

**Open-ended working group on Ageing for the purpose of strengthening the
protection of the human rights of older persons
General Assembly resolution 65/182**

Second working session, New York, 1-4 August 2011

UN Headquarters, Conference Room 2, North Lawn Building

Introduction

In December 2010, the United Nations General Assembly established an open-ended working group for the purpose of strengthening the protection of the human rights of older persons. Its mandate called for the consideration of the existing international framework on the human rights of older persons, and for the identification of possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures.

The second working session was organized around five topics, namely, discrimination and multiple discrimination; right to the enjoyment of the highest attainable standard of physical and mental health; violence and abuse; social protection and the right to social security; and age and social exclusion.

Sixteen panelists discussed the extent to which the human rights situation of older persons had been addressed at national and international levels, many in reference to concrete legislation, policies and practices. Several raised concerns about the slow pace or little priority granted to older persons at national and international levels, and made reference to the limitations of existing mechanisms.

During the ensuing dialogues, all intervening delegations as well as representatives from civil society organizations and networks recognized the importance of shedding light on the human rights situation of older persons. Delegations emphasised their commitment to building inclusive societies where all individuals, regardless of age, can exercise and enjoy their fundamental rights and freedoms without discrimination. Delegations also recognized that the open-ended working group offered a much-needed opportunity for raising the profile of older persons human rights in the international human rights agenda. Although it was often noted that older persons face different situations depending on their country of residence, their vulnerability to human rights violations was acknowledged as well as the need to put in place special measures to ensure they can exercise their rights.

Delegations welcomed the opportunity to delve into areas of concern not yet sufficiently addressed internationally. Several expressed appreciation for a dialogue that allowed them to outline their good practices and efforts towards more age-friendly societies. Many delegates saluted cross-fertilization among member states and between regions as a positive outcome of the session.

Delegations and representatives from civil society organizations and networks recognized the existence of gaps in the international protection system. However, there were diverging views about the type of gaps that had been identified and

measures to address them. References were made to normative, monitoring, implementation, and knowledge or information gaps. Some delegations called for more in-depth analysis and articulation of specific gaps in the context of the open-ended working group.

Among some of the measures suggested during the second session, several delegations, representatives from civil society organizations and networks as well as a number of panellists argued in favour of a legally-binding instrument that could address the various gaps identified in the protection of human rights of older persons. Other member states argued for stronger use by existing treaty bodies and special procedure mandate holders of core international instruments and noted the resource-intensive process of drafting a new convention. Several delegations also called for a new special procedure mandate to focus on the human rights of older persons. The review and appraisal of the Madrid International Plan of Action on Ageing to take place in 2012-13 was also seen as an opportunity to assess the current status of the social situation, wellbeing, participation in development and rights of older persons.

Summaries of panel discussions

DAY ONE, 1 August 2011 (AM)

Statements by Member States and Civil Society Organizations

The Chair of the Open-ended working group, Ambassador Jorge Argüello (Argentina), opened the second working session by encouraging Member States and civil society organizations to enable the necessary progress and to engage in a robust dialogue regarding the human rights of older persons.

The opening session was well attended, with approximately seventy five delegations, as well as many non-governmental organizations in the conference room. Fourteen delegations took the floor, one on behalf of the European Union, as well as nine non-governmental organizations.

Several intervening delegations welcomed the second session of open-ended working group as an opportunity to identify existing international efforts for the protection and promotion of the human rights of older persons and to consider further measures and mechanisms. Delegations noted that the open-ended working group also aims at raising awareness and sharing experiences, policies and practices. Some noted that the rights of older persons are enshrined in national laws, policies and programmes, and that those rights were more explicitly included in recent reforms.

Age discrimination and its effects on older persons and society at large were crucial issues for many delegations. In addition, violence against and abuse of older persons were repeatedly invoked by delegations. Some delegations noted important principles that guide or should offer further guidance in shaping policies for older persons, such as ensuring their independence, autonomy, participation and equality. Delegations mentioned particular rights-related issues in need of urgent attention, such as age-friendly health systems, disability and long-term care services, pensions, as well as age-adequate housing and transportation to enhance independent living.

Empowerment of older persons to claim their rights, participation in development and policy-making, as well as recognition of their contribution to society was identified as central dimensions of their human rights. Social protection in form of public and social pensions to prevent or combat poverty, as well as access to work and education were also seen as important human rights issues.

A number of delegations encouraged a greater focus of current human rights treaty bodies to investigate rights-related issues specifically for older persons. However, some delegations noted that existing instruments do not provide adequate guarantees, and they lead to scattered and complex processes which have not responded thus far to older persons.

Some delegations pointed out that a comprehensive analysis of protection gaps is needed and much could be gained by improved data collection, the use of disaggregated statistics or the commissioning of studies. Some delegates called for regional approaches to designing appropriate mechanisms for older persons while others argued in favour of universal standards and monitoring mechanisms in line with what has been put in place for other population groups, such as children or persons with disabilities.

Due to the lack of a monitoring body concerning the rights of older persons as well as the lack of a binding international human rights instrument for older persons, some delegations called for further measures in this regard, including the appointment of a Special Rapporteur for older persons and the drafting of an international convention.

Delegations acknowledged the importance of the Madrid International Plan of Action on Ageing (MIPAA) as a tool for designing policy that would improve the quality of life of older persons. Some delegations remarked that they look forward the second review and appraisal cycle of the Madrid Plan in 2012/2013 as an opportunity to enhance the knowledge base and understanding of the problems governments face due to ageing populations.

In this regards, two positions were expressed. Some intervening delegations suggested that the outcome of the review process would be required prior to considering further instruments and mechanisms to address human rights issues at the international level, while other delegations noted that the MIPAA review constitutes an important contribution but should not delay the ongoing discussions about further instruments or mechanisms, particularly considering that MIPAA is a non-binding instrument.

Some representatives of civil society organizations and networks noted egregious human rights abuses of older women, as well as general social exclusion, isolation and a loss of dignity of many older persons. Moreover, some representatives of civil society organizations pointed out that existing international and human rights laws do not sufficiently protect the rights of older persons and that standards are scattered throughout various international conventions. They called for a holistic approach in this regard and noted that a convention on the rights of older persons could facilitate that. Such an instrument would combat ageism and age discrimination and guide policy-making.

DAY ONE, 1 August 2011 (PM)

Panel 1 – Discrimination and multiple discrimination (moderated by Mr. Leo Faber of the delegation of Luxembourg, Vice-Chair of the Open-ended working group)

Mr. Victor Abramovich, Executive Secretary of the Institute of Human Rights Policies of the MERCOSUR and former member of the Inter-American Commission for Human Rights, addressed three key areas for explicit consideration in a new instrument: (1) formal equality before the law and inclusion of age as a prohibited ground for discrimination for the purpose of preventing negative differential treatment; (2) substantive equality to address structural discrimination, which in turn requires States to take positive steps, especially in the area of social policies and services, with particular reference to the situations of multiple discrimination suffered by some older persons; (3) due diligence and the obligation to protect from human rights violations, providing safeguards against violence and abuse typically affecting older persons' right to life and to personal integrity, including actions or practices by non-State actors, such as in care institutions. He also emphasized that a convention on the rights of older persons should reaffirm the fundamental principle of equality and non-discrimination on the basis of age.

Mr. Roedolf Kay, National Coordinator of the South African Older Persons' Forum, noted that in South Africa, despite the introduction of a legal framework for protecting, promoting and fulfilling the rights of older persons, the reality is that many individuals, in particular from rural areas, continue to experience discrimination in various forms on a daily basis. He also made reference to the fact that many older persons endured racial discrimination and apartheid many years of their lives. He underscored that older persons are widely subjected to discrimination due to, inter alia, age, health, and social status, reinforcing that they are the most disadvantaged and vulnerable members in South African society. The establishment of the South African Older Persons Forum (SAOPF) has made progress in raising awareness, but the situation of older persons is still not considered a main priority in policy making.

Mr. Ahmad Zia Langari, Commissioner of the Afghanistan Independent Human Rights Commission, volunteered some examples of the situation of older persons in Afghanistan. He noted that in Islam, serving elders is a duty second to prayer. Nevertheless, changes in the family structure, migration and urbanization are having a great impact in terms of care for older persons. Since there are sometimes stereotypes about older persons being a burden to families, they are socially marginalized. He noted with concern examples of areas where discrimination of women has an impact throughout their lives, such as in relation to education and illiteracy; and also of the harder situation of older persons in rural areas or those who are poor and cannot access or afford health services. He noted that social security, education and health are typical sectors where older persons often face discrimination. In particular in countries where health sector is highly privatized, poor older persons have no access to good health services.

Mr. Craig Mokhiber, Chief of the Development and Economic and Social Issues Branch, Office of the High Commissioner for Human Rights (OHCHR), in reference to some of the findings in the Secretary-General report to the GA, pursuant resolution 65/182 (to be considered later this year), underscored that age-related discrimination is one of the most frequent challenges faced by older persons around

the world. Under international human rights law, he noted, discrimination is defined as any distinction, exclusion or restriction which impairs or nullifies the exercise of human rights in any field. He recalled that existing international human rights standards apply to the protection of older persons and that existing treaties include relevant provisions with no limitation to old age. Mr. Mokhiber noted that these efforts are essential to protecting the human rights of older persons, but that they remain inadequate and fragmented in offering effective international protection to older persons.

During the interactive dialogue, delegations recognized that multiple discrimination requires comprehensive policies and a multi-sectorial approach to old-age, but also specific efforts to combat stereotypes, which lead to direct and indirect discrimination. One delegation noted that a combination of health services, minimum income and a legal mechanism of protection against abuse and violence have helped to improve the situation at national level. A similar approach could be taken at the international level with an instrument combining various standards. One delegation shared the experience of a board of equal treatment with explicit mandate to address age-discrimination, and the impact that regional guidelines and instruments has had in increasing awareness and policy making.

DAY TWO, 2 August 2011 (AM)

The right to the highest attainable standard of physical and mental health of older persons (moderated by Mr. Alexander Kalache of the delegation of Brazil and a expert on public health and ageing issues)

Mr. John Beard, Director of the WHO Department of Ageing and the Life Course, organized his presentation around three core topics: a) health promotion across the life course; b) ensuring access to age-friendly primary health including early diagnosis and treatment of chronic diseases, access to quality and affordable medicines; provision of palliative care; and availability of home and institutional long-term care; and c) creating environments that foster engagement by older persons. Mr. Beard noted that the exercise of several human rights, such as the right to adequate housing, social security and equality and non-discrimination play a central role in the health of older persons. In calling for a health system that is responsive to critical issues for older persons, Mr. Beard emphasized the importance of promoting a social protection floor for all. He noted that a human rights based approach to health is affordable and feasible.

Ms. Bustelo, speaking on behalf of the Special Rapporteur on the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, offered observations from his thematic study on the right to health of older persons. The study, pursuant resolution 15/22, will be considered by the Human Rights Council at its 18th session in September 2011. In his study, the Special Rapporteur notes that older persons are rights-holders, who at times may require support to claim their rights. Building upon the concept of active and dignified aging, the Special Rapporteur outlines a right-to-health approach to the design and implementation of policies and programmes, and calls for resources allocated to the provision of geriatric healthcare. Ms. Bustelo also referred to the Special Rapporteur's concern about reported and unreported violence against older persons, notably in care facilities, and

about the lack of safeguards to ensure free and informed consent for any health-related decision.

Ms. Killeen, Alzheimer's Disease International, highlighted the linkages between Alzheimer disease and related dementias (ADRD), and age-discrimination. Ms. Killeen started by recalling that 1 person in 9 over 65 has Alzheimer's diseases, the majority of which are women. Despite those figures, only seven countries have published a national plan on ADRD. There is in fact a lack of research, especially in the developing world, often linked to the wrong perception of ADRD as a 'normal part of ageing', although ADRB can be early diagnosed and adequately treated. In addition, stigma and isolation, neglect in health plans and programmes, lack of funding, and very little awareness and adequate training of health professionals render older persons with ADRD highly vulnerable to discrimination and isolation.

During the ensuing interactive dialogue, several delegations referred to the importance of training health professionals in general, not solely more gerontologists, but also nurses, family doctors, and other health professionals. Mental health and closer consideration of age-friendly services should also be included in national health systems. In some of their interventions, delegates offered examples of developments to enhance awareness of mental health and how home care and home nursing systems have worked, as well as illustrative examples of municipalities providing services and appliances universally. Non-communicable diseases and their prevalence among older persons were also raised, in view of the upcoming High Level Meeting at the General Assembly in September.

While some delegations referred to existing international instruments protecting the right to health of older persons, notably the International Covenant on Economic, Social and Cultural Rights, and welcomed –for example- the use made by the Special Rapporteur for his study of existing norms; PAHO, some delegations and NGOs noted that existing instruments do not provide sufficient specificity about quality, accessibility and long-term care, among other health issues.

DAY TWO, 2 August 2011 (PM)

Panel 3 – Violence and abuse against older persons (moderated by Ms Mozah Al Kaabi, delegation of Qatar, Vice-Chair of the Open-ended working group)

Mr. Claudio Grossman, Chair of the United Nations Committee against Torture, underlined the importance of enforceability and scrutiny of the way States address vulnerability of specific population groups –such as older persons- as part of their obligations under international human rights law. Mr. Grossman called attention to the importance of due process rights, timeliness of any judicial remedy for the lives of older persons and to the need to protect their property and social security. He then noted that the definition of torture takes into account the particular circumstances of an individual, including their health conditions and age. It is the duty of States to investigate and punish any conduct that can amount to inhuman or degrading treatment, conducting in places like psychiatric institutions or prisons where older persons may not be able to take action to protect themselves. Mr. Grossman also

offered some comments about the lack of sufficient resources, existing overlaps in the treaty body system as issues to consider if a new instrument would be discussed.

Mr. Kieren Fitzpatrick, Director of the Asia Pacific Forum (AFP) started by presenting his organizations as a network of 17 National Human Rights Institutions (NHRI), noting that the Asia-Pacific region remains the only region without a human rights system. Considering the specific issue of violence and abuse, the majority of NHRI in the region have focused on institutionalized care settings. Incidents of physical, emotional, sexual and/or financial abuse have been identified. In general, it is a result of neglect or ill treatment, but sometimes it is a direct result of abuse. Several examples were mentioned, such as inappropriate and use of restraints, isolation and forced locking of doors, inappropriate use of medication, malnutrition, and lack of ‘proportionality’ with regards to autonomy and harm minimization. Mr. Fitzpatrick highlighted that situations in care-settings have a systemic rather than individual nature.

Ms. Teresa Minja, Chairperson of the Tanzania Social Protection Network presented the reality of older women in Tanzania, who live in general in poverty and face problems of age discrimination, low incomes, poor health, and limited access to healthcare services, as well as extreme violence and abuse. The presentation clearly illustrated the linkages between low living standards and violence and abuse. Due to illiteracy, lack of awareness about their rights and available support systems, older women easily become vulnerable to rights’ violations and abuse. In addition widowhood profoundly changes the status of women in Tanzania and undermines their security. Customary laws deny widows the right to inherit common matrimonial assets. For older widows, discrimination compounds the effects of a lifetime of poverty and gender discrimination. This can result in extreme impoverishment and isolation. In addition, disputes over property ownership and inheritance have often led to accusations of witchcraft which in turn result in violence, abuse and killings of older women. Government efforts to address this situation may at times be hindered by the community’s belief in witchcraft. Reality in Tanzania shows a mix of normative and implementation gaps in the protection of human rights of older persons, which could be improved by better legislation and revision of national laws related to inheritance.

In the ensuing dialogue, there were further considerations about criteria related to torture, inhuman and degrading treatment. Mr. Grossman reiterated that cases of extreme and repeated violence against individuals can be examined in the context of the Committee against Torture. However, many cases of violence are not interpreted as torture, although they could follow under this category. Several delegations and civil society representatives also shared the reality in their own countries, revealing that violence against older persons is present in all regions and economic contexts. This issue is for instance pervasive in all Europe, as highlighted in the last WHO-Europe report on preventing elder maltreatment. As observed by civil society representatives, public and policy-makers are increasingly concerned about the problem and the rights of older persons need to be strengthened.

DAY THREE, 3 August 2011 (AM)

Panel 4 – Social protection and older persons (moderated by Mr. Craig Mokhiber, Chief of the Development and Economic and Social Issues Branch, Office of the High Commissioner for Human Rights)

Ms. Wambui Kimathi, Commissioner of the Kenyan National Commission on Human Rights, presented her office's report "Growing Old in Kenya", which offered three key lessons: (1) focusing on the rights of older persons matters and informs policy priorities; (2) focusing on the process of ageing can be crucial in getting policy makers, advocacy groups and individuals appreciate the importance of the issue; and (3) this approach is important in bringing about interaction between individual, community, state and non-state actors. Ms Kimathi noted that Kenya has developed a social assistance initiative which provides US\$22 to older persons per month. However, more infrastructural support is needed to allow independent living of older persons. The panelist mentioned that identifying a mix of policies and initiatives that positively intervene throughout the ageing process is of paramount importance. Social support should rest on the shoulders of individuals, communities, non-state (e.g. insurance companies) and state actors, and family members should be encouraged to take care of their older persons.

Ms. Magdalena Sepulveda, UN Special Rapporteur on Extreme Poverty and Human Rights, pointed out that the right to social security is firmly grounded in international human rights law and that several treaties contain specific references to old age protection through social security schemes. While human rights treaties apply to all members of society, including older persons, in practice States are not offering older persons the protection they deserve. This lack of protection may justify the establishment of a specific standard directly aiming at the protection of the right to social security by older persons. The Special Rapporteur highlighted that a universal pension scheme is more in line with human rights obligations as: (a) it responds to the claim of universality of human rights norms, (b) it complies with the principle of equality and non-discrimination, (c) it reduces opportunities for corruption, and (d) there is no stigma attached as it is available to all who comply with the age requirement. In addition, universal provision is the simplest structure with the lowest administrative costs. Integrating ageing populations in policy-making may require States to approach their protection of older persons not only through domestic legislation but also through the adoption of new international standards that can act as a catalyst for encouraging changes at the domestic level. She also mentioned that international standard-setting should only be pursued if there is international consensus, including in order to avoid backtracking on existing standards i.e. their interpretation by mandate holders.

Ms. Salvacion Basiano of the Confederation of Older Persons' Associations of the Philippines discussed the lack of employment opportunities for older persons in her country and the difficulty to obtain credit for older persons, especially for the less educated and the poorer. The Government's focus on urban development has caused massive rural to urban migration. However older persons cannot take advantage of the new urban jobs, which require a high school diploma, a degree that most rural older persons do not have. Also, community health centres are often inadequate, lacking medicines or sufficient professional staff. Older persons have organized themselves into small income generating projects, such as COPAP's Livelihood Programme, which includes micro-lending. In addition, advocacy,

lobbying and marching as street parliamentarians has contributed to older persons' empowerment and has brought visibility to their concerns. A number of Congressmen and Senators have since then filed bills seeking to protect senior, but the Government has to address many issues that are still unresolved regarding its older constituents.

In the ensuing dialogue, delegations and civil society organizations reflected on existing social protection programmes and policies and their adequacy in their respective societies. Specific topics included universal minimum pensions, incentives for older persons to stay in the labour market, policies geared towards care givers, provision of affordable medicine and health insurance for older persons, participation on all levels of society, efforts for more intergenerational solidarity, and provisions addressing disability in old age. Additionally, there was recognition of potential pitfalls in the way data on older persons and the households they live in is collected and analyzed. Panellists also emphasized the importance of effective community organizing rests, empowerment and participation of older persons in decision-making and a bottom-up, participatory approach to policy development and evaluation.

DAY THREE, 3 August 2011 (PM)

Panel 5– Age and Social Exclusion of Older Persons (moderated by Mr. Jean-Pierre Gonnot from the Department of Economic and Social Affairs)

Ms. Ellen Bortei-Doku Aryeetey, University of Ghana, noted that Africa is faced with a historical version of what ageing means and the role of older persons that no longer corresponds to today's realities. For example, at first glance, older people in Ghana apparently retain control of power in the family and community, they are largely still heads of household, and continue to exercise authority over productive assets. There is also increasing reliance on older persons by their families both in financial and labour terms, particularly in caring for children and relatives. However older persons in Ghana are over-represented in poverty categories and public services give them inadequate attention. Only 2 per cent of older persons are registered for National Health Insurance where free care is available age 65 and over. Only 10% of the workforce has social security coverage and most rely on informal support and remittances.

Ms. Aryeetey also mentioned vested interests by youth to push out older workers due to unemployment and a growing rejection against older persons' control of power. Older women are still suffering from superstitious beliefs and association with witchcraft. While the Government of Ghana has a commitment to implementation of MIPAA much still remains to be done, including public debates on ageism and exclusion of older persons.

Mr. Oldrich Stanek of the Czech NGO Zivot 90 spoke about the civil society response on ageing to the European Year for Combating Poverty and Social Exclusion in 2010. NGOs noted that a combination of factors such as low income, poor health, and and/or gender-based discrimination, reduced physical or mental capacity, unemployment, isolation, abuse and limited access to services explain in part the increasing risk of poverty and social exclusion as people age. AGE Platform Europe undertook two projects to enable older persons and their associations to organize themselves and dialogue with decision-makers at local, national and European levels on the issues of poverty and social exclusion. AGE Platform also prepared

recommendations for the EU and Member States addressing: minimum incomes, national targets for poverty reduction by age and gender, gender equality in employment, transitions to retirement and continued social inclusion, as well as universal access to essential services.

Mr. Himanshu Rath, from Agewell International - India, spoke about the historical and cultural traditions that constrain the role of older persons in India. He noted that older persons are often ignored by young generations, families and Governments. Mr. Rath emphasized the precarious situation of older women in India due to social and traditional family structures. He noted older women face abuse and mistreatment, age-related discrimination, do not access inheritance and suffer economic exploitation. Mr. Rath also called for better research on the effects of the fast socio-economic development on the behaviour towards older persons. Furthermore, awareness raising and lobbying needs to be undertaken to protect the rights of older persons.

During the interactive dialogue, Member States acknowledged the need for policies and programmes to be inclusive of older persons. The need for strengthened governance, development of social cohesion policies along with multi-dimensional indicators, and the inclusion of stakeholders was also noted by one regional group. One Member State quoted statistics from a national study that showed how older persons thought about old age with the results being overwhelmingly negative.

DAY FOUR, 4 August 2011 (AM)

Identification of existing gaps at the international level and measures to address them

The session was organized as a plenary discussion with a view to identifying existing gaps in the international human rights system and to highlight areas where further discussion is required. Ms. Marie Keirle of the Delegation of France, and Mr. Kieren Fitzpatrick of the Asian-Pacific Forum were invited by the Chair as facilitators of this session. The session was well attended, with approximately 80 delegations present.

Ms. Keirle opened the discussion with an overview of the mandate of the open-ended working group as established under resolution 65/182 of the General Assembly. She suggested the discussion could be organized along four types of gaps, namely: a) normative gaps, b) implementation gaps, c) monitoring gaps, and d) information gaps. As exemplified by the array of issues and examples offered by panellists and participants, she noted, it is key to keep in mind the diversity of situations of older persons and the differences between and within countries and regions in terms of legislation, policies and programmes.

Ms. Keirle offered a brief summary of some of the main thematic issues that appeared consistently during the discussions. The following ten substantive issues appeared consistently throughout the discussions:

- **Age-related discrimination** is a clear challenge around the world. **Multiple discrimination**, in other words, the compound impact of discrimination based on age and sex most prominently, but also age and health condition, socio-economic conditions, or place of residence- urban and rural is a matter of concern.

- **Ageism, stigma and prejudice impact various human rights**, including at its worst the right to life (e.g. witchcraft allegations and persecution). Age is often portrayed as a weakness. Stigma and prejudice also results in no recognition of the contribution older people continue to make to society.
- **Poverty disproportionately affects older persons**. Old-age poverty appears to be the result of lack of protection mechanisms but also as a consequence of specific policies (e.g. mandatory retirement age in concert with inadequate social protection to ensure minimum standards of living); as a consequence of financial exploitation, or denial of rights (e.g. no inheritance rights for widows).
- **Violence and abuse of older persons**, in care institutions and family settings, is a global phenomenon. It is often under-reported and unrecorded and its peculiarities not always understood; there is insufficient legislation or mechanisms to prevent it, investigate its occurrence and to offer adequate remedies.
- **Women and a gender dimension central to the discussion**. Older women are more at risk of violence, neglect, of living in poverty, or with lower pension, or no pension at all- as many women primarily work in the informal sector all their lives.
- **Exercising legal capacity**. Measures to provide protection or access to support the exercise of legal capacity by older persons related for instance to health treatment, property and inheritance, institutionalization and place of residence. There is need to provide safeguards to prevent abuse by relatives or caregivers, and to ensure legal and judicial mechanisms for revision.
- **The physical and mental health of older persons is at the core of human rights concerns**. Special measures are needed to ensure prior informed consent and the guarantee of various rights in the context of health (privacy, freedom of movement, personal integrity). Areas of concern include denial of access to diagnosis, treatment and care; access to affordable medicines and adequate services; trained health professionals; provision of aid devices, palliative and long term care.
- **Social protection and social security**. Issues covered included contributory and non-contributory pensions, incentives for older persons to stay in the labour market, policies geared towards care givers, intergenerational solidarity, and provisions addressing disability in old age.
- **Social exclusion of older persons**. Significant factors also include lack of information, knowledge and understanding on the rights by older persons, mechanisms of participation, education for all regardless of age, and adequate consultation in decision-making.
- **Equality before the law** to prevent negative differential treatment. There is need to address formal equality as well as substantive equality, and the relevance of emphasising the positive obligations of States, particularly in relation to age-friendly social policy and services.

In regards to cross-cutting aspects of the discussions, Ms. Keirle highlighted the need for a public debate as well as political will in order to advance the protection of older persons. She noted the importance of participation and inter-generational solidarity; the need for more data and statistics, including more disaggregation; access to adequate services and care; and finally ensuring there is a more positive portrait of older persons within the society at large.

A lively plenary discussion ensued, with 22 delegations taking the floor, plus two regional statements on behalf of the European Union, and on behalf of Mercosur plus Chile; as well as 10 representatives of non governmental organizations, civil society organizations or networks.

Mr. Fitzpatrick summarized statements on the current situation at the national level:

- In many countries, adequate legislation and policies have not been adopted, or –if adopted- some are recent and have not been implemented. Legislation and policies remain dispersed, underfunded or insufficient. In some cases the approach is sectorial and fails to offer a comprehensive view. Laws and policies would further benefit from a better understanding of the barriers that affect the exercise of rights by older persons and by the existence of sufficient data.
- In recent years, legislation and policies have been adopted in some countries. Some have been the result of regional guidelines or mechanisms applied at the national level, most notably in the European region. A few examples include advances (laws prohibiting age-discrimination in employment and campaigns against stigma), as well as good practices and lessons learned (inclusion of large numbers of older persons in the social security system and user-friendly mechanisms to report violence)

The facilitator also provided a summary of discussion at the international level:

- Some delegations noted that existing international standards are sufficient but have been under-utilized. There are no normative gaps but rather gaps in the implementation of existing instruments to the particularities of older persons. Existing treaty bodies monitoring mechanisms and special procedure mandate holders should be encouraged to incorporate more systematically the situation of older persons in their areas of work. Member states should include the situation of older persons in their reports, and also use other opportunities for monitoring, such as the Universal Periodic Review in the Human Rights Council.
- Some delegations argued that existing international instruments, while applicable to older persons, have not offered adequate protection, visibility and specificity to older persons. Unique barriers and specific challenges faced by older persons deserve dedicated attention. There are specific normative gaps that deserve universal standards, and there are good lessons at the national level that could serve to define international guarantees. The existing system has led to fragmentation and has not provided a systematic approach and a clear channel for monitoring.

Mr. Fitzpatrick noted that several suggestions have been offered with the aim of strengthening the international human rights protection system for older persons, of which many could be implemented in parallel:

- Elaboration of a binding international human rights instrument (convention) to address normative gaps and offer one monitoring mechanisms with dedicated focus
- Establishment of a new mandate-holder (independent expert or Special Rapporteur) with a human rights mandate, to continue the analysis of the situation, collection of data and improve the realization of human rights and fundamental freedoms of older persons with a view to developing a new instrument.
- Strengthening of the use of existing international human rights instruments to protect rights of older persons. Stronger focus by existing treaty body mechanisms and special procedures, of older persons more systematically in the Universal Periodic Review.
- Emphasis on governance, policies, coordination, to tackle these issues, within regional contexts, including in the context of the review of the Madrid Plan of Action on Ageing, scheduled for 2012-2013. Strengthening of the development agenda in relation to older persons.
- Commission studies, further information and data analysis, development of indicators and monitoring mechanisms to strengthen implementation at national and international levels.
- Further analysis of social and fiscal costs of failing to address the situation of older persons and the increasing life expectancy.

In his closing remarks, the Chair of the Open-ended working group invited the General Assembly to continue to support the work of the Group. He also asked the Secretariat to continue providing assistance to the working group, in terms of technical support and preparation of documentation.