

Consultation Response

Main elements for inclusion in an international human rights instrument for older people

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The consultation

Age UK would like to thank UN DESA for requesting NGO input on the main elements for inclusion in an international human rights instrument for older people referred to in General Assembly resolution 67/139. Age UK would like to submit the following observations.

About Age UK

Age UK is a charity and a social enterprise driven by the needs and aspirations of people in later life. Our vision is a world in which older people flourish. Our mission is to improve the lives of older people, wherever they live.

We are a registered charity in the United Kingdom, formed in April 2010 as the new force combining Help the Aged and Age Concern. We have almost 120 years of combined history to draw on, bringing together talents, services and solutions to enrich the lives of people in later life.

Age UK provides information and advice to around 6 million people each year, runs public and parliamentary campaigns, provides training, and funds research exclusively focused on later life. We support and assist a network of 170 local Age UKs throughout England; the Age UK family also includes Age Scotland, Age Cymru and Age NI. Internationally, we support programme and policy work in lower- and middle-income countries through our partner and subsidiary charity Age International, who has contributed this submission.

Introduction

International human rights treaties do not recognise older people explicitly. When the Universal Declaration of Human Rights was written in 1948, the global ageing and its implications that we are experiencing now could not have been foreseen. This means that very little is done to protect against age discrimination and guarantee rights in later life. Age UK believes that new international legislation, such as a Convention for the Rights of Older Persons, would help make existing agreements work better for older people, raise awareness of the rights of older people, and fill gaps in legislation.

(a) Purpose & Objectives

The purpose of a new instrument must be to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all older people, and to promote respect for their inherent dignity.

More specifically, a new instrument must:

- Set a global standard that reaffirms and articulates the rights of older people and States Parties' human rights obligations towards them
- Reaffirm the rights that older people have on an equal basis with other people

- Articulate States Parties' general obligations and duties in implementing the rights contained within the instrument
- Express the content of each right as it specifically applies to older people
- Articulate States Parties' human rights obligations and legal duties towards older people under each right, including in relation to services provided by third parties and non-state actors
- Identify areas of rights where adaptations need to be made and where protection must be reinforced and special measures taken so that older people can exercise their rights on an equal basis with others
- Outline measures that States Parties must take to respect, protect and fulfil the human rights of older people
- Complement existing international human rights treaties and not dilute existing human rights standards in any way.

In achieving this, it is vital that a human rights instrument specific to older people:

- Recognises and provides for the fact that ageing is a natural and universal experience
- Recognises that ageism, namely negative attitudes towards and stereotyping of older people and old age, is prevalent worldwide and results in prejudice, discrimination and the violation of the rights of older people.
- Recognises that ageing in itself is not an impairment but that it is the legal, social, institutional and other barriers that older people face that perpetuate discrimination and violation of their rights.
- Recognises and provides for the fact that people experience old age and ageing differently from each other according to their individual circumstances.
- Recognises that social constructs of old age and what it is to be an older person can vary across different social, religious or cultural contexts.
- Recognises that as populations age, the social construction of old age and what it is to be an older person will change and evolve.

(b) General principles

A new human rights instrument for older persons must be based on the following principles, including, but not limited to:

- respect for the inherent dignity of all people, including older people;
- non-discrimination;
- independence;
- autonomy;
- full and effective participation and inclusion in society;
- equality between all older people regardless of gender;
- equality of opportunity;
- access to information;
- personal development;
- intergenerational equity and a lifecourse approach to human rights.

(c) Definitions – particularly of old age/older persons

As one of the objectives of any new international human rights instrument for older people must be to better articulate these rights, Age UK recognises that clarity in the use of terms and what it means to be an older person can be helpful.

Being older, however, cannot be reduced to attaining a single chronological age within a global instrument for the following reasons:

- An older person's experience in society is not based on their chronological age, but on society's perceptions of and response to them
- The range of experience across UN Member States is so great that a single defined age would encourage Member States to either not ratify the instrument or to do so with significant exceptions
- Medical progress and economic, social and political changes across all societies mean that fixing a specific chronological age will limit the effectiveness of the new human rights instrument as a global standard over time.

It is clear that the extent to which an older person's human rights can be protected depends in large part on societal attitudes and perceptions of ageing. Currently, however, there is no consensus amongst older people's groups and specialists in the field of the rights of older persons regarding what an appropriate definition might be.

Age UK recommends not pursuing a definition until there is a better understanding of what such a definition might constitute, and that such a definition is expressed in terms that are understandable to and acceptable by older persons themselves.

(d) Equality and non-discrimination as applied to older persons

A new international human rights instrument should:

- Make clear what human rights mean for older people and what obligations governments have to protect the rights of older people
- Make clear that human rights apply to older people in the same way that they apply to people of other ages.
- Explain the legal obligations that governments have towards older people around each human right, including when services are provided by someone other than the government, for example by a private company or by an NGO
- Explain what each human right means specifically for older people
- Show where different or additional action needs to be taken to make sure that older people have the same rights in the law and in practice as everyone else.
- List the actions that governments must take to make sure older people's rights are not denied by the government or anyone else in the law and in practice.
- Be in line with the international human rights treaties that already exist and not weaken the rights that already exist in any way.

In particular, a new instrument specific to older people must recognise ageism and make it against the law to treat people unfairly because of their old age or because of a combination of their old age and other characteristics.

(e) Specific human rights to be included

A new international human rights instrument must explain how international law protects the rights of older people including, but not limited to:

- **Right to life**, for example, by recognizing the situation of older people in long-term care facilities or in prison where a lack of standards and denying someone or rationing health and other services, support or food and water to older people may reduce the quality of life in addition to being life threatening
- **Right to health**, including access to health services which deliver the right type of care for older people whatever state their health is in, including palliative care when they are dying, and that is linked to community-based social care services and formal and informal long-term care
- **Right to support and services**, including long term care, for people who need support to live independent lives
- **Right to live independently**, in your own home and to participate in the community
- **Freedom from torture or cruel, inhuman or degrading treatment or punishment**, recognising that abuse and maltreatment of older people, including in settings where they are detained or receive support, services or care, can reach the threshold of torture, inhuman or degrading treatment
- **Right to be protected against all types of violence**, including physical and mental violence, neglect, abandonment, mistreatment or exploitation, including financial exploitation, whether the violence is carried out by people who are trusted by the older person or by anyone else
- **Right to work**: people have the right to work in decent working conditions whatever their age. It is against the law to deny people work because of their old age, and action must be taken to help older people stay in work for as long as possible if they want to.
- **Right to an adequate standard of living** including enough nutritious food, the right clothing and adequate housing, and to the continuous improvement of living conditions
- **Right to social security** including an income that is regular, guaranteed and enough to have an acceptable standard of living
- **Right to education**: older people have the same right as everyone else to education, including adult education and vocational training
- **Right to property and inheritance**, and to participate in land reform processes without being treated unfairly because of their old age; and, to access to financial services
- **Right to be recognised as a person who has rights under the law**, to access the justice system just like everyone else and to make decisions, and get support to make those decisions, about their own life including decisions about their health care, where they live, whether they work or not, how they spend their money, what they do with their own property, how they participate

in family, social and public life, plans for care and support if they get ill in the future and where they would like to die

- **Right to access the justice system** just like everyone else.
- **Right to participate** in political life, to stand for election, to vote, and take an active part in public affairs, to participate in recreational, volunteer and cultural activities, and to benefit from research and other advances in science and technology
- **Right to live freely and safely** and not to be detained because of old age or without a reason in line with the law
- **Right to freedom of association, freedom of expression, religion and opinion**, including the right to ask for, receive and pass on information and ideas in the same way as other people and in any way that they chose.
- **Right to respect for privacy, home and family life**, and correspondence, and protection of the law against any interference with these rights which is illegal or without a reason in line with the law. It must also recognise the right to choose where they live and that changes in the way we live have changed the idea of a family to include such relationships as older people may choose, including extended caregiving roles or multigenerational relationships such as grandparents;
- **Right to liberty of movement**, including to choose where they live and to have a nationality
- **Rights in times of natural disasters, humanitarian emergencies or armed conflict**, paying attention to older people's particular vulnerable situation and the leadership roles they can play

(f) National and international supervisory mechanisms

To be effective a new instrument must provide for the establishment of strong implementation, monitoring and accountability mechanisms.

Disaggregated data is central to exposing patterns of discrimination, effective implementation and monitoring. To this end a new instrument must create obligations on State Parties to collect, disaggregate, analyse and disseminate data by age and sex, to ages over 100 years in 5-year periods.

A new instrument should create an independent treaty body to monitor States Parties on national implementation, receive periodic reports, receive individual complaints and make recommendations on compliance with provisions within the instrument. Provision for such an international monitoring body must take into account the outcomes of the on-going review of the treaty body system and incorporate those recommendations that arise from that process which will strengthen its effectiveness. At national level, the new instrument should provide for the establishment of a co-ordinating mechanism within government with responsibility to implement the provisions of the instrument in ratifying countries.

A new instrument should be open to signature and ratification and/or accession by regional integration bodies.