups: women, children, persons with disabilities, and migrants
- Need for definition** on how the right to health specifically applies to older people and in old age, addressing:
- accessible, available, acceptable and affordable quality health services, including long-term care and access to essential drugs and medicines
 - non-discriminatory allocation and prioritization of health resources;
 - Long-term care and palliative care
 - Access to timely, comprehensive, holistic and available palliative care services consistent with the needs, will and preferences of the older persons
 - primary health care and chronic illness
 - special programmes tailored to the physical and mental health needs of older women.



The way forward



- ❖ Elaboration of an international human rights legal instrument on older persons
- ❖ Integration of human rights of older persons in UPR/treaty body reporting and in Special Procedures' work
- ❖ Implementation of regional mechanisms on the human rights of older persons
- ❖ Adequate national legislation in line with human rights legal framework





Many thanks!

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