

Panel Presentation, OEWG, 19 April 2011

I too would like to start by thanking the chair for the invitation to speak on this panel and to the working group as a whole for recognising and valuing the contribution of civil society to its discussions.

I represent HelpAge International, which is a global network of eighty affiliated organisations, two hundred partners and many hundreds of older people's associations. HelpAge is also a member of a coalition of NGOs working together to strengthen the rights of older people. There are a number of other members of the coalition here today and we look forward to working together with member states on our shared objective of affording older people greater protection and enjoyment of their rights.

There are just three key points that I would like to make today:

- Firstly that this is an issue of great urgency. Older women and men are rarely seen as rights holders. They are more commonly viewed as recipients of welfare and charity, and age discrimination and denial of older people's rights continue to be tolerated across a range of different social, economic and cultural contexts.

- Secondly, that protection of older people's rights under the current international human rights framework is woefully inadequate.
- And, thirdly that a new international instrument, a new convention, is an essential measure to redress this current situation.

On the first point, the urgency of the situation, to really assess the current situation we need to explore the impact that ageing, both of an individual and of populations as a whole, has on the enjoyment of rights.

In the briefing that HelpAge prepared for this meeting, which you can find on the OEWG website, we outlined numerous examples and evidence of how older people's rights are being denied.

But I would like to highlight a couple of issues that I feel are central to our agenda today, the first being that of dignity.

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Independence, participation and autonomy are critical components of dignity. But for many older people increasing physical and mental frailty leads to growing dependence on others, an inability to participate in the world around them, and a decline in personal autonomy. So the very process of ageing itself can threaten older people's dignity as they lose a sense of their own dignity and are perceived by others to be inherently less dignified and valuable to society.

An underlying principle of human rights is that when dignity is threatened, an enhanced degree of protection is necessary. Without this enhanced protection, older people can become more susceptible to neglect, abuse, denial of their rights and discrimination.

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This discrimination can be based on their old age alone but is often more complex with age intersecting with other factors such as poverty, literacy levels, ethnic origin or social status as the grounds for multiple discrimination that we must better understand and find ways to prevent and redress.

For example, the accumulated impact of gender-based discrimination that women have experienced over the first part of

their lives is compounded in old age when they are further discriminated against because they are old.

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We can no longer ignore the impact that ageing has on the enjoyment of a wide range of human rights, not least because of the unprecedented population ageing that is taking place in every part of the world. As populations age, the numbers of people facing age and complex multiple discrimination and denial of their rights will increase. And as populations age, policies and services will have to be adapted to reflect these changing population structures and ensure that everyone, young and old, has equitable access to services and entitlements.

Which brings me to my second point: the inadequacy of protection under the existing international framework.

There are numerous obligations vis a vis older people implicit in general human rights law but explicit mention of older people is rare. The few specific provisions we have are confined to a limited range of rights, are most often in interpretative or advisory

documents, such as general comments, and are not consistent across international or regional instruments.

The key question for us then, is whether these provisions (both general and specific) and their related monitoring mechanisms are adequate to protect the rights of older people in the current situation and in the face of unprecedented demographic ageing.

We have already heard today about some of the work of the treaty bodies in this area and certainly their response, when HelpAge and our partners have submitted shadow reports or other forms of evidence on older people's rights to them, has been extremely positive.

However to get a broader picture, beyond HelpAge's own limited engagement, we carried out a review of treaty body and special procedure documents since 2000 that are available on the Universal Index of Human Rights website. In this review we searched for all the references to *old age*, the *elderly* and to *older* persons or women. We recognise the limitations of this type of review but its findings are indicative and really quite revealing.

Firstly, we found that attention to older people's rights has been highly inconsistent across the treaty bodies.

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A key question is whether including ageing or older people in general comments and other interpretive documents is enough to afford older people adequate protection of their rights.

Given that CEDAW's general recommendation on older women has only very recently been adopted it is perhaps too early to assess its impact.

However it is 16 years since the Committee on Economic, Social and Cultural Rights adopted its 1995 General Comment on older people. Since 2000 it has reviewed 124 state party periodic reports. Looking at the references made to older people's rights by the Committee during this period, we can conclude that its 1995 General Comment and inclusion of older people and age in other general comments has not resulted in systematic or consistent consideration of older people's rights under their mandate.

Our review also revealed a dramatic imbalance in the types of rights that are being addressed with far more attention to economic and social rights than to civil and political rights. Of all the references

made to older people's rights, only 9% related to civil and political rights.

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And when we looked at which economic and social rights were being addressed, some got far more attention than others.

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[Slide with other issues]

We also found that there was very little attention to equality and discrimination (3% of total) and virtually nothing on multiple forms of discrimination that older people experience, with just a handful of reference to age and gender based discrimination outside of CEDAW and only 2 to racial discrimination in old age.

We also noted that 44% of the references were to older people as part of a longer list of vulnerable groups with no exploration of the specific nature of their vulnerability, its underlying causes or how to address it.

And finally 60% of the references were of concerns raised, or issues noticed or requests for information, which of course we welcome, but which are far less likely to result in any action being taken than direct recommendations to states parties.

So what does this tell us? As I said before we recognise that this is a limited review but it illustrates some key points for consideration.

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Firstly we can see that general human rights law has failed to adequately capture the discriminatory attitudes and practices that older women and men experience. The failure to explicitly prohibit age as a ground for discrimination in all but one human rights convention has obscured the discriminatory experiences of older people.

We can also see significant gaps in protection.

For example, elder abuse is barely recognised and there is very little attention to the rights of older people with diminished capacity. There is very little on the rights of older people in care or on the rights of older carers; little, too, on rights to housing, to social care, or to a private and family life. We see virtually nothing on the rights

to informed consent to healthcare, to palliative care for a dignified death, to access to justice or the rights of older detainees, to name just a few areas where older people's rights are under threat.

The findings also show inconsistent attention to a narrow range of rights, predominantly economic and social, and that the full interdependence and indivisibility of all older people's rights has not been considered. This inconsistency is not least because relevant standards are dispersed across the various instruments. This dispersal has also contributed to a lack of clarity and awareness of older people's rights, amongst duty bearers, amongst those responsible for monitoring accountability and amongst older people, the rights holders, themselves.

And so on to my third and final point on measures to address this.

There is clearly much work that existing mechanisms can and need to do to better understand and take into account the impact that ageing, both of an individual and of populations as a whole, has on the enjoyment of the rights within their mandates.

However, given the particular vulnerability to discrimination and rights violations associated with ageing, the gaps in protection and the constraints that I have outlined, HelpAge, and the other NGOs

that we work in coalition with, believe that this alone will not be enough to provide the necessary protection of older people's rights, in both law and practice.

We believe that a single instrument, a new international convention on the rights of older people, is necessary because it would:

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- Provide a definitive, universal position that age discrimination is morally and legally unacceptable.
- Provide legally binding protection with accompanying accountability mechanisms.
- Provide clarity for duty bearers and rights holders on what their rights and responsibilities are.

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- Bring together existing rights standards that are currently dispersed throughout various other instruments and interpretive documents.

- Redress the present imbalanced focus on older people's economic and social rights by bringing all interdependent and indivisible rights into one instrument.
- Provide a framework to guide policy responses to demographic ageing based on rights, equity and social justice.
- Provide a powerful advocacy and education tool for older people and those that represent them for claiming their rights.

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And finally, to conclude, we believe that a convention would play a critical role in bringing about a paradigm shift, where we stop seeing older people as recipients of welfare and charity, but instead recognise them as rights holders, with responsibilities and with a significant contribution to make to their families and to society as a whole.

Thank you very much.

