

HUMAN RIGHTS & HEALTH



Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

The Universal Declaration of Human Rights

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948, United Nations



HUMAN RIGHTS AND HEALTHY/ACTIVE AGING



Pan American Health Organization 2011

BASIS FOR A HUMAN RIGHTS BASED APPROACH IN PAHO PLAN OF ACTION

- **Constitution of the WHO:** "...the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition..."
- **Resolution CSP26.R20 (2002) "Health and Aging":** urges the Member States to "...advocate for the promotion and protection of the human rights and basic freedoms of older persons..."
- **Resolution CD49.R15 PAHO Plan of Action on the health of older persons (2009)**



LINKS AMONG HUMAN RIGHTS, OLDER PERSONS AND HEALTHY AGEING (PAHO CD50/12)

- Violations of human rights *vis a vis* the health of older persons;
- Policies, plans and legislation on ageing *vis a vis* human rights; and
- Exercise of human rights and fundamental freedoms *vis a vis* the enjoyment of wellbeing by older persons



RELEVANT SOURCES OF THE RIGHT TO HEALTH AND OTHER HUMAN RIGHTS INCLUDED IN THE PAHO PLAN OF ACTION

- United Nations Principles for Older Persons;
- General Comments 6 and 14 (CESCR)
- Madrid Plan of Action;
- Brasilia Declaration (ECLAC)
- Universal Declaration of Human Rights;
- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;



- UN Convention on the Elimination of All Forms of Discrimination against Women;
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- UN Convention on the Rights of Persons with Disabilities;
- American Convention on Human Rights



- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights;
- Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities;
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women ("Belem do Para")



- Principles and Good Practices on the Protection of People Deprived of their Liberty in the Americas (IACHR, Resolution 1/08)



RELEVANT HUMAN RIGHTS OF OLDER PERSONS (PLAN OF ACTION)

- The right to equal protection of the law;
- The right to personal liberty and security of person;
- No discrimination on the grounds of age;
- The right to life;
- The right to personal integrity;
- The right to freedom of thought and expression



- The right to privacy;
- The right to judicial protection;
- The right to vote;
- The right to a fair trial;
- The right to the highest attainable standard of physical and mental health;



- The right to work;
- The right to social security;
- The right to the constitution and protection of the family; and
- The right to education and culture



TOWARDS AN INTER-AMERICAN CONVENTION ON THE RIGHTS OF OLDER PERSONS

- **Fifth Summit of the Americas (2009)**, Declaration of Port of Spain: “working to incorporate issues of ageing into public policy agendas” “to promote in the regional framework and with the support of PAHO and ECLAC a review of the feasibility of preparing an Inter-American Convention”
- **OAS Resolution 2455 “Human Rights and Older Persons”**:
 - Many special laws and policies but lack of dialogue and cooperation;
 - Lack of studies and reports about violation of human rights



- **OAS resolution 2562 "Human Rights and older persons"**: called for a special meeting of national representatives and experts from the academic sector and civil society, as well as from international organizations for the purpose of sharing best practices and examining the feasibility of preparing and Inter-American Convention
- **OAS meeting (Oct. 28, 2010)** of Member States, international organizations, academic sector and NGO's:
 - importance of a regional convention;
 - creation of a working group;
 - draft resolution for General Assembly 2011 (San Salvador)
 - Member States: Uruguay, D. Republic, Peru, Brazil, Panama, Ecuador, Chile, Argentina, Colombia, Canada, Nicaragua, Argentina, Costa Rica, Venezuela, Dominica, St. Kitts and Nevis, El Salvador, USA and Bolivia.



HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN LONG TERM CARE FACILITIES

- Private and governmental institutions;
- Private and governmental community based programs;
- Private and governmental residential programs;
- Older persons deprived of personal liberty in prisons;
- Specific human rights to be protected in those institutions;
- Obligations of Governments and concrete measures to be taken; and
- Specific procedures for registering long term care facilities under national law



CRITICAL AREAS TO BE REGULATED IN LONG TERM CARE FACILITIES

- Prohibitions with regard to limitation of human rights (ICCPR, American Convention and Siracusa Principles);
- The right to a dignified life and personal integrity: protection against seclusion, restraint, malnutrition, sexual and/or financial abuse, physical abuse by health personnel, older persons forced to eat meals they do not like, are locked up or tied to beds or are placed in physical positions that could affect a physical disability or cause wounds, intentionally do not provide older persons with potable water, adequate food or essential goods to take care of their hygiene



- The right to mental integrity: Threatening of older persons with abandoning them, intimidation of older persons with words or gestures and deplorable living conditions in rooms and abandoning older persons who are forced to be in bed
- The right to security of person: Participation in the decision making process in the context of informed consent to treatment without threats, medical/scientific experimentation, right to a periodic review of any decision that refers to lack of legal capacity and/or appointment of a personal representative as a consequence of that incapacity



- The right to equal protection of the law: recognition of older individuals as “persons” before the law, participation in committees within long term care facilities, right to make decisions according to their own preferences in order to guarantee autonomy;
- Freedom of expression: all information about their fundamental rights and mechanisms of protection, freedom to communicate with other persons, to receive uncensored private communications, freedom to communicate with counsels or personal representatives, access to postal and telephone services, newspapers, radio and television



- The right to judicial protection and judicial guarantees: Key element in periodic review of appointments of personal representatives, guardianships, admission procedures to residential programs, informed consent procedures in the context of treatments, hearings before review bodies and appeals before Ombudspersons and national courts



THE RIGHT TO HEALTH OF OLDER PERSONS

- Availability, accessibility, affordability and good quality of primary health care services, long term care, community based facilities and goods;
- Comprehensive review of health policies to preserve the health of older persons including prevention, rehabilitation and care of terminally ill;
- Adoption of a national plan and strategy on healthy and active ageing;
- Basic shelter, essential food, sanitation, potable water and essential medicines



SOME OBJECTIVES AND ACTIVITIES TO MAKE THE RIGHT TO HEALTH A REALITY (PAHO PLAN OF ACTION)

- Formulate policies, laws, regulations, programs and budgets consistent with UN and OAS human rights instruments;
- Disseminate OAS and UN human rights instruments;
- Develop legal frameworks and implementation mechanisms to protect the health of older persons in long term care services;
- Develop and implement programs to train relevant actors in the formulation of legal frameworks;
- Upgrade the competencies of personnel in delivering health service to older persons providing



training that include the explanation of the UN and OAS human rights treaties and standards; and

- Regulate the delivery of care in long term care facilities for older persons with special attention to measures to guarantee their autonomy, care to the terminally ill and chronic patients, avoid pain and providing palliative care that allow the terminally ill to die with dignity

