

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

CANADA'S RESPONSE

SECTION A - Identification of gaps

1. For each of the topics that have been considered by the Open-ended Working Group since its eighth session, **please state possible gaps your Government/organization has identified in the normative framework and practical implementation for the protection of the human rights of older persons.** (500 words each)
 - a) Equality and non-discrimination
 - b) Violence, neglect and abuse
 - c) Long-term care and palliative care
 - d) Autonomy and independence
 - e) Social protection (including minimum social protection)
 - f) Education, training, lifelong learning and capacity-building
 - g) Right to Work and Access to the Labour Market
 - h) Access to justice
 - i) Contribution of Older Persons to Sustainable Development
 - j) Economic security
 - k) Right to Health and Access to Health Services
 - l) Social Inclusion
 - m) Accessibility, infrastructure and habitat (transport, housing and access)¹
 - n) Participation in the public life and in decision-making processes²

Canada is invested in making positive advancements on the above-listed topics considered by OEWGA through program funding and strategic policy across various federal departments and agencies. While Canada looks forward to reviewing and discussing the possible gaps identified as part of the OEWGA intersessional process, Canada is not in a position to provide, at this time, a thorough analysis for each of the topics.

SECTION B - Options on how best to address the gaps

1. Please state how your Government/organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons. (500 words)

¹ To be discussed at the 14th Open-Ended Working Group on Ageing

² To be discussed at the 14th Open-Ended Working Group on Ageing

Canada addresses older persons' rights in its reports to human rights treaty bodies when relevant. For example, Canada has included references to older persons' rights in its national report for the fourth cycle (2023) of the Universal Periodic Review (UPR) and has added a new section on older persons in its updated Common Core Document, which will be available on the UN Human Rights Council (HRC) website in 2024. Of note, during its third UPR review cycle (2018), Canada received recommendations and made commitments to continue its efforts to ensure the protection of the rights of older persons. Further, Canada's most recent report under the International Covenant on Economic, Social and Cultural Rights (ICESCR) includes some targeted initiatives to reduce unemployment amongst older workers and to provide social assistance to low-income older persons. Canada's initial report (2014) under the Convention on the Rights of People with Disabilities (CRPD) also mentioned specific programs and policies aimed at assisting older persons who may have disabilities, as did the second and third report (2022). For instance, the latest report mentioned programs that aim to improve the standard of living of older persons living with disabilities. That report also mentioned provincial initiatives for Indigenous Elders.

Canada is seeking to ensure that the rights of older persons are explicitly referenced when it engages with international human rights mechanisms. For example, Canada included a reference to older women in the text of the Agreed Conclusions of the 67th Session of the Commission on the Status of Women in March 2023.

2. Have those engagement resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate. (500 words)

By addressing older persons' rights in its human rights reporting, and when engaging with the international human rights system more generally, Canada ensures that issues that are central to the protection of older persons' rights are brought to the fore. Canada views its engagement and reporting activities not just as the fulfillment of an international obligation, but also as an opportunity to take stock of the state of domestic human rights protections for policy planning and implementation. As States Parties increasingly make older persons more visible in their reporting work, Canada anticipates this reflective process of monitoring progress and identifying gaps will strengthen the protection of the human rights of older persons across jurisdictions and show that the existing human rights treaties can be used to provide adequate protection to older persons.

3. What other options can be considered to strengthen the protection of older persons? Please elaborate. (500 words)

Canada recognizes the absence of systematic reporting to UN treaty bodies on measures to ensure the rights of older persons. For example, while the Committee on Economic, Social and Cultural Rights amended its reporting guidelines to request that States provide specific information on older persons' human rights, it has not become consistent practice to fully

incorporate the requested information on older persons in periodic reports under the International Covenant on Economic, Social and Cultural Rights (ICESCR).

One way to strengthen the protection of older persons could be to better leverage existing treaty reporting processes to explain how States Parties protect and respect the rights of older persons and make them more visible. Efforts could also be made by existing human rights treaty bodies to specifically mention older persons in their concluding observations and consider making specific recommendations with respect to this group, although these are non-binding on States Parties. The situation of older persons should be considered whenever appropriate, taking into account multiple forms of discrimination older persons may face based on gender, racial or ethnic background, disability, migration status, sexual orientation, Indigenous identity, religion, or other status.

The full implementation of the Madrid International Plan of Action on Ageing (MIPAA) by all Member States would be another way to largely ensure the enjoyment of economic, social and cultural rights of older persons, as well as ensuring their right to security in order to prevent and eliminate violence. Further, in line with the observations made by the Independent Expert on the enjoyment of all human rights by older persons in a study on the human rights implications of the MIPAA conducted in 2016, efforts should be made by Member States to ensure domestic legal and policy frameworks address the full spectrum of rights, rather than only focusing on specific issues faced by older persons (such as care, social protection, elder abuse, or non-discrimination in the workplace).

Finally, under the UN Decade for Healthy Ageing (the UN Decade) (2021-2030), Member States are expected to take actions in four areas³ to better protect older persons' rights. For example, Member States are encouraged to: adopt or ratify legislation to ban age-based discrimination and ensure enforcement mechanisms are available; extend options for housing and improve modifications to residences to enable older persons to age in a place that suits their needs; and improve access to safe, effective, affordable essential medicines, vaccines, diagnostics and assistive technologies to optimize older persons' intrinsic capacity and functional ability.

While the UN Decade has the potential to help achieve positive impacts on the promotion and protection of the rights of older persons, it is unclear how its outcomes will be sustained after 2030. The UN Decade is contributing to make older persons' rights more visible and to mobilize stakeholders worldwide around its areas of action. Identifying ways to sustain the initiatives put in place as part of the Decade's action plan in the longer term would help ensure advancements are not lost post-2030. This topic could be part of the broader discussions surrounding the UN's post-2030 Agenda for Sustainable Development.

³ The Decade addresses four areas for action change how we think, feel and act towards age and ageing; ensure that communities foster the abilities of older people; deliver person-centered integrated care and primary health services responsive to older people; and provide access to long-term care for older people who need it.

4. *If applicable*, what is your assessment on the protection of the human rights of older persons according to regional and international instruments? (500 words)

At the international level, the existing UN human rights treaties provide comprehensive protection of civil and political rights as well as economic, social and cultural rights of all persons, including older persons, despite there being no binding human rights instrument of States Parties' obligations to specifically protect and ensure the rights of older persons. Canada sees an opportunity to leverage existing reporting processes to better ensure that the rights of older persons are considered and addressed by States Parties to these treaties.

At the inter-American level, the *American Declaration of the Rights and Duties of Man* recognizes civil and political rights as well as economic, social and cultural rights for all persons, including older persons.

The core UN human rights treaties⁴ protect the right to equality and prohibit discrimination on the basis of a number of grounds including "other status", which is understood to include age. Older women are also protected by the *Convention on the Elimination of all Forms of Discrimination against Women*, which sets out specific State obligations to ensure the equal rights of women. Similarly, older persons who have a disability are protected by the *Convention on the Rights of Persons with Disabilities*, which sets out specific State obligations to ensure the equal rights of disabled persons.

The Treaty Bodies focusing on the core UN human rights conventions also address the rights of older persons in their work, such as in their general comments, through States Parties' concluding observations and in their decisions on individual communications.⁵ The work of these Treaty Bodies can help bring awareness about older persons' rights and could lead to Member States better considering the rights of older persons when implementing the conventions they are a party to.

That said, Canada recognizes that the rights of older persons at the international level could be more visible and encourages the UN to think about various ways to make those rights more visible and to increase its focus on the rights of older persons.

The Deadline

⁴ International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and Convention on the Rights of Persons with Disabilities (CRPD)

⁵See, for instance: CESCR, General Comment No. 20: Non-discrimination in economic, social and cultural rights, E/C.12/GC/20, 2 July 2009; CESCR, General Comment No. 21: Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/21, 21 December 2009; CRPD, General Comment No. 2: Article 9: Accessibility, CRPD/C/GC/2, 22 May 2014.

Deadline to send responses to the questionnaire is 24 November 2023. All inputs will be posted online. Submissions to be sent to Stefano Guerra stefano.guerra@mne.pt and Pedro Paranhos pedro.paranhos@itamaraty.gov.br with copy to ageing@un.org