

Open-Ended Working Group on Ageing 2023 Intersessional Submission

Identification of possible gaps in the protection of the human rights of older persons and how best to address them

Submission from: Power of Touch (POT) with endorsement by Pass It On Network, created by 2 Young 2 Retire – Europe / Cercle des Seniors Actifs "C'Sa" Europe, which is accredited by the GA OEWG on Ageing.

Background: Power of Touch (POT):

Power of Touch was launched on 28 October 2015, and its current membership, including those in the diaspora, is over 2000. A registered Trust in Zimbabwe, its vision is *to fulfil and enhance the lives of senior citizens aged 55 years and above*. Its objectives are to assist senior citizens to 'stretch their dollar' and provide a network hub for their various interests.

POT members are also engaged with the University of the Third Age (U3A) Zimbabwe, part of an international movement whose aims *are the education and stimulation of mainly retired members of the community- those in their third 'age' of life*.

2 Young 2 Retire – Europe / Cercle des Seniors Actifs "C'Sa" Europe is the creator of the global Pass It On Network (PION), a grassroots alliance of older people with growing potential for positive ageing. Since accreditation to OEWGA in 2018, we have actively contributed and participated through annual submissions and virtual/in-person participation in the annual sessions. PION is also a member of the Global Alliance for the Rights of Older People (GAROP), a network of over 400 members worldwide, united in work to strengthen and promote the rights of older persons.

This submission is made with a focus on **Zimbabwe**.

Identification of gaps

A. Equality and non-discrimination

Some progress on the legislative and policy fronts has been made in protecting and enhancing the quality of life of older persons in Zimbabwe. The Constitution of Zimbabwe 2013 protects the rights of older persons, defined in Section 82 of the Constitution as people over the age of 70 years. Therefore, older persons' rights are recognised in the country's legal framework, particularly in care and care assistance, healthcare, financial assistance, and medical support. The Older Persons Act, 2011 (Act No. 1 of 2012) defines an "older person" as a citizen of Zimbabwe aged 65 years or above who is ordinarily resident. It recognises the well-being of older persons through the provision of the appointment of a Director for Older Persons Affairs, the creation of an Older Person Board and the Older Persons Fund.

GAPS

- ✓ The Zimbabwe Constitution refers to older persons as 70 and above, and the Older Persons Act refers to 65 years and above. **Solutions:** The State must marry

the two legal instruments and prioritise rights by providing reasonable care and assistance, state-sponsored health care and medical service, and financial support through social security and welfare structures.

- ✓ Information sharing on human rights is selective due to financial considerations. What is considered an expensive commitment is not necessarily known to the population as a right (e.g., universal pensions). **Solution:** The State must recognise older persons as rights holders, ensuring their full enjoyment of social, economic, cultural, civil, and political rights.
- ✓ As of July 2021, approximately 713,000 people were over 65 years old. However, Zimbabwe has limited comprehensive data and research on older persons and ageing to support informed policy decision-making, creation, and implementation. **Solution:** The State should work with other States to set standards in closing data gaps relating to older persons as identified in Paragraph 18 of the 2022 OHCHR Normative standards and obligations under international law concerning the promotion and protection of the human rights of older persons, and Section VII-A of the 2021 OHCHR Update to the 2012 Analytical Outcome Study on the normative standards in international human rights law about older persons reports.
- ✓ Older persons enjoy equal status before the law but lack adequate awareness of relevant legislation supporting their human rights. **Solution:** State work with other States to set standards in closing the gaps in access to legal services (age-friendly), legal capacity, ageist attitude towards older persons in the judicial process, and other gaps outlined in "Substantive inputs in the form of normative content for the development of a possible international standard on the focus areas", "right to work and access to the labour market" and "access to justice" for the [12th Session of OEWGA](#).
- ✓ Legislation is not translated into all the 16 official languages, leaving room for age discrimination, knowledge gaps, and inequality. **Solution:** Older persons have the right to participate in decisions that affect their human rights. Accessibility is critical to participation, including access to information in a form and a language which can be understood.
- ✓ Resource allocation is skewed towards the younger population, in the majority. **Solution:** The State must recognise human rights as a life course. Older persons in older age have equal rights to health and health services, rights to adequate standard of living, and right to social security.
- ✓ Older persons' rights are inadequately addressed because of ageism, gender discrimination and disability. **Solution:** Prohibit ageism and age discrimination towards older persons by law. Set internationally binding human rights standards prohibiting ageism and age discrimination, just as there are internationally binding standards prohibiting discrimination against women and people with disabilities.

B. Violence, neglect, and abuse

Respect for older persons was a given in African tradition and part of the cultural norms but is being increasingly eroded, as exemplified by adverse media reports in both urban and rural settings, of ageism, violence, neglect, and elder abuse, which are no longer taboo. Deprioritisation, because of the focus on the youth with voting power, has resulted in older people continuing to suffer abuse, violence, neglect, and becoming marginalised.

GAPS

- ✓ Economic hardships have resulted in rural-urban migration, leaving older persons behind on underutilised agricultural land. Most rural plot holders miss out on support due to ageism. **Solution:** Promote older rural plot holders' right to benefit from the Government's agricultural extension training on climate adaptation and the right to self-determination in continuing to earn a living, possibly by hiring younger farmers to work on the land the older persons own.
- ✓ When older persons are excluded from family affairs because of their limited economic contribution, they lose their sense of purpose and respect. **Solution:** Prohibit ageism and recognise that the right to participate in older age takes different forms – from community volunteering and family caregiving (i.e., spouses or grandchildren) to working odd jobs to supplement the family income.
- ✓ The Zimbabwean population joining the diaspora to seek a better life as economic migrants significantly impacts the income of households headed by older persons. The quality of care, support systems and well-being does diminish. **Solution:** Protect the older person's right to an adequate standard of living by ensuring remittances by the diaspora reach families in Zimbabwe, support community projects, and reach older persons.
- ✓ *Elder abuse is an intentional act or failure to act that causes or creates a risk of harm to an older adult.* It can also be in the form of *neglect, emotional abuse, financial abuse, sexual abuse, self-neglect, and abandonment.* **Solution:** Put comprehensive legislation in place to effectively address the abuse of older persons. Provisions in such legislation need to outline norms of acceptable and unacceptable behaviours against older persons, protection toward older persons who suffered abuse, and sanction perpetrators of abuse. **Solution:** Increasing sensitisation on the legal protections in place is critical. Community education on abuse should focus on *physical, psychological, social, material, legal, or moral harm or injury, or a combination* which may or may not constitute criminal offences. Parts of the judicial system still view such incidents as family matters, which results in underreporting of incidents and misdirection of judgements. **Solution:** Legislation needs to clearly recognise intentional acts (which may require police involvement) and failure to care resulting from several factors and appropriate support provided.
- ✓ Familiar sources of support for older persons who are abused, need care or are being kept from harm are mainly being provided by NGOs, families, and friends to complement Government efforts. Donor funding also supports such operations. The

interventions cannot always be scaled up or sustainable. **Solutions:** Prioritise resourcing community solutions using traditional structures where appropriate to educate and support the population.

C. Long-term care and palliative care

The Government generally perceives both long-term and palliative care as the responsibility of the families and society.

GAPS

- ✓ There are hardly any government-run institutions in Zimbabwe handling extended-term and palliative care to benefit older persons. Most organisations focusing on specialised and well-resourced care for older persons are fee-paying and sponsored by private, religious or NGO entities. The charitable older people's homes with minimum technical service struggle to function effectively and provide quality care. **Solution:** Protect older persons' right to long-term and palliative care by encouraging the private sector and communities to collaborate with the Government in service provision to promote sustainability and holistic support.
- ✓ *Three main forms of palliative care, symptom management, emotional support and spiritual care*, are not well understood by the general population and so are under-resourced. **Solution:** Mass education campaigns for families and communities are required through resource mobilisation by the Government and partners.
- ✓ Relevant health worker training is in limited supply, and those trained join the brain drain because of poor remuneration and working conditions. **Solution:** Recognise that realisation of the "right to work" includes technical and vocational guidance and training to achieve full and productive employment. Therefore, the Government should spearhead revamping training curricula so they are fit for purpose and address service requirements. The Government must also address policies related to providing palliative and long-term care and essential palliative care drugs through the drug and service procurement systems.
- ✓ The limited long-term care subsidised by the Government is in predominantly older black people's homes, where residents are usually locals or former destitute, vulnerable, or retired migrant workers. **Solution:** Ensure equal access opportunities for all in need. Upgrade the means-tested non-contributory scheme funded by the Government for those over 65 years so it becomes universal.

D. Autonomy and independence

Autonomy and independence are 'foreign concepts' in the Zimbabwean culture, where older persons are expected to be part of a family or clan unit, which subscribes to the term *Ubuntu*, whose premise is based on the importance of a group or community. *Ubuntu*, translated into Shona, means *munhu munhu muvanhu* (a person is a person through other persons).

Despite modernisation and urbanisation, collective decision-making is still encouraged, and older persons are viewed as part of the community process when they are not alienated from the family. They are the custodians of tradition and cultural practices, especially in the rural areas where approximately 60 % of the population still resides. Such traditional structures mainly operate outside the Government systems, although there is complementarity.

GAPS

- ✓ Older persons do operate with increased autonomy and independence, usually outside the family structures, sometimes because of alienation due to suspected antisocial behaviour, mental illness or disputes resulting in banishment from the community. **Solution:** The Government should continue to "encourage the care of older persons within their communities and social environment" per item 7i of the Older Persons Act and promote solutions that reconcile older persons with their families/communities. Otherwise, the alternative is destitution.
- ✓ Inadequate attention is being paid to creating age-friendly environments in the community. **Solution:** The Government should continue to "encourage the care of older persons within their communities and social environment" per item 7i of the Older Persons Act and consult older persons on adequate services and their needs so they are not forced to seek independence and autonomy outside the family structures unless it is by choice.

E. Protection et sécurité sociales (y compris protection sociale minimale)

Social protection for older people in Zimbabwe is mainly through *the public assistance programmes, the Pensions and Other Benefits Scheme, initiatives by NGOs and communities, and the recently enacted Older Persons Act mentioned earlier*. Social security and social protection measures are stipulated as a right in the Provisions of the Constitution of Zimbabwe, together with the rights of children and older persons with disabilities.

GAPS

- ✓ Existing social protection measures do not provide adequate benefits, are underfunded, and are not always guaranteed because of budgetary constraints. **Solution:** Older persons have a right to social security. The Government should prioritise funding needs and address resource allocation and tax collection loopholes.
- ✓ The dispersed government subsidies in US\$ amounts are below the official United Nations poverty line of US\$1.25 daily. So, the few who receive such benefits remain in poverty. The schemes are not nationwide, are means-tested as stipulated in the Older Persons Act of September 2012 and heavily rely on donor funding. The dollar payments are inadequate, especially in an inflationary environment with high health, food, and transport costs. The Government is not increasing its budgetary allocation to match inflation. So universal pensions and the introduction of other benefits

schemes are not even under consideration. Formal employment sector pension benefits do not match the cost of living. Most of the informal employment sector population has no pension schemes in place. **Solutions:** The Older Persons Act should be amended to include social protection measures to cover all older Zimbabweans, regardless of their circumstances. The benefits should be adequately financed, in line with inflation. This means a change in the current economic policies to promote sustainable growth.

- ✓ Within the small older population, there is a lack of awareness about the public assistance schemes set up to benefit them. Some do not apply even when they qualify. Procrastination over social protection reform has resulted in older persons continuing to suffer. The situation has not improved since the current President stated: *'Zimbabwe has failed to get the desired results from its social protection programmes due to the fragmentation of activities'*, Vice-President Emmerson Mnangagwa (17 July 2015). **Solutions:** Relevant government departments should reassess the current structures and systems so they are fit for purpose and ensure older persons' right to social security. Older people should be at the centre of the dialogue so their voices can be heard and there is joint ownership of the proposed reforms.

F. Right to Health and Access to Health Services

There is no dispute that older persons, to experience a life worth living, need to be in good health within functioning health support systems.

GAPS

- ✓ Older populations are at higher risk of chronic health problems, including diabetes and Alzheimer's disease, aside from the consequences of falls, a leading cause of injury for this age group. Policies to support physical activity among older adults and means to prevent both chronic disease and fall-related injuries are sparse unless one is self-financing through private sector facilities. Government policy is to provide free-of-charge health services for those aged 60 years and over. However, shortages of essential drugs mean medication is not always accessible. Prescriptions and transport costs to referral hospitals in rural areas are costly. There is no concession for older persons on transport or medication costs. **Solutions:** Define the availability, accessibility, acceptability, and quality standards on the right to health and health in the context of the older person and older age. Health systems should be accessible, affordable, and aligned with the needs of Zimbabwe's increasingly ageing population, and an older person-centred or integrated care practice should be adopted.
- ✓ In Zimbabwe, maternal and child health care appears to be the centre of health care because the focus is skewed towards provision for those 18 years and under. **Solutions:** Everyone has the right to a system of health protection that provides equality of opportunity to enjoy the highest attainable level of health. The

demographics are changing, so a more integrated and holistic approach to health care and systems provision is required. Older persons should actively participate in care planning and managing their health.

- ✓ There is little planning and education, awareness raising or cost-benefit analysis of health care self-management, including among the small percentage covered by medical aid societies. **Solutions:** The right to health includes the right to prevention, treatment, and control of diseases. A shift is required from managing diseases to disease prevention, thus enhancing what older people can do for themselves. Zimbabwe must increase its capacity in basic knowledge, medicine, and skills in geriatric care.
- ✓ The current brain drain in the health sector has negatively impacted the healthcare system. The World Health Organisation (WHO) Health Workforce Support and Safeguards list of 2023 comprises 55 countries, including Zimbabwe. *These countries face the most pressing health workforce challenges related to universal health coverage. In particular, these countries have 1) a density of doctors, nurses and midwives below the global median (i.e., 49 per 10 000 population) and 2) a universal health coverage service coverage index below a certain threshold.*
<https://www.who.int/publications/i/item/9789240069787>
Solutions: As Government departments monitor and supervise institutions, associations, and organisations, including those controlled and managed by the State and local authorities, that provide services for the care of older persons' per item 7L of the Older Persons Act, the development of working and living environments that compensate for skills, experience and career advancement while promoting staff retention requires a multi-sectoral approach.
- ✓ Research in specific fields related to ageing and health is limited and under-resourced. Available data about older people is usually extrapolated from general population-based studies and surveillance systems. **Solutions:** Accurate and disaggregated data that captures the realities of older persons' lives is essential to analysing the extent to which their right to health and health services are realised. Impactful service provision relies on informed decisions based on data gathering through statistics, available population surveys, and data disaggregation by age and sex. The last Zimbabwe Demographic and Health Survey online (2015 ZDHS) was implemented by the Zimbabwe National Statistics Agency in July through December 2015. More recent data is therefore required.

G. Conclusions

Power of Touch, among other civil society organisations in Zimbabwe, continues to advocate for a UN Convention on the rights of older persons. Concerning the 2014 Zimbabwe Age Demands Action campaign under the auspices of HelpAge International and its affiliates, the issues raised are still pertinent in Zimbabwe in 2023. A UN Convention on the Rights of Older Persons will provide the human rights framework and standards that guide the policymaking and programme development, including:

- *the restitution of the contributory pension fund*
- *a universal pension scheme for older people*
- *improved access to health services, particularly geriatric and palliative care*
- *enhanced law enforcement to address violence and abuse of older people.*

Zimbabwe is experiencing economic decline, which impacts the provision of services and the quality of life for older persons. Within the increasingly informal economy, older persons' voices still need to be heard by the Government, whose obligations to older persons should be prioritised and addressed through a UN Convention for Older Persons.

H. Options on how best to address the gaps

The Zimbabwean Government/organisations have engaged *with international and regional human rights mechanisms (for example, universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms)*, explicitly concerning older persons through the following:

1. **Zimbabwe** Older Persons Act 2012 mandates the Older Persons Board (Item 7e) to *give effect to any international treaty that directly affects **the well-being, welfare, care and protection of older persons** to which Zimbabwe is a signatory.*
2. **African Union**
 - a. Protocol to the African Charter on Human and Peoples' Rights- this is currently going through the process of adoption by the African Union. It *"outlines African governments' specific human rights obligations to older people and requires governments to introduce legislation and policies to protect the rights in older age."* As of 19 September 2023, Zimbabwe had not signed, ratified/acceded to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons.
 - b. Zimbabwe, as an AU Member State, *acknowledges the increasing ageing population. However, there is:*
 - ✓ *Need for domestic resource mobilisation.*
 - ✓ *Enabling environment for civil society*
 - ✓ *Evidence-based decision making*
 - ✓ *Increased political will to domesticate global agreements.*

Universal Periodic Reviews

Zimbabwe's [first and second UPR reviews](#) occurred in October 2011 and November 2016, respectively. The third and latest national report of January 2022, submitted per paragraph 5 of the annex to Human Rights Council resolution 16/21, makes no specific reference to the rights of older persons except indirectly through, for example:

- The Persons with Disabilities Bill will incorporate the provisions of the Convention on the Rights of Persons with Disabilities (CRPD) and the National

Disability Policy, which seeks to address the marginalisation and discrimination of People With Disabilities in Zimbabwe.

- Decentralisation of courts in Zimbabwe to improve access to justice.
- The National report submitted per paragraph 5 of the annex to Human Rights Council resolution 16/21 states that *Police recruits are now being trained at the newly established Police Academy, which is affiliated to the Faculty of Law of the University of Zimbabwe...*The modules now include training on promoting and protecting fundamental human rights.

Have those engagement resulted in positive impact in strengthening the protection of the human rights of older persons?

- Engagements have not been in a timely fashion, as reflected in the progress to date regarding the domestication of the various protocols into laws and creating fiscal space for their enactment. The Report of the Office of the United Nations High Commissioner for Human Rights commenting on the 2022 UPR, stated:
 - *The status of implementation of recommendations from the universal periodic review, treaty bodies and other human rights mechanisms was not readily available.*
 - *The United Nations country team noted that the process of aligning legislation with the Constitution and with international human rights obligations was slow.*
- Social assistance for older persons, such as non-contributory (tax or donor-financed) retirement schemes, is unavailable universally and does not keep up with inflation. So, there is no minimum income level for all older persons.
- There is little awareness of entitlements among the general population or older persons, even though these may be outlined in government legislation and instruments.
- The political will to improve the situation is in short supply, considering that most senior government officials are older, the youth bulge is ageing, and older persons are living longer.

What other options can be considered to strengthen the protection of older persons?

This submission supports the **need** for a UN Older Persons' Convention, which will help fight age discrimination and promote a life worth living. The Government, civil society, private sector, and our communities are more likely to address issues supported by domestic laws that stem from the proposed global Convention, as is the case with children and persons with disabilities. POT Zimbabwe agrees with HelpAge International's statement on why we need a Convention:

A UN Convention on the rights of older people would:

1. *Provide a comprehensive framework to promote and safeguard their rights, covering areas such as healthcare, social protection, employment, and participation in decision-making processes.*
2. *Serve as a powerful tool in combating ageism, discrimination, and neglect, while fostering an inclusive and age-friendly society for all.*
3. *Address the pressing issue of elder abuse and neglect, which remains a global concern.*
4. *Establish clear guidelines and mechanisms for preventing, detecting, and addressing instances of abuse, whether physical, emotional, or financial.*
5. *Promote the importance of dignity, autonomy, and independence for older people, while ensuring that they have access to justice and support systems.*
6. *Contribute to a shift in societal attitudes and practices by raising awareness and setting standards for the treatment of older people, ultimately fostering a culture of respect and care for our older population.* Citation source:
<https://www.helpage.org/what-we-do/rights-of-older-people/un-convention-on-the-rights-of-older-people/>

From a Zimbabwean perspective, we shall continue to advocate for the recognition of older persons who should have full enjoyment of their human rights promoted and protected through:

- Resourcing the Older Person Board to be an influential national voice of older persons and a watchdog to hold the Government and its citizens accountable concerning human rights, data collection, policies, legal instruments, and practices affecting older persons.
- Review and update the Older Persons Act to reflect current realities described in the gaps section above.
- Zimbabwe, as a member of the Southern African Development Community (SADC), implementing the SADC objective of *strengthening measures to address the needs of elderly persons, including recognition of their contribution as people with skills and expertise.*
- Adopting the Protocol of the African Charter on Human and Peoples' Rights and putting said norms and standards into practice so that older persons in Zimbabwe are treated with dignity and respect and as equal members of society.
- Working with other Governments to create universal binding human rights standards for older persons and older age so that pressing social, economic, and cultural needs are actively addressed through the implementation of human rights-based programmes, be it health care, universal pensions, or the WHO age-friendly 8 Domains of Livability.

Compiled by:

- Nesta Hatendi: Member of Power of Touch Zimbabwe and Coordinator of Pass It On Network (PION) Southern Africa
- Beatrice Sithole: Power of Touch Zimbabwe (Founder) and Pass It On Network (PION) Zimbabwe Coordinator.

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