

**UNITED NATIONS WORKING GROUP FOR THE  
PROTECTION OF THE HUMAN RIGHTS OF OLDER PERSONS**

SECOND SESSION  
UNITED NATIONS HEADQUARTERS, NEW YORK, 1 TO 4 AUGUST 2011

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**INFORMATIVE SUMMARY**

AUGUST OF 2011

THIS SUMMARY HAS BEEN ELABORATED BY THE CELADE-POPULATION DIVISION OF ECLAC, AT THE REQUEST OF THE MEMBER STATES OF THE COMMISSION, IN ORDER TO RECORD THE MAIN POINTS OF DEBATE AND THE PROGRESS MADE IN THE FRAMEWORK OF THE SECOND SESSION OF THE OPEN-ENDED WORKING GROUP FOR THE PROTECTION OF THE RIGHTS OF OLDER PERSONS.

THIS IS A DOCUMENT OF AN INFORMATIVE NATURE THAT IS AT THE DISPOSAL OF NATIONAL AGEING INSTITUTIONS, CIVIL SOCIETY ORGANIZATIONS AND ACADEMIC NETWORKS, MAINLY, WITH THE AIM OF BROADENING THE KNOWLEDGE OF THE REGIONAL AND INTERNATIONAL WORK IN THE FIELD OF THE RIGHTS OF OLDER PERSONS.

The second session of the Open-Ended Working Group to strengthen protection of the human rights of older persons took place from 1<sup>st</sup> to 4<sup>th</sup> of August at the United Nations Headquarters in New York.

The session focused on the review of the economic, social and cultural rights of older persons. Five thematic panels took place: discrimination and multiple discrimination, the right to health of older persons, violence and abuse in old age, social protection of older persons, and age and social exclusion. Also, the States had the opportunity to present their declarations on the situation of the rights of older persons in their respective countries, as well as exchange opinions to identify the possible gaps in the protection of rights in old age in the international area.

The Open-Ended Working Group for the Protection of the Rights of Older Persons was created in virtue of resolution A/RES/65/182 of the Sixty-fifth period session of the General Assembly of the United Nations. The Group has the objective of strengthening the protection of the human rights of older persons, reviewing the international framework on human rights of older persons in force and determine its possible deficiencies and the best way to fix them, including through the study, where appropriate, of the viability of new instruments and measures.

Among the panelist presentations, the shared acknowledgement of age discrimination as one of the most frequent problems that affect older persons should be noted. This becomes more critical when age is

added to other sources of discrimination such as gender, ethnic origin or disability, resulting in situations of helplessness that are not completely considered under current human rights instruments.

In the area of health, it was made clear that the differences that exist in the access to health, its promotion and long-term and palliative care, which are the cause, and in turn, a consequence of inequalities derived from income level, zone of residence, gender, among others. Attention was called to the vulnerability that exists in different groups of older persons due to their health condition and the differentials that exist in healthy life expectancy among older persons that live in wealthy and poor countries.

On the panel on violence and abuse in old age, emphasis was placed on the lack of legal, programmatic and practical application mechanisms to protect older persons from actions or omissions that infringe their dignity and physical, mental and psychological integrity. Examples were given of particular situations that affect older women in different parts of the world, and the lack of visibility that abuse against older persons has on public policy agendas.

With respect to the social protection of older persons, the discussion centered on the issues of poverty and social security. Emphasis was placed on the vulnerability of older persons falling into poverty, with particular interest on the situation of older women. Along with this, the contribution of social security to the economic well-being in old age was documented, which despite its enormous help to guarantee income, it still continues to be an underdeveloped area in many countries, although there are significant differences between regions.

Finally, on the panel on social exclusion different experiences and proposals were analyzed which were directed to improving social inclusion in old age. All the panelists agreed on the value that older persons have for the family, community and society in general, despite the limited recognition that is given to them in decision-making and the lack of opportunities to participate in those that matter.

Among the novel aspects presented by the panelists are the following:

- The contribution being made by the special Rapporteur on the right to health in compliance with resolution 15/22 of the Human Rights Council, in which the elaboration of a thematic study on the right to health of older persons that includes the main existing problems and best practices is requested.
- The necessity to strengthen the use of current human rights treaties to protect the rights of older persons. On this occasion, a panelist referred to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this regard, it was recalled that General Comment No. 2 of the Committee against Torture indicated the following in paragraph 15: *“...each State party should prohibit, prevent and redress torture and ill-treatment in all contexts of custody or control, for example, in prisons, hospitals, schools, institutions that engage in the care of children, the aged, the mentally ill or disabled, in military service, and other institutions as well as contexts where the failure of the State to intervene encourages and enhances the danger of privately inflicted harm...”* The application of this recommendation can be especially useful to protect the rights and fundamental freedoms of older persons that live in care institutions or in prison.

In Latin America and the Caribbean, the countries that have ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are: Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guyana, México, Nicaragua, Panamá, Paraguay, Peru, Uruguay y Venezuela. Antigua y Barbuda, Belize, Guatemala, Honduras, San Vicente, have acceded to the treaty.

Although differences between member States still persist on what would be the best way to broaden the protection of the rights of older persons, it is possible to appreciate the growing consensus on the necessity of giving greater visibility of the situation of older persons worldwide.

#### **BOX 1: ABOUT THE SPECIAL RAPPORTEUR**

In the Brasilia Declaration, adopted by the Latin American and Caribbean countries in the second regional intergovernmental Conference on ageing held on December 2007, special emphasis was placed in that a rapporteur for the rights of older persons must be part of the special procedures system of the Human Rights Council: *“Agree to request the member countries of the United Nations Human Rights Council to consider the possibility of appointing a special rapporteur responsible for the promotion and protection of the human rights of older persons”* (art. 25)

One of the major potentialities of the special procedures of the United Nations is its universal character. It gives a singular flexibility to its activities, allowing for the exchange of information and of best practices, as well as the visualization of obstacles and challenges to fulfill the rights of older persons in all the regions of the world. This flexibility of action can continue with independence of the adoption of specific international standards on the rights of older persons.

Although there does not exist a standard work methodology on the different special procedures, the majority of them - at least those of thematic character - share a series of methods that are more or less standardized: the creation of specific studies in the area of its specific mandate, the formation of country visits, through government requests, to investigate the human rights situation from the point of view of its respective mandate, and the delivery of confidential communications to the governments in case of allegations of human rights violations. The title holders of the special procedures mandates present the results of their activities in the report that is presented once a year at the Human Rights Council.

While the countries of the Latin American and Caribbean region plead for an international convention for the protection of the rights of older persons and the creation of a special rapporteur under the Human Rights Council (see box 1), the countries of the European Union wish to wait for the results of the second follow-up and review cycle of the Madrid International Plan of Action on Ageing and, in the interim, broaden the visibility of older persons in the bodies of existing treaties, as well as the Universal Periodic Review of the Human Rights Council (see box 2).

## **BOX 2: THE UNIVERSAL PERIODIC REVIEW**

The Universal Periodic Review (UPR) is a unique process that consists of an examination of the human rights reports of the 192 member States of the United Nations every four years. The UPR is an important innovation of the Human Rights Council (HRC), which is based on equal treatment for all countries. It provides an opportunity for all States to disclose actions they have taken to improve the human rights situation in their countries and to overcome the obstacles for the enjoyment of human rights. The review also includes an exchange of best practices of human rights worldwide.

The objectives of the review are, among others: i) the improvement of the human rights situation; ii) the compliance of obligations and commitments of the State on issues of human rights and the evaluation of the advances and challenges they face; iii) the strengthening of the State's capacity and technical assistance, and iv) the exchange of best practices between states and other interested parties.

For the review, the States prepare a report that must be elaborated through a broad consultative process at the national level. For its examination, a working group is gathered that is comprised by 47 member States of the Council. The result of the evaluation includes recommendations for the HRC and the voluntary commitments of the State.

Currently, 25 countries of the region have been reviewed (Argentina, Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Granada, Guatemala, Guyana, Honduras, Jamaica, México, Nicaragua, Panamá, Paraguay, Peru, , Suriname, Uruguay).

The second session of the Working Group concluded with the decision to hold a new meeting in 2012, possibly around the 50th period session of the Social Committee, which will be held from 1 to 10 of February 2012 in New York.

### **References**

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### **Links**

<http://www.cepal.org/celade/envejecimiento>

<http://social.un.org/ageing-working-group>

<http://www.ohchr.org>