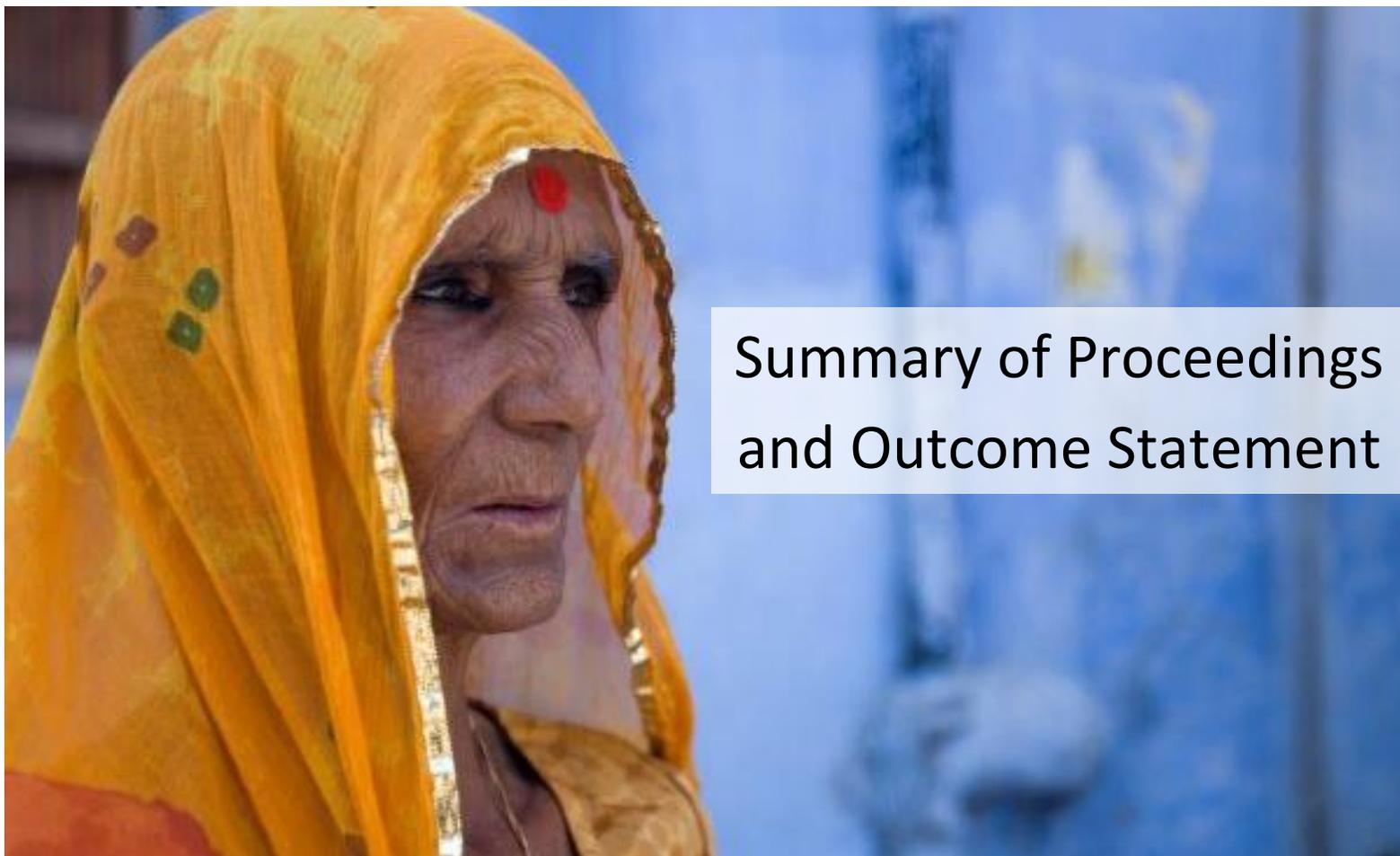


# International Workshop

## Human Rights of Older Persons in Asia-Pacific Region

### Focus on Health and Wellbeing



## Summary of Proceedings and Outcome Statement

4-6 June, 2012

Thiruvananthapuram, India



CENTRE FOR GERONTOLOGICAL STUDIES



INTERNATIONAL FEDERATION ON AGEING  
Global Connections

## SUMMARY OF PROCEEDINGS

### **BACKGROUND**

The population of older people in the Asia Pacific Region is increasing rapidly in comparison with the other segments of the population. Currently this cohort represents approximately 11% of the total population and projected to increase to 20% by the 2025 and more than quadruple by 2050. Older people who live mostly in rural areas are poor, the majority are women and most of them are widowed.

In most of the developing countries of this region there is a lack of adequate healthcare and social security systems for persons of all ages including older persons. Evidenced by national plans and strategies many countries are trying to cope with the problems and needs of older persons but the approach is being marked by “welfare” rather than a “rights” perspective.

Gender dimensions of ageing reflect that both men and women face discrimination due to old age, but women experience ageing differently due to age and gender based violence, exclusion and multiple discriminations throughout their life course. Women's longer life expectancy than men worldwide leads to a situation where women are more likely to be widowed than men and being widowed puts older women at high risk of being poor and to be alone.

This unique demographic reality reveals the special vulnerability of older women and led the Committee on the Elimination of Discrimination Against Women, to adopt General Recommendation No. 27 on older women and protection of their human rights (adopted in 2010). It provides protection for older women with a binding obligation on States parties if incorporated in the concluding observations of the Committee on the Elimination of Discrimination Against Women (CEDAW).

The necessity for a convention on the rights of older persons was acknowledged by the United Nations in May 2009 in the Report of the Expert Group Meeting on “Rights of Older Persons” of the United Nations Department of Economic and Social Affairs (UN DESA), Division of Social Policy and Development<sup>1</sup>.

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<sup>1</sup> UN Expert Group (2009). *The Report of the Expert Group Meeting – Rights of Older Persons*.

UN: Bonn. The UN Expert Group concluded:

“A convention on the rights of older persons would add additional weight in furthering, deepening and more precisely defining the rights of older persons. A convention would create obligatory and binding international law. Similar to the adoption of various other human rights instruments, member states would undertake a threefold commitment when adopting such a convention: to respect, to protect and to fulfill the rights enshrined in the relevant text” (p. 18).

Of late, the concerns of old people have received new impetus from some member states and civil society espousing their cause all over the world, including the Asia Pacific Region. The demand to approach the needs of older people from a “rights” perspective has gathered momentum at national, regional and to a lesser extent international levels and resonates with the intent of the Madrid International Plan of Action on Ageing (MIPAA).

There have been wide ranging discussions and debates advocating for new human right instruments and covenants for the protection of the rights of older persons starting with the Congo Committee on Ageing in October 2008, the Organization of American States (OAS) 2010 and Organisation for Economic Co-operation and Development (OECD) in Europe 2010 at the regional level, Argentina, Australia, Canada and Malaysia at a country level and the International Federation on Ageing (IFA), HelpAge International and AARP at the NGO level.

The Open-Ended Working Group on Ageing was established by the General Assembly by Resolution 65/182 on 21 December 2010. The Working Group will consider the existing international framework of the human rights of older persons and identify possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures.

The Third Session of the Open-ended Working Group (OEWG) on strengthening the protection of older persons will be convened from 21 to 24 August 2012 at the United Nations North Lawn Building (NLB) in New York.

## WORKSHOP

In the context of the work of the Open-Ended Working Group on Ageing, UN DESA, the Office of the High Commission for Human Rights (OHCHR) and the review of the implementation of MIPAA, the Centre for Gerontological Studies (CGS) in Thiruvananthapuram, India, in collaboration with the International Federation on Ageing (IFA) organised an International Workshop of concerned and interested parties to discuss this issue.

The objectives of the workshop were:

1. To examine and share best practices relating to the status of the rights of older persons in the context of existing regional and international instruments;
2. To examine and share best practices relating to areas where the rights of older people are especially known to be vulnerable, e.g. in abusive and neglectful situations, social insurance and universal social pensions including economic security, health security and family security;
3. To determine the nature and extent of gaps in protecting the rights of older people in the region;
4. To focus on the special conditions of marginalized groups – widows, single women, older people with disabilities, those who are in the oldest old age groups and older people who are dependent;
5. To raise awareness of the national and regional mechanisms used to implement and monitor recommendations of UN bodies; and,
6. To network to identify the different stakeholders who work on the protection of the rights of older people in order to strengthen protection mechanism.

The Workshop was held in Thiruvananthapuram, capital of the Indian State of Kerala and was attended by over 120 delegates from 10 countries – Bangladesh, Canada, China, India, Indonesia, Thailand, Sri Lanka, Switzerland, United States and Vietnam. A number of activists from advocacy and human rights groups also attended the workshop as observers.

Key speakers included Mr. Anand Grover, UN Special Rapporteur on the Right to Health, Ms. Frederika Meijer, Representative from UNFPA, Ms. Cai Cai, Social Affairs Officer, UNESCAP, Dr. K. R. Gangadharan, President of the International Federation on Ageing (IFA), Dr. Jane Barratt, Secretary General of the IFA, Ms. Susan Somers, Secretary General, International Network for the Prevention of

Elder Abuse (INPEA), Ms. Ferdous Ara Begum, Former member and Chair of Working Group, CEDAW General Recommendation 27, Prof. James T. Sykes, Senior Advisor on Aging Policy, University of Wisconsin, Prof. N. R. Madhava Menon, Former Vice Chancellor, National Law Schools of Bangalore and Calcutta, Dr. Mohini Giri, Chair of Review Committee of India's National Policy on Older Persons 1999, Dr. S. D. Gokhale, Chair of ILC-India and a stalwart on ageing movement in India and Dr, Vinod Kumar, Patron, Geriatric Society of India and a pioneer in geriatrics in India.

In addition attendees came from several State Human Rights Commissions academia and the professional and civil society organizations working on and for older people.

The Workshop was co-sponsored, by the Indian National Human Rights Commission, UNFPA, HelpAge International, the Government of India National Institute of Social Defence (NISD), Indian Council of Social Science Research (ICSSR), Indian Council of Medical Research (ICMR) and the Government of Kerala.

Besides the Inaugural and Valedictory Sessions, there was a Special Address by Mr. Anand Grover, UN Special Rapporteur on the Right to Health about the protection of the rights of older persons. Workshop sessions included: Country perspectives on the right of older people to health and wellbeing; the right to be safe; the importance of advocacy and the role of civil society; and a final panel discussion on the next steps toward empowering older persons at the global, regional and state level.

All sessions were interactive resulting in ideas and suggestions from active participants on how to ensure the rights of older persons. The delegates suggested that in the absence of a regional convention on the rights of older persons in the South Asian Association for Regional Cooperation (SAARC) as well as in the Asia Pacific Region, the workshop be treated as a forum of the countries of this region to voice the needs and concerns of older persons.

The suggestions and recommendations of the workshop are given in the form of Outcome Statement in the next section which also throws light on the major points discussed at this important three day event.

The Workshop was coordinated by Dr. P. K. B. Nayar, Chairman, Centre for Gerontological Studies, with the support of Dr. Jane Barratt, Secretary General, International Federation on Ageing and the Summary of the Proceedings and Outcome Statement reflects the joint cooperation.

## Outcome Statement

### THE SCENARIO

This outcome statement reflects the concern of the delegates attending the International Human Rights Workshop in the Asia Pacific Region with a Focus on Health and Wellbeing held in Thiruvananthapuram, India June 4 - 6, 2012. It is derived from a detailed review of the current situation and discussion of the various issues involved in the formulation and implementation of a protocol on the human rights of older persons.

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world (UN, 1948), the rights of older people are *ipso facto* human rights and are absolute and inviolable. This has been accepted by the United Nations in 1948 (UN Declaration of Human Rights 1948) in a general way and more specifically and firmly since 1982 (UN Assembly on Ageing, 1982).

In 1982 the United Nations (resolution 37/51) endorsed the Vienna International Plan of Action on Ageing. It aimed to strengthen the capacities of governments and civil society to deal effectively with the ageing of the populations and to address the developmental potential and dependency needs of older persons. The Plan was to be considered in relation to agreed standards and strategies in specific areas including human rights and the advancement of women.

In 1991 the United Nations General Assembly adopted the UN Principles for Older Persons (resolution 46/91). The Principles have provided a framework on which to base national ageing strategies.

In 2002 the Madrid International Plan of Action on Ageing (MIPAA) was endorsed by the United Nations (resolution 57/167). A central theme running through the Plan is 'the full realization of all human rights and fundamental freedoms of all older persons.'

In 2010 at the sixty-fifth session of the Third Committee, Follow-up to the Second World Assembly on Ageing, Member States were called upon to develop a national capacity for monitoring and enforcing the rights of older persons in consultation with all sectors of society, including organizations of older persons through, *inter alia*, national institutions for the promotion and protection of human rights where applicable.

There are several Articles on Older Persons in existing Treaties and Protocols which are ratified by the majority of the member states; however in general there is a fragmentation between the documents resulting in few applications. At the same time, the guidelines on human rights of older persons set by the MIPAA and the several conventions, resolution and recommendations of the other international bodies - International Labour Organisation, the World Health Organization and other United Nations agencies - have been found only partially operable or enforceable.

There is a universal lack of clarity and awareness about what older persons' rights are by themselves (rights holders) by the community in which they live and by the duty bearers who have responsibility to protect these rights. What is more, many of the protocols and instruments on the subject are soft laws and not legally binding on member states. Resolutions are not legally binding and implementation of Declarations lie within the purview of member states.

*There is an urgent need for a unified human rights instrument that would protect the rights of older persons in precise and defined terms within an explicit legal framework to support States to ensure that the rights of older people are fully realised in the increasingly ageing societies.*

On the report of the General Assembly's Social, Humanitarian and Cultural Affairs Committee (also known as the Third Committee) the Open-Ended Working Group (OEWG) on Ageing was established by the General Assembly by Resolution 65/182 on 21 December 2010.

The OEWG is open to all States Members of the United Nations, for the purpose of strengthening the protection of the human rights of older persons by considering the existing international framework of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures.

## **FACTS**

- In the Asia Pacific region the number of people aged 60 years and over has surpassed 400 million (being 438 million in 2010) and is estimated to double in 15 years and to reach above 1.2 billion by 2050.
- Sixty per cent of the world's older population lives in the Asia Pacific region and by 2050 one in four people will be over the age of 60 years.

- The majority of older people live in rural areas, with a high proportion being women and widows. More than one-half of all older people in the region are poor and many are dependent and in most cases these are women.
- The current demographic transition and unprecedented migration has consequences on the living arrangements and shape and form of the family. In this changing scenario, older people will require additional health security and economic, social and psychological support.
- Illiteracy and poverty in families means that older people must undertake work as a survival strategy and generate income to contribute to the household income.
- The burden of poverty is borne by older women in the Asia Pacific region consequential through not only the lack of financial resources, but also an outcome of gender bias and discriminating cultural values and norms.
- The challenges confronted by older women are unique: living longer than men and often responsible for the care of family and kin. Women lack access to the same rights and services as men which warrants special focus on their specific problems and needs.
- In 2002 at the Second World Assembly, Governments agreed to adopt the Madrid International Plan of Action on Ageing (MIPAA). In the Asia Pacific region 21 countries have developed national policies on older persons and 11 countries have established national legislation to protect the rights of older persons.

In the two prime areas of concern and need, viz., health and social security, there is insufficient legislation and inadequate implementation in most of the countries of the region. The perspective and approach, by and large, continue to be “welfare based”, rather than “rights” oriented.

- Gaps between policy commitments and implementation are evident in the countries of the region. Whereas to make sense of the agenda both a needs-based and rights-based approach are necessary in the context of realisable goals.
- Normative, implementation and information gaps impact significantly on the degree to which coherent and concrete agreements are formed in the dialogue towards protecting the rights of older people in the region.
- Multiple discrimination and marginalisation due to age, sex, health conditions, economic conditions, ethnicity, place of living and literacy exist

in the countries of the region. Exploitation and abuse, both physical and mental and neglect and abandonment of older people exist and pose a threat to the health, dignity and security of the older persons in these countries.

- Inadequate social protection and health care, and discrimination in all forms are three key issues confronting old people in the Asia Pacific Region today.

## **RESOLUTIONS AND CALL FOR ACTION**

### **1. Older people have a right to freedom from discrimination**

Older men and women are often denied access to services and jobs and treated without respect because of their age and other factors such as gender or disability. This discrimination has to be guarded against.

The institution of family is a vital agency that links the generations and should be strengthened and protected. The family should be used as the prime lever for combating discrimination and fostering equality.

### **2. Older people have a right to freedom from violence**

Older men and women are often subjected to abuse including verbal, sexual, psychological and financial exploitation. Neglect and abandonment and even physical violence of older persons are also not uncommon.

Abuse and exploitation is a barrier to the enjoyment of the full range of human rights of older persons. More importantly, they pose a threat to the dignity and self-respect of the older person. Measures must be devised to raise awareness of abuse and neglect, identify victims and perpetrators, and develop services to eliminate such visitations.

### **3. Older people have a right to social security**

Economic empowerment is basic to the enjoyment of rights. Older men and women often do not have financial protection such as pensions and other forms of social security. The single most pressing challenge to the welfare of older persons is poverty – poverty is a multiplier of risk for abuse, and often poverty and ageing go together. Without a secure minimum income many older people and their families fall into poverty.

A non-contributory, state-funded pension for all old people irrespective of economic status is an imperative. The pension should be based on minimum needs and benchmarked to cost of living index.

### **4. Older people have a right to health**

Older persons have the right to the highest attainable standard of physical and mental health care, including preventive, protective, curative and rehabilitative and palliative care.

Older men and women may not receive appropriate health care because of their age. Unattended chronic diseases, unaffordable medicines and treatments and malnutrition are part of old age life in the region.

Treatment can be denied or delayed and older people very often receive poor or insufficient health care service.

Provision of health care for older persons at various sites such as hospitals, nursing homes, old age homes and other places of shelter should be within the umbrella of legislative protection of human rights and effective legal redress mechanism should be in place to guard against human rights violations.

There is a need to develop a system of affordable health care underpinned by a universal health insurance scheme for all older people irrespective of income.

Introduction of gerontology and geriatrics in medical syllabus and support to start social gerontology course to promote community-based care are essential. Health care providers should be trained in alternative systems of therapy and be exposed to the subject of health related human rights of older persons.

Dementia is found to be mainly an old age illness and the percentage increases with age. The management of dementia must be a publicly stated national health and social care priority and formally recognized in funded plans for service development and public spending. Older persons suffering from any form of dementia should receive benefits similar to those given to persons who have a 'physical' disability.

Assistive devices and other support mechanisms should be provided at the state's expense for older persons with forms of impairment in order to optimize function and ability to contribute to society.

### **5. Older people have a right to work**

Older men and women are being deemed 'unemployable' because of their age and forced to stop working because of mandatory retirement ages.

The International Covenant on Economic, Social and Cultural Rights (CESCR) has held this to be a violation of a person's right to be free from discrimination including in the workplace and should be formally recognised as a barrier to older people's avoiding poverty in older age<sup>2</sup>. Everyone has the right to free choice of employment. The right to work is important not only because of the financial security but enhances the physical, mental and social capacity and capabilities of human beings.

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<sup>2</sup> (See General Comment No 20, "Non-Discrimination in Economic, Social, Cultural Rights." cit, para 29)

## **6. Older people have a right to property and inheritance rights**

Violations of an individual's right to equality in ownership, management and the disposition of property exists for older people. Older men and women, in many parts of the world suffer in matters related to inheritance laws, both statutory and customary.

In many societies, women of all ages are denied the right to have an equal share of the family property or to inherit property of their deceased husbands and this issue must be addressed as a priority.

## **7. Marginalised groups need special provisions.**

The older population is not a homogenous group; some older people require special protection: the destitute who have neither economic nor caregiver support; single women; widows; the oldest old especially those who are ill and with a terminal illness; the older person who is disabled; suffering from mental illness, and, people with dementia.

Older people with special needs must also be able to enjoy their human rights to self- determination, autonomy and informed consent particularly in health care decision making and in legal proceedings regarding mental incapacity which are often violated because of their inability or incapacity to enforce them.

## **8. Care providers**

In the rapidly changing family arrangement with the pervasiveness of the nuclear family, the need for paid caregivers will increase.

There is need to establish standards for service care providers, including in-home, community-based and residential settings.

Furthermore it is necessary to establish institutions to professionally train caregivers and qualified trainers to ensure better care across the continuum of care which includes the frail old person and those in end stages of life.

Monitoring and enforcement mechanisms should be developed and implemented to protect against abuse and neglect in such settings.

## **9. Role of civil society**

Civil society has a long and important history of advocating for the rights of older people globally and as such should be closely and fully involved in dialogue and programmes which work to protect their rights.

Governments, NGOs and civil society can contribute positively to improve the life of older people using international human rights norms such as the CEDAW Convention and General Recommendation 27 and the World Health Organization (WHO) Determinants of Healthy Ageing to promote behavioural and lifestyle changes to delay onset of health problems.

#### **10. Infrastructures**

Appropriate structures to provide services necessary to protect the rights of older people are to be necessarily established and supported by States. Monitoring and evaluation of the formative structure and implementation must be an essential element of the planning.

States should make provision, including statutory mechanisms, to mobilise adequate funds to meet the basic need programmes in ageing. Mechanisms such as a National Commission for Older Persons are called for to connect various sectors for comprehensive solutions and for enforcement of the rights of older people.

#### **11. A State (National) Institute on Ageing**

A State (National) Institute on Ageing is a multi-disciplinary agency providing multi-level services. Since scientific data on ageing, especially sex-disaggregated data, is not available to plan and implement appropriate programs for older people in many of the countries of the region, institutes on ageing are an essential element and partial solution.

The Institutes should focus on collecting and processing the data on older people as a priority for use of the decision makers and researchers.

Promotion of the science of gerontology and geriatrics should also be a priority area of the Institute on Ageing which could assist state governments in planning, implementation and monitoring of need- and rights-based programs for older persons.

#### **12. State commitment**

Member States shall take initiative to be an active contributor to the discussions of the United Nations in regard to the creation of a new human rights instrument.

This comes not only out of their moral and legal obligations to their senior citizens but also because they are signatories to the UN Charter. The UN Charter commits to respect and fulfill the obligations relating to the fundamental human rights, dignity and worth of human persons as well as

the recognition of the standard settings under numerous human rights instruments and work of various UN and bodies and agencies as well as regional human rights protection bodies towards protecting, promoting and monitoring rights of all including the older persons.

Civil society, Member States, academia and other stakeholders have a moral and social responsibility to the older people of today and in the future to monitor the progress of discussions at the United Nations in regard to a convention and be accountable to senior citizens whose plight rests in their hands.

Notwithstanding the work of the Open-ended Working Group all stakeholders must continue to demonstrate unbridled commitment and dedication to the task of the day-to-day protection of the rights of older people through the current albeit inadequate mechanisms at a state, national, regional and international level.

### **13. A Convention on the human rights of older persons**

New human rights instruments are necessary to not only clarify the state's responsibilities towards older women and men and improve accountability by concerned agencies, but also to provide a framework for policy and decision making.

A Convention on the Human Rights of Older Persons is a collective responsibility to which the United Nations and Member States should view as an urgent and top priority.

### **14. Responsibility of the United Nations**

The United Nations DESA and the Office of the High Commissioner on Human Rights (OHCHR) have a responsibility to informing the debate from a substantive human rights perspective by addressing urgent and relevant gaps in the respect, protection and fulfillment of human rights of older persons.

The United Nations and Member States shall consider the appointment of a Special Rapporteur on the Protection of the Human Rights of Older People under the auspices of the United Nations Human Rights Council.

The United Nations may provide advisory services to the States in fulfilling their obligations in this field and to have a monitoring mechanism to oversee the progress in implementation of the programme.

## **15. Regional Human Rights Institutions**

Regional Human Rights Institutions shall have a special unit to monitor the progress of work relating to the implementation of the convention on the rights of older people in their region and / or develop a specific mechanism that measures the degree to which the rights of older people are protected.

The development of instruments at the Asia Pacific as well as SAARC region is of special interest in view of the diversity of socio economic conditions and paradigm shifts in the consequences of demographic change.

The Institutions may take up the issue as a priority item in their periodical meetings and may use their influence to convince delegates from non-complying states to be active contributors in the discussion about a new UN convention. Since neither the United Nations nor the Regional Human Rights Institutions have any statutory powers over Member States, these units will play a defining catalytic role in accelerating action by Member States.

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