

Forum: The Economic and Social Committee

Issue: Granting elder's a right to a pension care in the means of an action plan for the ageing society

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Introduction

Older men and women have the same rights as everyone else: we are all born equal, and this does not change as we grow older. Even so, older people's rights are mostly invisible under international law.

Despite the existence of the Universal Declaration of Human Rights, older people are not recognised explicitly under the international human rights laws that legally oblige governments to realise the rights of all individuals. Only one international human rights convention (The International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families) mandates against age discrimination. Commitments to the rights of older people exist, such as with the Madrid International Plan of Action on Ageing (MIPAA). However, they are not legally binding and therefore only impose a moral obligation on governments to implement them.

A UN Convention on the Rights of Older Persons is necessary to ensure that older women and men can realise their rights. With a new UN convention, and the assistance of a Special Rapporteur, governments can have a clear legal framework, guidance and support that would enable them to ensure that older people's rights are realised in our increasingly aging societies.

Demographic change has resulted in unprecedented numbers of older people worldwide. 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. Strengthening older people's human rights is the best single response.

While UN conventions are agreed by governments, support cannot be built without the backing and advocacy of older people. Civil society organisations play a fundamental role in making this happen and in holding governments to account for the decisions they make. This is why we need you to be involved.

This publication was produced to strengthen understanding and awareness of the necessity of a Convention on the Rights of Older Persons. It aims to provide the arguments and tools for engaging stakeholders across the globe in the debate about older people's rights and the role of a convention. We actively encourage others to translate this publication into as many languages as possible. A design template is available to help facilitate this. Please contact any of the participating organisations that have made this release possible for further information.

Age discrimination is when someone is treated differently, with an unreasonable or disproportionate impact, simply because of their age. It is a violation of older people's rights. Age discrimination can be direct, for example, upper age limits on credit or micro-finance that prohibit older people accessing finance, or indirect, such as not collecting data on HIV infection in women and men over 49. This failure to receive data results in the exclusion of older people from HIV and AIDS prevention programmes, and, therefore, discriminates against them.

Ageism is the stereotyping and prejudice against older people that can lead to age discrimination. At one end of the scale, ageism may seem harmless, for example, when older people are patronised on TV, in films and advertising. However, research by Yale University showed that negative stereotypes of older individuals in the US had a harmful impact on older people's memory, balance and even how long they lived for. At the other extreme, older people, especially women, can be accused of witchcraft because of age and gender stereotypes and then forced out of their homes or even murdered.

Multiple discrimination: The discrimination that older men and women face is also involved, often based on two or more factors, such as age and gender, ethnic origin, where they live, disability, poverty, sexuality, HIV status or literacy levels. Older women are particularly vulnerable to discrimination based on both age and gender. The impact of gender-based discrimination against girls and younger women is carried into old age and unless addressed continues from one generation to another.

Definition of Key Terms

Ageism

Ageism is a type of discrimination that involves prejudice against people based upon their age. Similar to racism and sexism, ageism involves holding negative stereotypes about people of different ages.

Social Security

The principal or practise or program of a public provision, which has been implemented for the economic security and social welfare of the individual and their family.

Key Issues

Soft law protection

The 1982 World Assembly on Ageing adopted the Vienna International Plan of Action on Ageing (VIPAA). This was the first UN human rights instrument on ageing. Its recommendations included avoiding the segregation of the elderly, making available home-based care for elderly persons, rejecting stereotypical concepts in government policies and recognising the value of old age. Twenty years later, the Madrid International Plan of Action on Ageing (MIPAA) was adopted as an updated and greatly expanded version at the Second World Assembly on Ageing. The plan has a strong focus on human rights. Two of its main goals are:

- the full realisation of fundamental rights and freedoms for older persons
- ensuring the full enjoyment of the economic, social and cultural rights and the civil and political rights of older persons and the elimination of all forms of violence and discrimination against older persons

It also identified three policy directions to guide policy formulation and implementation:

- older persons and development
- advancing health and well being into old age
- ensuring enabling and supportive environments.

The Political Declaration reaffirms the commitment to elimination of age discrimination, to enhance the recognition of dignity in older persons, their inclusion in society, and the promotion of their human rights in general. The MIPAA has since guided domestic policies and international dialogue on the rights of older people.

Principles for Older Persons

In 1991, the UN General Assembly adopted resolution 46/91, the United Nations Principles for Older Persons. Although as an Assembly resolution this too is not legally binding, it lists principles in five areas which governments are encouraged to include in national policies: independence, participation, care, self-fulfilment and dignity. In 1992, a decade after the first World Assembly on Ageing, a Proclamation on Ageing was adopted.

Old person's Rights and regulations

The UN Secretary-General's report (2011) on the follow-up to the Second World Assembly on Ageing concludes that some good measures have been introduced since 2002 with regard to older persons' rights. However, these policies are inconsistent among nation-states and do not indicate the presence of a comprehensive legal, policy and institutional framework for the protection of the human rights of older persons:

Particularly lacking are mechanisms of participation and accountability. In varying degrees, contributions underline deficits in implementation of policies, when available, while others note measures may be effective but insufficient when confronted with large and growing demands. In situations where more structural measures are required, some governments have chosen a welfare approach which may not ensure sustainability or long-term impact on the enjoyment of human rights without discrimination.

In sum, the international soft law protection of the human rights of older persons is wide-ranging and includes sets of principles, declarations, the MIPAA (Madrid International Plan of Action on Ageing), and comments on how to interpret the ICESCR (International Covenant on Economic, Social and Cultural Rights) with regards to older persons.

Previous Attempts to Solve the Issue

A Human Rights Act that includes human rights such as the right to adequate housing, health and an adequate standard of living (commonly known as economic, social and cultural rights) would make a difference to the lives of older people in Australia. It would improve the policies, procedures and services that impact on the daily lives of older people. It could help prevent human rights breaches and could provide remedies in cases where those breaches occur. It would require our government to examine how

decisions impact on the human rights of older people. If Australia had a Human Rights Act, it could:

- Older people may face prejudice when applying for jobs, seeking promotions, accessing training or may be harassed in the workplace.

- make the federal Parliament consider how laws impact on human rights – for example, they would need to consider whether a change to a law breaches the human rights of older people

- make the federal government respect human rights when developing policy – for example, when developing aged care policies, the government would have to protect the human rights of older people, including their right to adequate housing and health care

- make public servants respect human rights when making decisions and delivering services – for example, this could include ensuring that services are accessible to older people

- provide a range of enforceable remedies where a government department breached human rights.

Possible Solution

In addition to a Human Rights Act, there is a range of ways in which the human rights of older people could be better promoted and protected in Australia. For example:

- enhanced protection of human rights in the Australian Constitution

- adoption of an Equality Act (one law including all federal discrimination protections)

- a National Human Rights Action plan, including a focus on the rights of older people in Australia

- a national education campaign, targeted at employers, recruitment agencies and the public, with the aim of increasing community awareness about age discrimination.

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