



Monday 3rd July 2017

**Civil Society Workshop:
Preparing for a substantive debate
at the 8th Open-ended Working Group on Ageing (OEWG)**

Summary report

The workshop

On 3rd July 2017 around sixty participants took part in a workshop to prepare together for the substantive debate at the eighth session of the OEWG (OEWG8) held from 5-7th July. The participants came from many regions of the world representing Civil Society Organisations (CSOs), National Human Rights Institutions (NHRIs) and UN agencies. The Chair of the OEWG, Ambassador Moritán of Argentina, and the UN Independent Expert on the Enjoyment of all Human Rights by Older Persons, Rosa Kornfeld-Matte, also spoke at the event.

The workshop was co-organised by the Global Alliance for the Rights of Older People and the NGO Committee on Ageing in New York. It was made possible through generous contributions from Alzheimer's Disease International (ADI) and the Asia Pacific Forum of National Human Rights Institutions (APF).

Background

In the 7th OEWG session (OEWG7) in December 2016, UN Member States agreed to engage in a substantive debate in the eighth session (OEWG8) about two areas of human rights where the protection of older people's rights requires greater attention: 'Equality and non-discrimination' and 'Neglect, violence and abuse'. This focus on a more substantive debate on specific areas of older people's rights, leading to possible elements of a convention, is a significant development in the OEWG process. It offers a crucial opportunity to build a stronger understanding and consensus among UN Member States about these rights and how they might be addressed in a new international legal instrument.

The organisers considered that it was important that civil society is ready and equipped to participate actively in these discussions and put forward concrete recommendations to build a stronger understanding about the specific areas covered in the OEWG debates and precisely how they might be addressed in a convention.

The main aims of the workshop were:

- To support civil society engagement in the OEWG process and OEWG8
- To strengthen connections among CSOs and other key stakeholders
- To foster opportunities for greater collaboration and joint working

PART ONE: Recent Developments and Strategy for OEWG8

Moderator: Marcus Riley, The Global Ageing Network

Speakers: H.E. Ambassador Martín García Moritán, Permanent Representative of Argentina to the United Nations
Amal Rafeh, UN Department of Economic and Social Affairs
Rio Hada, Office of the High Commissioner for Human Rights
Rosa Kornfeld Matte, UN Independent Expert on the on the enjoyment of all human rights by older persons

The main points that emerged from the presentations and discussion in this session are summarised under key headings below.

General updates regarding the OEWG process

- Argentina continues to chair the OEWG and the other members of the [bureau](#) are Qatar, Austria, Namibia and Slovenia. It is the first time in three years that the African group is represented on the bureau.
- One major challenge identified was the lack of budget for the OEWG and the negative implications this has on the OEWG being able to function smoothly.
- An official report of OEWG8 will be produced with a summary of the discussion over the three days and any conclusions reached. (This summary is now available on the UN OEWG [website](#)).
- Responses to the call for inputs for OEWG8 were received from 31 Member States, 37 NGOs and 22 NHRIs. There were 14 from UN agencies, which is a bigger response than usual. This could be due to the new informal interagency group on older persons made up of seven members, which has now held two meetings.

Expectations for the 8th OEWG session

- UN General Assembly Resolution 65/182 set out the original mandate of the OEWG to strengthen the protection of the older people's rights and to identify possible gaps in the international human rights framework and how to address them¹. A number of Member States are still trying to steer the conversation towards social development and away from human rights. Whilst complementary, these two areas should be considered distinct and the focus of the OEWG should be firmly on its original mandate of human rights.
- The Madrid International Plan of Action on Ageing (MIPAA) is inadequate as it is a development instrument and not a comprehensive human rights instrument. Its non-binding nature also severely limits its implementation and impact.
- Over the seven OEWG sessions to date, many Member States and CSOs have agreed that the current international framework is not sufficient for the full and equal enjoyment of human rights by older people.
- There are normative, protection, data and information gaps in terms of older people's rights. There is a need for a comprehensive understanding across the many different forms of discrimination and violence. A comprehensive legal instrument is necessary to tackle definitional issues e.g. of violence and abuse.
- The counter arguments to developing a new international instrument are that existing instruments are sufficient and need to be better implemented. A new UN convention would also create additional obligations for Member States and would

¹ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/65/182

bring further fiscal pressures. It was felt, however, that the process cannot continue with endless discussion, and that action that will lead to results is necessary.

Strategies for civil society in the OEWG process

- There is often a disconnect between governments in capitals and missions in New York. CSOs at the national level could increase Member States' participation in the OEWG process by helping to strengthen the connection between governments and their missions.
- There is a need to build awareness and greater synergies between the discussions in New York at the OEWG, in Geneva at the Human Rights Council, and the action at the national level. There is a general lack of knowledge about the OEWG process among many stakeholders at different levels.
- The active involvement in key intersessional events between the OEWG sessions will be important. For example, OHCHR will organise an event in Geneva linked to the annual resolution on the protection of the family. The Independent Expert is organising a meeting in Chile and welcomes the participation of CSOs (travel costs cannot be covered). Older people's concerns can also be highlighted at observances of international days such as the International Day of Older Persons (1 October), Human Rights Day (10 December).
- Collaboration between NGOs and NHRIs is important and could be influential at national level. Building links with the media would help draw attention to the concerns of older persons.
- GAROP has an important role to play as a coordinating focal point for NGOs. In December 2016, there was support for GAROP to become more organised and strengthen the platform for CSOs to engage and advocate for a convention. GAROP now has a staffed Secretariat and is developing communication with members and its online presence through Twitter and its website. Further funding is necessary from March 2018 to continue and develop this work.

Civil society contribution to OEWG8

- The active participation of CSOs alongside Member States is vital. Stakeholders must reinforce the human rights mandate of the OEWG.
- The specific segment for interactive dialogue with civil society has been removed because it had been noted that in the past, relatively few Member States attended those segments. The aim, this time, is to promote real interaction among all stakeholders throughout the segments by ensuring inclusion of CSO participation in all the deliberations.
- An adequate and predictable budget for services, including interpretation, is essential in order for the OEWG to successfully fulfil its mandate. CSOs are encouraged to highlight that the lack of a budget puts the success of the debate in jeopardy.
- CSOs could actively propose focus areas for OEWG9 and think about the way forward. CSOs should work to increase the participation of Member States, which will be essential before the formal negotiations of a convention can begin.
- CSOs should highlight substantively whether the laws that their government is implementing are really working.

Practical information

- Non-governmental organisations (NGOs) seeking OEWG accreditation should contact Amal Rafeh at rafeh@un.org.

- 60-80 NGOs are expected to participate in OEWG8 and 55 Member States have registered. There are four NGOs seeking accreditation this year.
- The seating in Conference Room 4 includes space for NGOs and NHRIs in the balcony and overflow seating available at the back. Speakers should aim to sit near a microphone when they are due to be called.
- NGOs should plan to speak for no more than three minutes. If you would like your statements to go online email them to papersmart4@un.org and copy Amal.
- NGOs are encouraged to be interactive in their comments. Only those NGOs with ECOSOC consultative status or OEWG accreditation will be invited to speak. NGOs must register to speak using the name of the accredited NGO.
- When speaking, press the microphone button until you see the green light and then when it goes red you can speak.

PART TWO: Substantive Discussion on Focus Areas for OEWG8

Focus area 1:	Equality and Non-discrimination
Moderator:	Dr Emem Omokaro of the Dave Omokaro Foundation, Nigeria
Speakers:	Nena Georgantzi of AGE Platform Europe – access presentation here Dr. Claudia Mahler of the German Institute for Human Rights

The key points that emerged in this session are summarised here:

Analysis of the submissions to the UN

In the submissions made to the UN, there were a number of inconsistencies in terms of source, specificity, scope and exceptions. Despite the many inadequacies in the data that is available, the evidence that exists shows that age discrimination is widespread and affects all aspects of the lives of older people. National examples were provided of structural discrimination where exceptions made on the ground of age are not explained or justified indicating that age discrimination is acceptable.

Tackling ageism and stigmatisation

Justification, context and culture can determine whether a specific measure is ageist or a positive age-based intervention. When considering who are the most vulnerable among older people and whether they need special protection or not, it is important to distinguish between stereotyping and helping. Ageism is also pervasive among older people themselves and some advocates argue that more activism by older people is important. It was suggested that we need to avoid stigmatisation from a protection perspective. Universality is important and the focus should be on protecting everyone's rights as we age rather than on protecting older people as a group. It was pointed out that discrimination within the UN system also needs to be tackled, for example getting UN Women and UN AIDS to include older people more.

Existing normative framework

The Madrid Plan is too weak, the two international human rights covenants² are not specific enough and the Convention on the Rights of Persons with Disabilities is limited with respect to age. It was noted that most of the concluding observations from the UN Treaty Bodies

² The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights

have no recommendations on discrimination against older people or non-discrimination. The issue of structural inequality is often missing in the discussions both in law and in practice. There is discrimination in terms of access to goods and services and older people's rights are violated in many areas, e.g. labour market, finances, medical services.

How would this be addressed in a convention?

A convention should cover the different forms of discrimination, including direct, indirect and structural. We need to start with the rule, not the exceptions. Once the rule is clearly established, the exceptions can then be applied. A convention should contain a clause on non-discrimination and a clause that tackles multiple discrimination (e.g. discrimination faced by older LGBT individuals). We need prohibition of discrimination on the ground of age in law but this alone is not enough and we also need positive duties to ensure equality. Effective mainstreaming would mean that the impact of policy decisions need to be fully considered. In terms of advocacy around these issues at the national level, it is important to bring stakeholders together at national level between the UN sessions. It is also useful to involve NHRIs in any national and regional conferences.

We need to consider whether we want a convention that is framed around older people as a group that needs protection or a convention that ensures the equal enjoyment of human rights in older age (i.e. a seamless transition of enjoyment of rights throughout our life course). This will have a bearing on its contents. The latter approach may get more support from those who feel framing older people as a vulnerable group only perpetuates ageism and stigma against them.

Focus area 2: Neglect, Violence and Abuse

Moderator: Susan Somers, International Network for the Prevention of Elder Abuse

Speakers: Bridget Sleaf, HelpAge International – access presentation [here](#)
Silvia Perel-Levin, International Longevity Centre Global Alliance, Chair of the NGO Committee on Ageing in Geneva – access presentation [here](#)

The key points that emerged in this session are summarised here:

Analysis of the submissions to the UN

The submissions highlighted that there is a wide range of perpetrators and settings (public and private) involved in different forms of violence, abuse and neglect faced by older people who are at heightened risk of such rights violations. The submissions also highlighted a number of gaps in terms of legislation and data on the right to freedom from all violence, neglect and abuse. It was noted that the call for submissions did not include questions about prevention, support, justice and redress.

Observations and experiences of this area of human rights

There were concerns about the issue of impunity and the fact that some acts of violence are often not understood as crimes because they are attributed to caregiver stress – and seemingly are excused because of this. In a consultation with older women in different countries, some older women said that they wanted their government to punish the perpetrators whoever they are. Some older people who are affected by abuse may not want their abuser to be punished. We should be careful not to take away an older person's right to decide if they want to press charges or not and to make autonomous decisions which others may consider to be risks.

Neglect can come from government or agencies in a position of trust who may fail to put the necessary services in place, which can be considered structural abuse. There is a need for an interdisciplinary approach and different public bodies, such as the police and social welfare staff should all be involved as necessary. Self-neglect was referred to a number of times and is a complex issue that is interdependent with other areas of rights, including independence and autonomy. There was some discussion about whether the prevalence of abuse increases with age, an issue which requires further evidence.

Existing normative framework

International human rights law does not adequately provide for the persistent acts, circumstances and institutional factors that deprive older people of their dignity. The Independent Expert has recognised elder abuse as a specific, distinct and deeply disturbing form of abuse. Existing legislation is paternalistic in nature, for example, adult protection including restraining orders, mandatory reporting. To maintain autonomy, consent is necessary. The controversial resolution on the protection of the family ([HRC 35/L.21](#)) ignores the right to autonomy of the older person and perpetuates stereotypes.

How would this be addressed in a convention?

A convention should cover all forms of violence, abuse and neglect of older people in public and private settings. It should also contain concrete elements relating to support services, remedies and redress, and adequate, reliable data not only on prevalence and perpetrators, but also on prevention and intervention strategies to understand what works. We need legal standards which can be applied to different cases. There was some discussion about mental capacity and the need to always assume capacity as a starting point in any case. The interdependence of this right (freedom from violence, abuse and neglect) with other rights should also be highlighted, including freedom from torture, or other cruel, inhuman or degrading treatment or punishment and the right to autonomy and independence. States should also have an obligation to provide training for all care providers and raise awareness of the different forms of violence, abuse and neglect in older age and how to identify and prevent them.

PART THREE: Planning and Wrap up

Moderator: Andrew Byrnes, University of New South Wales, Sydney
Contributor: Ken Bluestone, Age International and GAROP Co-chair

In summing up some of the key issues and strategies that emerged from the day's discussions, the following key points were highlighted and next steps agreed:

Recommendations for our strategy

- There is a strong need for national level action and collaboration among NGOs, governments and NHRIs. We should ensure that we build on the work that has already been done in terms of the case for a convention and recommendations for its content.
- It will be important to revisit and resolve some of the conceptual issues which surfaced in the substantive debates during the afternoon.
- We have to consider how to approach the normative gap question and how to define and explain this as this could influence our strategy when working with governments.

- There should be a positive affirmation of the many valuable contributions made by older people and not only a focus on costs and burdens associated with older people as governments often believe. We should avoid allowing the discussion to be skewed in that direction.
- We must work to ensure that our statements are concise and responsive to the flow of the discussion. Statements should address how a convention would solve the gap being identified and what specific measures it should include.
- We could consider increasing our impact and strength and explore how we can coordinate our statements or produce joint statements and on what issues.
- We should take the opportunity during the week to discuss and propose focus areas for the next session.
- The possibility of a joint statement on behalf of the NGOs present was discussed in part to address the matter of the budget and the lack of interpretation services.

Actions agreed:

- Given the support among participants for the proposal for a joint statement, the participants agreed that Ken Bluestone draft a joint statement to be circulated on Wednesday afternoon. Any organisations who wish to endorse this statement should reply by the end of Thursday.
- At the start of each day at the NGO briefings, any organisations wishing to make an intervention that day should complete the form that Ellen will circulate. If you cannot be there in the morning or you hear something later that you would like to respond to, please seek out Amal from UNDESA at the UN staff desks and let her know that your organisation would like to make an intervention. (Please note that this will be at the discretion of the Chair depending on how much time there is left in that session).

Report prepared by Ellen Graham (Secretariat Coordinator of the Global Alliance for the Rights of Older People) with thanks to Natalie Jones, Clover Ulrich and Joseph Bellitti (Gray Panthers) and Kathy Kline (S.E.R.R.) for their notes that made this report possible.