

BRIEF BACKGROUND NOTES ON AGEING ISSUES LEADING UP TO THE ESTABLISHMENT OF THE OPEN-ENDED WORKING GROUP ON AGEING, AND ITS WORK

History

At the time of the adoption of the Universal Declaration on Human Rights in 1948, the question of the rights of older persons was first raised by Argentina, but the matter was referred to the Economic and Social Council.

Ageing issues continued to be addressed by the Department of Economic and Social Affairs and in 1982 at the first World Assembly on Ageing, the Vienna International Plan of Action on Ageing was adopted. In 1990, The General Assembly, in its resolution 45/106, designated 1 October as International Day for the Elderly (subsequently changed to International Day for Older Persons). In 1991, the General Assembly, in its resolution 46/91, adopted the Principles for Older Persons, encouraging Governments to incorporate five basic principles into their national programmes whenever possible (independence, participation, care, self-fulfillment, dignity).

In 1992, in its resolution 47/5, the General Assembly adopted the Proclamation on Ageing, and decided to observe 1999 as the International Year of Older Persons “in recognition of humanity’s demographic coming of age and the promise it holds for maturing attitudes and capabilities in social, economic, cultural and spiritual undertakings, not least for global peace and development in the next century”.

The Madrid International Plan of Action on Ageing was endorsed by the General Assembly in its resolution 57/2002. The MIPAA focused on three priority areas: older persons and development; advancing health and well-being into old age; and ensuring enabling and supportive environments.

The above programmes of action and resolutions are “soft law” and are not binding.

In response to General Assembly resolution 63/151 in 2008, by which it requested the Secretary-General to submit a report on implementation of that resolution, including information on the promotion and protection of human rights as they pertain to older persons, the Secretary-General submitted his report (A/64/7) in which he concluded that despite the existence of both policy and legal documents, the human rights of older persons have not been adequately promoted or protected.

The following year, the Secretary-General submitted another report (A/65/157) that pointed out that civil society and public opinion have increasingly addressed the issue of older persons through a human rights perspective, advocating for a comprehensive international instrument to protect the rights of older persons. In a second report (A/65/158) submitted to the General Assembly that year, the Secretary-General, in assessing implementation of MIPAA, also drew attention to empowering older persons and promoting their rights. The General Assembly, in its resolution 65/182 of 21 December 2010, took note of those two reports and decided to establish an open-ended working group (see below).

A. Resolutions concerning mandate of the Open-Ended Working Group on Ageing, adopted by the General Assembly.

2010 A/RES/65/182: Follow-up to the Second World Assembly on Ageing:

OP 28 –“**Decides to establish an open-ended working group**, 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, and request the Secretary-General to provide all necessary support within existing resources for the duration of its mandate;”

2011 A/RES/66/127: Follow-up to the Second World Assembly on Ageing:

OP 33 – “Invites States and relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as inter-governmental and relevant non-governmental organizations with an interest in the matter, to continue to make contributions to the work entrusted to the Open-ended Working Group, as appropriate;”

2012 A/RES/67/143: Follow-up to the Second World Assembly on Ageing:

OP 34: “Invites States and relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as inter-governmental and relevant non-governmental organizations with an interest in the matter, to continue to make contributions to the work entrusted to the Working Group, as appropriate;”

2012 A/RES/67/139: Towards a comprehensive and integral international legal instrument to promote and protect the rights and dignity of older persons:

OP 2: “Requests the Working Group to present to the General Assembly, **at the earliest possible date, a proposal containing, inter alia, the main elements that should be included in an international legal instrument to promote and protect the rights and dignity of older persons, which are not currently addressed sufficiently by existing mechanisms and therefore require further international protection;** “

This resolution was controversial and was subject to a vote – 54 yes, 5 no (Canada, Israel, Seychelles, South Sudan, USA), and 118 abstentions.

2013 A/RES/68/134: Follow-up to the Second World Assembly on Ageing:

OP 45: “Invites States and relevant bodies and organizations of the United Nations system, including relevant human rights mandate holders and treaty bodies and the regional commissions, as well as intergovernmental and relevant non-governmental organizations with an interest in the matter, to continue to make contributions to the work entrusted to the Working Group, as appropriate;”

2014 A/RES/69/146: Follow-up to the Second World Assembly on Ageing:

OP 46: “Calls upon Member States to continue to contribute to the work of the Working Group, in particular **by presenting concrete proposals, practical measures, best practices and lessons learned** that will contribute to promoting and protecting the rights and dignity of older persons, in order to enable it to fulfil its mandate;”

2015 No resolution on follow-up to the Second World Assembly on Ageing. However, under the Third Committee item for human rights, the following resolution was adopted:

A/RES/70/164: Measures to enhance the promotion and protection of the human rights and dignity of older persons:

OP 11: “encourages Member states to continue to contribute to the work of the Open-ended Working Group, **in particular by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate;**”

2016 A/RES/71/164: Follow-up to the Second World Assembly on Ageing:

OP 45: “Encourages Member states to continue to contribute to the work of the Open-ended Working Group, in particular **by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate of strengthening the protection 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.**”

2017 A/RES/72/144: Follow-up to the Second World Assembly on Ageing

OP 51: “Encourages Member states to continue to contribute to the work of the Open-ended Working Group, in particular **by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate of strengthening the protection 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.**”

2018 A/RES/73/143: Follow-up to the Second World Assembly on Ageing

OP 50: “Encourages Member states to continue to contribute to the work of the Open-ended Working Group, in particular **by presenting measures to enhance the promotion and protection of the human rights and dignity of older persons, such as best practices, lessons learned and possible content for a multilateral legal instrument, as appropriate, in order to enable it to fulfil its existing mandate of strengthening the protection 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.**”

This resolution also included the OEWGA on the Organization’s official calendar of conferences and meetings, with interpretation services.

B. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

In 2012, the United Nations High Commissioner for Human Rights submitted a report (E/2012/51) concerning the human rights situation of older persons, including through an analysis of existing international instruments and **gaps in the protection regime**. The High Commissioner concluded that “current arrangements at the national and international level to protect the human rights of older persons are inadequate. Dedicated measures to strengthen the international protection regime for older persons are called for without further delay. Member States should explore various measures, including a new dedicated international instrument, a new special procedure mandate under the auspices of the Human rights Council, and mainstreaming the human rights of older persons throughout existing mechanisms, policies and programmes.”

C. INDEPENDENT EXPERT

The Human Rights Council, in 2013, having taken note of the report of the Secretary-General (A/67/188) which, inter alia, explored the key challenges faced by older persons in the enjoyment of their human rights, the reports of the High Commissioner for Human Rights (E/2012/51 – see above) and A/HRC/24/25 which concluded that a number of human rights issues that are

particularly relevant to older persons have not been given sufficient attention, decided to appoint an independent expert on the enjoyment of all human rights by older persons (HRC resolution 24/20).

The Independent Expert's three year term began in 2014 and has been renewed, ending in 2019 after presentation of her final report of her term.

The Human Rights Council requested the Secretary-General to ensure that the reports of the Independent Expert are brought to the attention of the OEWGA.

The reports prepared by the IE are:

2015: A/HRC/30/43 and Add.1 (Mauritius), Add.2 (Austria), Add. (Slovenia)

2016: A/HRC/33/44

2017: A/HRC/36/48 and Add.1 (Singapore), Add.2 (Namibia)

2018: A/HRC/39/50 and Add.1 (Georgia), and Add.2 (Montenegro)

D. OEWGA's KEY DISCUSSIONS

The OEWGA, from its inception, convened panels to discuss ageing issues – **see annex I**. Each of its reports includes a Chair's summary (not a negotiated text).

2013 In response to General Assembly resolution 67/13 of 20 December 2012, the OEWGA received proposals for possible "**main elements**" that could be included in a convention. No agreement reached. **See annex II**.

Announcement of formation of Group of Friends of Older Persons.

2016 At the **7th session** of the OEWGA, decided to **invite national human rights institutions** to participate in its work.

At the same session, the Chair listed, on the basis of discussions, **14 issues** that "need to be better addressed by the international community in order to allow older persons to fully enjoy their human rights." **See annex III**. The two focus areas selected for in-depth discussion by the OEWGA at its 8th session in 2017 were:

- a. equality and non-discrimination
- b. violence, neglect, and abuse

Member States, National Human Rights Institutes and NGOs were requested to submit inputs for those discussions, on the basis of specific guiding questions. Syntheses of the submissions were prepared by the Secretariat (UN/DESA/Programme on Ageing Unit and OHCHR). Panellists were invited to discuss the issues.

2017 At the **8th session**, it was decided that the two focus areas for discussion by the OEWGA at its 9th session would be:

- a. autonomy and independence
- b. long-term and palliative care

It was also decided at that session that in addition to requesting substantive inputs for discussion, the Bureau would also call for "substantive inputs in the form of **normative content** for the development of a possible international standard on protection of the rights of older people to equality and non-discrimination and the right to live free from violence, neglect and abuse" for discussion.

2018 At the **9th session** of the OEWGA, panelists were again invited to discuss the two selected focus areas but there was **no panel convened to discuss the normative aspects** of equality and non-discrimination, and violence, neglect and abuse (discussed at 8th session).

The OEWGA also decided on the next two issues to be discussed at its 10th session in 2019, namely:

- a. Social protection and social security (including social protection floors)
- b. Education, training, lifelong learning and capacity-building

At the 9th session the Chair suggested that the OEWGA consider at its next session “*the possibility of concluding each session with concrete outcomes in order to capitalize on our deliberations and reflect our agreements with regard to each area affecting the enjoyment of human rights by older persons. Such outcomes could take many forms, such as agreed conclusions or decisions of the Working Group, which should be negotiated between governments and reflect any common points identified in the focus areas examined from a normative perspective.*”

2019 At the 10th session, documents on the syntheses of inputs received on the two “focus areas” as well as the “Normative inputs” are:

- E/AC.278/2019/CRP.2 (social protection and social security (including social protection floors).
- E/AC.278/2019/CRP.3 (education, training, life-long learning and capacity-building)
- E/AC.278/2019/CRP.4 (Normative content for the development of a possible international standard on the focus areas “autonomy and independence” and “long-term and palliative care”).

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Website for all sessions of the OEWGA: <https://social.un.org/ageing-working-group/>

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Note: As at 10 April 2019, consultations are taking place among Member States on how to address the issue of “concrete outcomes”, prior to the 10th session of the OEWGA, meeting 15-18 April 2019.

Annex 1

DISCUSSIONS AT THE OEWGA

Setting the scene: existing international framework on the human rights of older persons	1 st session
Setting the scene: existing regional framework or mechanisms on the human rights of older persons	1 st session
Identification of existing gaps at the international level and measures to address them	1 st session
Age and social exclusion of older persons	2 nd session
Identification of existing gaps at the international level and measures to address them	2 nd session
Violence and abuse against older persons	2 nd , 3 rd , 5 th , 8 th , 9 th sessions
Social security, social protection and the right to health	2 nd , 4 th , 10 th sessions
Age discrimination	2 nd , 3 rd , 8 th sessions
Autonomy, independent living and health care	3 rd , 9 th , 10 th sessions
Life in dignity, social dignity and access to resources	3 rd session
Access to justice	3 rd session
Human rights dimensions concerning older persons in recent policy developments and initiatives in multilateral processes	4 th session, 7 th session,
How to strengthen the rights of older persons through enhanced implementation of MIPAA	4 th , 5 th sessions
Human rights and care of older persons	5 th , 9 th , sessions
Planning for end-of-life care: legal and financial issues	5 th , 9 th sessions
Regional developments and initiatives concerning the human rights of older persons	6 th session, 7 th session,
Recent legislative and legal developments and challenges in the human rights of older persons	6 th session

Follow-up to resolution 69/146: Proposals and measures, best practices and lessons learned that will contribute to promoting and protecting the rights and dignity of older persons	6 th session
Older persons and human rights in the post 2015 development agenda	6 th session
Follow-up to resolution 70/164 on measures to enhance the promotion and protection of the human rights and dignity of older persons: best practices, lessons learned, possible content for a multilateral legal instrument and identification of areas and issues where further protection and action is needed.	7 th session
Equality and non-discrimination	8 th , 9 th sessions
Long-term and palliative care	9 th , 10 th sessions
Life-long learning	10 th session
Interactive dialogue with Independent Expert <ul style="list-style-type: none"> • Review of Georgia, Mauritius, Montenegro, Namibia, Singapore, Slovenia • Specific issues addressed include: social exclusion; rights to health, housing, independent living, social protection, robots and rights, equality and non-discrimination, justice, life-long learning, work, autonomy and care, protection from violence and abuse. 	5 th , 6 th , 7 th , 8 th , 9 th sessions,

January 2019

(in response to **General Assembly resolution 67/139, of 20 December 2012**, in which the General Assembly requested the Working Group to present to the General Assembly, at the earliest possible date, a proposal containing, inter alia, the main elements that should be included in an international legal instrument to promote and protect the rights and dignity of older persons, which are not currently addressed sufficiently by existing mechanisms and therefore require further international protection." **31 Member States, 36 civil society organizations and 4 organizations of the United Nations responded to GA request. Responses were made available at OEWG, 4th session, held 12-15 August 2013 – see A/AC.278/2013/2, page 17. (<http://social.un.org/ageing-working-group/fourthsession.shtml>)**)

1. General principles

- Dignity
- Independence
- Autonomy
- Equity
- Gender equality
- Non-discrimination
- Accessibility
- Empowerment
- Self-realization
- Intergenerational solidarity
- Respect for diversity and difference
- Participation and integration

2. Economic empowerment of older persons

- Right to an adequate standard of living, including food, water, housing and clothing
- Right to access to work
- Right to social protection, financial security and social assistance
- Right to access to credit, establishment of business, income generating activities
- Right to ownership of property
- Right to education and training

3. Social and civic participation

- Right to accessibility
- Right to information
- Right to legal services
- Right to judicial protection and equality before the law
- Right to public and political life
- Right to social and cultural life/recreation and sport
- Right to freedom of association

4. Health

- Right to access care and long-term care
- Right to health care and mental health
- Right to vital drugs
- Right to social services

5. Dignity

- Right to respect for privacy
- Right to freedom from abuse and violence
- Right to physical security
- Right to end of life, to life and dignified death

6. Diversity

- Rights of subgroups such as indigenous people, prisoners, disabled older persons, older women and migrants

Annex III: List of specific issues to be discussed (OEWGA report on its 7th session in 2016)

1. Equality and non-discrimination (discrimination on the basis of age) – **(2017)**. “Normative input” discussed in 2018.
2. Neglect, violence and abuse (ageism) **(2017)**. “Normative input” discussed in 2018
3. Autonomy and independence **(2018)**. “Normative input” to be discussed in 2019.
4. Accessibility, infrastructure and habitat ((transport, housing and access).
5. Right to health and access to health services
6. Access to justice
7. Social protection and social security (including social protection floors) **(2019)**
8. Economic security
9. Right to work and access to the labour market
10. Education, training, lifelong learning and capacity-building **(2019)**.
11. Participation in the public life and in decision-making processes
12. Social inclusion
13. Contribution of older persons to sustainable development
14. Long-term and palliative care **(2018)**. “Normative input” to be discussed in 2019.

If this list is followed, on the basis of two new topics per year, it will take up to 2023 to complete discussions.

8 April 2019.