

Law in the Service of the Elderly

(580382992)

Winner of the 2012 Gorni Prize for the Promotion of Human Rights
جمعية القانون في خدمة الشيخوخة המשפט בשירות הזיקנה

Date: May 14, 2013

To:
Focal point on ageing
Department of Economic and Social Affairs
Division for Social Policy and Development
Via Email: dspd-ageing@un.org

Re: From "Is there a Need" to "What will be the Content":

Moving from focus on the question: "Is there a need for a new international convention for the rights of older persons?" to the questions: "How will it look like and what will be its material content?"

(GA resolution 67/139, of 20 December 2012 – "Towards a comprehensive and integral international legal instrument to promote and protect the rights and dignity of older persons")

1. In general:

Law in the Service of the Elderly (hereinafter LSE) is a voluntary, non-for-profit, national Israeli organization (NGO), which works to promote the rights of older person using legal instruments for social change (i.e. strategic litigation, legal advocacy and representation, lobby and legislative reforms). The association was established in the year 2002, and since then has been operating on different fields to promote rights of older persons (e.g., one of its recent successes is the Israel National Labor Court decision regarding the constitutionality of mandatory retirement law in Israel). In recognition of its activities, LSE has been awarded in 2012 the *Gorni Prize* for the promotion of human rights in Israel.

2. Is there a need for a new and specific international convention for older persons?

It is the view of the LSE that ample and sufficient evidence has been provided to show that there is a real need for a new and specific international convention for the rights of older persons.

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Enclosed and attached to this documents are 2 articles, written by Prof. Israel (Issi) Doron, which among other things, is the Chair of the LSE. Both these articles answer the question why is there a need for a new human rights convention for the promotion of the rights of older persons. In essence, there is a significant normative gap in the field of older persons' rights which is needed to be filled. It is time to move forward and discuss the material content of the future convention.

3. What should be the content of the new HR convention for the rights older persons and how should it look like?

In general, the new convention for the rights of older persons should "look" and "feel" like similar UN human rights conventions (e.g. the recent convention for the rights of persons with disabilities). However, the new convention should touch and contain unique elements which are of specific importance for the older population, and is not covered by existing HR instruments.

There are many different fields, issues, and socio-legal principles which should be included in the new convention. Enclosed is a draft document with headings of potential topics that should be covered by the new convention.

However, LSE would like to stress the importance and significance of addressing one key issue in the new convention: that of **ageism**. Or, in other terms, the right of older persons to equality, the need to effectively abolish age discrimination, and streamline anti-discrimination policies and practices within public policies. Ageism exists, in different shapes and form, in all societies across the globe. It appears both in the shape of negative attitudes and stereotypes of old age, but it can also be manifested in over-protection and paternalism. It influences all level of societal life: micro (self-ageism); mezzo (family paternalism), and macro (systemic and government-based age discrimination and social exclusion).

Ageism and age discrimination, as such, are almost non-existent on the UN HR international conventions. Ageism, as a significant and key social phenomenon, similar to that of Racism or Sexism, does not receive the appropriate symbolic and legal recognition. Finally, the educational,

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political, and symbolic importance of addressing ageism as a unique and different social problem which needs to receive global attention is totally neglected under existing UN HR instruments.

Conclusion

It is the position of the LSE, that there is an urgent need to move forward on the UN global international level to advance the establishment of a new convention for the rights of older persons. The focus of the debate should shift from the question of whether there is a "need" for such a convention, to the question of what will be its material content. It is the LSE position, that in any future elder rights' convention, a key element of the convention should be its reference for right of older persons for equality under the law, for anti-discrimination based on age, and for the realization that ageism – both negative and positive – is an infringement of basic human rights of older persons to dignity, self-determination, and freedom to "construct" the meaning of "old age" based on personal preferences and beliefs and not on forced social construction of chronological age.

Prof. Israel (Issi) Doron

Chair



Advocate Carmit Shay

Legal Counsel and GM