



Economic and Social Council

Distr.: General
20 November 2013

Original: English

Commission for Social Development

Fifty-second session

11-21 February 2014

Follow-up to the World Summit for Social Development and the twenty-fourth special session of the General Assembly: priority theme: promoting empowerment of people in achieving poverty eradication, social integration and full employment and decent work for all

Statement submitted by AARP, HelpAge International, International Association of Homes and Services for the Ageing, International Association of Gerontology and Geriatrics, International Federation on Ageing, International Longevity Center Global Alliance and International Network for the Prevention of Elder Abuse, non-governmental organizations in consultative status with the Economic and Social Council

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.



Statement

Empowerment of older persons by strengthening the protection of their human rights

Older people's rights and the outcome of the second review of the Madrid International Plan of Action on Ageing, 2002

Growing attention has been paid to the unique challenges that older people face with regard to the enjoyment of their rights since the Commission for Social Development concluded, in its second review and appraisal of the Madrid International Plan of Action on Ageing, 2002, that major challenges and obstacles remained that undermined older people's participation, inclusion and social integration, including discrimination and abuse (see [E/2013/26](#)).

In his report to the General Assembly, the Secretary-General recognized that, 10 years after the adoption of the Madrid International Plan of Action on Ageing, 2002, prejudicial attitudes and discriminatory practices by individuals and institutions towards older people had continued to undermine their role in society ([A/68/167](#)).

Older people's rights at the Human Rights Council

In September 2013, the Human Rights Council took two important steps towards greater promotion and protection of the rights of older people. In its resolution 24/25, it decided to devote the 2014 Social Forum to the rights of older persons and, in its resolution 24/20, to appoint, as from March 2014, a new independent expert on the enjoyment of all human rights by older persons.

The appointment of an independent expert who can assess the situation of older people's lives from a human rights perspective is long overdue. It is also a recognition by Member States and the Human Rights Council that the existing international human rights framework has not adequately addressed this area of human rights. The new mandate will deepen our understanding of the unique challenges that older people face in relation to their rights and the measures needed, in both law and practice, to respond to these challenges effectively.

As members of civil society, we look forward to working in close cooperation with Member States, the Human Rights Council and the new independent expert.

The creation of this mandate does not, however, preclude other much-needed measures to strengthen the protection and promotion of the rights of older persons in the future, including a new legal instrument.

Consultation on the promotion and protection of the human rights of older persons

The Office of the United Nations High Commissioner for Human Rights conducted a public consultation in Geneva on 15 April 2013 on the promotion and protection of the human rights of older persons. It concluded in its summary report in July 2013 that a number of human rights issues that were particularly relevant to older people had not been given sufficient attention in the wording of existing human rights instruments or in the practice of human rights bodies and mechanisms ([A/HRC/24/25](#)).

Open-ended Working Group on Ageing

The continued work of the Open-ended Working Group on Ageing is critical in this regard. As was emphasized in the resolution appointing the independent expert, the new mandate holder will work in close collaboration with, and avoid duplicating the work of, the Open-ended Working Group. With the cooperation and support of Member States, the two distinct processes will complement and mutually reinforce each other.

Some progress was made at the fourth session of the Working Group, in August 2013, in response to the request made in resolution 67/139 to prepare proposals on the main elements of an international legal instrument. Such proposals, submitted by Member States and civil society, provided valuable groundwork for more detailed dialogue among Member States at future sessions. Minimum requirements for an effective instrument are beginning to emerge. It must be comprehensive and cover the full range of human rights. It must prohibit all aspects of discrimination, including multiple discrimination and discrimination by association or perception. It must set up robust implementation, monitoring and accountability mechanisms.

More needs to be done, however.

Greater participation of older people in the processes that affect them

In line with human rights principles, older people should have a strong voice in all processes that affect them. However, older women and men and civil society representatives continue to face challenges and barriers to participating in the very processes set up to discuss their lives. Member States' positions should be genuinely informed by the views of older persons. Greater use of social media, videoconferencing technology, the inclusion of older women and men as panellists and in delegations of Member States at the Commission for Social Development, the Open-ended Working Group on Ageing and the Social Forum of the Human Rights Council in April 2014 would help to reduce these barriers.

Widening the scope of the substantive discussion

To date, discussion on older people's rights has been limited to a small number of rights, most notably the rights to health, social security, non-discrimination in employment and freedom from violence and abuse. This is partly dictated by a limited conceptualization of old age reinforced by the priority areas of the Madrid International Plan of Action on Ageing, 2002, and the active ageing agenda, and partly by the invisibility of ageing in the full range of human rights mechanisms and across the human rights community. How other equally important areas of rights apply in the context of old age and to older persons has attracted far less attention.

For example, discussion of multiple or intersectional discrimination in old age has been dominated by a focus on the intersection between age and gender, almost exclusively with regard to women. While this is of primary concern, the marginalization, discrimination and exclusion that older men can experience has been largely ignored. A greater understanding of the accumulation of discrimination across the life cycle is also required, based not only on gender, but also on other characteristics, including sexual orientation, HIV status and ethnic origin.

Attention to age discrimination in employment has focused on upper age limits in recruitment, discriminatory dismissal based on age and mandatory retirement ages. More attention is needed as to how discrimination on the basis of age affects other aspects of work and production. For example, there has been little examination of discriminatory bias in access to means of agriculture towards those who are perceived to be the most productive and the exclusion of those who are perceived to be less productive owing to, for example, their old age.

Little attention has been paid to the discrimination that older people face outside employment, for example in the provision of goods and services such as health care and financial products. The impact of ageism and discriminatory attitudes on older people's social inclusion also requires scrutiny.

In terms of violence and abuse, the debate to date has been based on recognizing that it exists and exposing the lack of data thereon. However, there has been little examination of what taking a rights-based approach to elder abuse means in practice, nor of unintentional abuse that results from the conditions of care rather than deliberate attempts to harm, of extrajudicial killings and of when neglect or violence meets the threshold of torture, inhuman or degrading treatment or becomes a right-to-life issue.

The critical area of older people's right to independent living has received scant attention. The balance between family and State responsibility in caring for and supporting older people has not been adequately examined. More consideration needs to be given to the responsibility of, and effective regulation by, the State in relation to services provided by third parties, particularly to further understanding of how to protect and empower older people who receive care at home from private sector care providers or informal or family caregivers.

Understanding of older people's rights connected to judicial and legal systems is still underdeveloped, for example in relation to access to justice, effective remedies and the rights of older prisoners, as is that of the human rights dimension of older people's autonomous and supported decision-making, their equality before the law and their legal capacity.

While the right to palliative care has attracted some attention within debates around older people's right to health, the issue of the right to a dignified death, including the right to refuse medical treatment and to choose one's place of death, has been neglected. The particular barriers that people face in old age with regard to the right to housing and to property, land and inheritance rights all need greater scrutiny, as does the right to a private and family life in all the different contexts in which older people live, including in prisons, in institutional care settings and at home.

The examination of international human rights law to date has clearly established that there are gaps in protection with regard to rights in these areas. What is needed now is for this debate to move on from whether these are normative or implementation gaps to a much more nuanced and detailed examination of what the human rights dimensions are in these aspects of older people's lives and what standards need to be upheld in order to protect them.

Recommendations

We make the following recommendations:

(a) We urge Member States to fully cooperate with, and support the work of, the new independent expert, allowing for truly independent assessments of and recommendations on how to better protect and promote the rights of older people in both law and practice;

(b) We also urge Member States to continue to support the work of the Open-ended Working Group on Ageing, to participate therein constructively and to support the efforts of its Chair and Bureau to take forward its programme of work to advance the successful implementation of its mandate as outlined in resolution [67/139](#);

(c) We further urge Member States to take the steps necessary to ensure greater consultation with and participation of older women and men and civil society representatives in the mechanisms and processes established to discuss their rights.
