



Expert Group Meeting on the Human Rights of Older Persons

Co-organized by UNDESA and the
Office of the High Commissioner for Human Rights

Concept note

Conference Room B, North Lawn Building
New York, 29 - 31 May 2012

Background

In December 2010, the UN General Assembly established an open-ended working group for the purpose of strengthening the protection of the human rights of older persons (res. 65/182). The working group was mandated to consider the existing international framework of the human rights for older persons, and to identify possible gaps and how best to address them, including by considering the feasibility of further instruments and measures. The follow up resolution adopted in December 2011 (res. 66/127) incorporates a stronger gender and disability perspective and calls existing treaty body mechanisms and special procedure mandate holders to enhance attention to the situation of older persons.

In 2011, the open-ended working group held a first operational meeting in February, and two working sessions in April and August 2011. Its third substantive session will take place in New York, 21-24 August 2012.

During the first working session, the working group focused on the existing international and regional human rights framework and how it addresses the specific situation of older persons. A number of gaps in the protection system were identified. The second working session was devoted to considering some specific thematic human rights issues relevant to older persons, such as age-related discrimination and multiple discrimination, the right to the enjoyment of the highest attainable standard of physical and mental health, violence and abuse and social exclusion.

Panelists, older persons invited to offer their testimonies, member States and other stakeholders taking part in the discussions have consistently noted different kinds of gaps. These include notably normative gaps, as well as gaps in the implementation, monitoring and data collection and information available regarding the situation and challenges faced by older persons in the enjoyment and exercise of their human rights. While some Member States called attention to normative gaps and the importance of universal standards to effectively enhance the protection of older persons, other member States underlined that existing instruments could be better implemented and used for more effective monitoring. Among the various measures to address these



gaps, member States have advocated for a new binding instrument, a Special Rapporteur under the Human Rights Council, further consideration to the results of the review and appraisal of the Madrid Plan of Action on Ageing + 10, and a stronger focus by existing mechanisms.

On a related note, the 2011 Secretary-General report to the General Assembly (A/66/173) offered for the first time a general overview of the human rights situation and challenges of older men and women in all regions. The report underlines four critical human rights issues for older persons in developed and developing countries alike: discrimination, poverty, lack of special measures, services and facilities; and violence and abuse. It also addressed several areas where further work is required.

Scope and purpose of the meeting

While the older population (60 years and above) is growing at an accelerated speed, research undertaken by OHCHR, UNDESA, other UN entities, non-governmental organizations, national human rights institutions and other partners paints a bleak global picture on the human rights of older persons. Different reports point to inadequate protections at both the national and international levels. Similarly, the development agenda has failed to achieve effective responses to the situation of older persons. At the national level, effective legislation and policies, anchored in human rights standards, for the most part have not been adopted, or remain dispersed, underfunded or insufficiently implemented.

OHCHR and UNDESA will convey a three-day Expert Meeting on the human rights of older persons in New York, 29 to 31 May 2012, to precede the third working session of the open-ended working group. Open to member States and other stakeholders, the meeting aims at 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.

More specifically, the meeting aims at debating the nature of gaps in international human rights instruments as they relate to the rights of older persons, in particular normative gaps, and to identify protection measures required to address them. The meeting is an opportunity for experts from different fields to deepen the dialogue around core human rights principles as they apply to older persons. Participants will be invited to provide content, relevant examples on legislation or policies, case law and jurisprudence from national and regional courts, and guidance for member States as they continue their consideration of measures to strengthen the international protection regime for older persons.

The agenda of this event will include the following topics:

1. Age Discrimination



Issues such as discrimination in law and practice, positive obligations of the State including in relation to third parties actions and omissions, age discrimination and multiple discrimination (in particular age compounded by disability, health status, sex and socio-economic status), are essential to a human rights analysis of the gaps in the protection system. Some specific expressions of discrimination include age-based limitations to accessing goods, productive resources and services, preventing older persons from enjoying the same rights as others.

2. Human rights issues related to the enjoyment of the right to health in old age

The right to life and the right to the enjoyment of the highest attainable standard of physical and mental health are provided for in various core international human rights instruments (ICCPR, ICESCR, CEDAW, CERD, CRPD). However, existing instruments and mechanisms do not appear to provide sufficient specificity about quality and accessibility of health and long-term care for older persons. Issues such as palliative care, non-communicable diseases, informed consent for medical treatment, dementia and other issues related to mental health, quality of life and health services in institutions, among others require specific consideration.

3. Violence and abuse against older persons in the public and private spheres

While more empirical evidence on the occurrence of abuse, neglect and violence against older persons is needed, existing information and trends indicated this is a critical area for consideration. Many older men and women experience threats to their rights to life, health, liberty and security of person in the form of violence and abuse in their homes, in care facilities or in their communities, including violent attacks resulting from traditional beliefs. Closely linked with discrimination and disempowerment, violence often goes unreported and under-documented as older persons are reluctant or unable to report incidents. Financial exploitation, including fraud, arbitrary deprivation of their property, theft, expropriation of their land, property or goods and fraudulent loss of the enjoyment and exercise of their legal capacity are also included in the context of this discussion.

4. Long-term care for older persons

As life expectancy continues to expand, long term care represents a key area for intervention where standards and criteria need to be developed and for the most part set in place. Issues such as deinstitutionalization of older persons by promoting home care and improving end-of-life care are also intimately linked with long-term care. Home nursing, home care and community-based support for independent daily living may be areas for more sustainable planning and for monitoring. Not only home care and home support programmes are essential for individuals whose daily functioning is compromised, they also enhance the effective participation of older persons in society. These services contribute to the exercise of numerous rights, such as the right to health, the right to participate in



the life of the community, and freedom of movement. Furthermore, they enhance independence and quality of life.

5. Life in dignity

In the absence of adequate social protection/security measures, poverty among older persons around the world may increase considerably with a growing older population. Similarly, discriminatory policies and practices that exclude older persons from accessing productive resources, funding or credit often lead to poverty and lower standards of living. Homelessness, hunger and malnutrition, lack of access to medicines and unattended diseases, income insecurity and others are directly linked with the consideration of these rights. While the right to social security is provided for in various instruments such as the International Covenant on Economic, Social and Cultural Rights and also CEDAW, in practice many States are not guaranteeing the exercise of this right. Similarly assessment can be made of the right to an adequate standard of living, including adequate food and housing as paramount to life in dignity in old age. This lack of protection may justify the establishment of a more specific standard directly aiming at the protection of the right to social security by older persons. This may include for instance, a universal pension scheme, which would ensure income security during old age for all.

6. Older persons and the justice system

One aspect of this discussion relates to the timeliness, effectiveness and accessibility of remedies for violations of human rights against older persons. This includes also administrative mechanisms set in place to ensure easier access, legal aid and dedicated attention. Another aspect is the discussion of conditions of confinement of older persons, those who have aged in prison or those who are sentenced after 60 years of age, and as a result require specific services and conditions due to their age.

Organization of the meeting

A. Date and venue

The meeting is planned for 29-31 May 2012 in New York. It is co-organized by the UN Department of Economic and Social Affairs and the Office of the High Commissioner for Human Rights.

B. Methodology



The meeting will be conducted as a series of presentations that will be followed by expert discussions. Participants will be invited to contribute to the elaboration of proposals (recommendations) related to the issues identified in the proposed agenda.

C. Outcome

An analytical outcome paper reflecting the discussion and all viewpoints and recommendations of issues will be prepared. This outcome document will be a contribution to the third working session of the open-ended working group, available to member states and other stakeholder. OHCHR will hire and supervise the work of a consultant for this purpose.

D. Participation

An estimated 15-20 expert participants will be invited to take part in the meeting, based on their expertise and on a multi-disciplinary approach to the issues.

E. Languages

The working language of the expert group meeting will be English.

Human and financial resources

The expert group meeting will be co-organized by staff from UNDESA and OHCHR. Staff from both organizations will be identified to participate in this expert consultation.

UNDESA and OHCHR will provide funds for financing the expert group meeting. A detailed budget and work plan will be prepared immediately after agreement on this concept note.