

## Better protecting the human rights in older age

### The contribution of the Open-Ended Working Group for the Purpose of Strengthening the Protection of the Human Rights of Older Persons of the United Nations (2010/11 – 2022)

#### History<sup>1</sup>

The Open-Ended Working Group for the purpose of strengthening the protection of the human rights of older persons, in short the Open-Ended Working Group on Ageing (OEWG-A), was established in December 2010 on the basis of Resolution 65/182 of the United Nations' General Assembly.<sup>2</sup>

To understand the establishment of this working group and its mandate, a brief overview of the key milestones with respect to ageing and older persons at the United Nations is helpful. Argentina had already raised the question of the human rights of older persons by bringing forward a

declaration of the rights for older persons in 1948, at the time of the adoption of the Universal Declaration of Human Rights. However, this was not taken forward.<sup>3</sup>

In 1982, the First World Assembly on Ageing led to the adoption of the Vienna International Plan of Action on Ageing<sup>4</sup>, the first substantial UN document providing guidance to Member States on their policymaking related to ageing and older persons. In 1990, the UN General Assembly established October 1<sup>st</sup> as the International Day of Older People.<sup>5</sup> This day has become a central tool to raise the awareness of the human rights of older persons. In fact, highlighting the need for a legally binding instrument on the rights for older persons has been one of its objectives in 2021.<sup>6</sup>

In 1991, the General Assembly adopted the Principles for Older Persons through Resolution 46/91 as a way to encourage governments to incorporate five basic principles (independence, participation, care, self-fulfilment and dignity) into their national policymaking.<sup>7</sup> Ten years after adopting the Vienna International Plan of Action on Ageing, in 1992, the United Nations adopted

the Proclamation on Ageing<sup>8</sup> by which it decided to observe the year 1999 as the International Year of Older Persons (Resolution 47/5).

Another ten years later, in 2002, the international community met again to discuss ageing issues at the Second World Assembly on Ageing in Madrid. The resulting Political Declaration and Madrid International Plan of Action on Ageing (MIPAA) was endorsed by the General Assembly in its Resolution 57/167 in 2002.<sup>9</sup> The Action Plan recognised that population ageing is an important issue for both more and less developed regions of the world, in contrast to the first Action Plan of 1982, which focussed solely on more developed countries.

During the following years, MIPAA guided the discussions around ageing and older persons at the United Nations and served as a guiding document for regional and national policymaking worldwide. Regional Implementation Strategies (RIS) as well as national action plans were developed and their implementation has been reviewed and appraised since then on a regular basis.

These action plans and initiatives by the United Nations are important milestones to better the lives of older persons worldwide. Soon, though, it was recognised that a reliance on these non-binding instruments does not sufficiently protect the human rights of older persons. Within this context, the General Assembly called on the Secretary-General in Resolution 63/151 in 2008 to report on the implementation of the Resolution's recommendations in order to advance the implementation of MIPAA.<sup>10</sup>

In his report (A/64/7), the Secretary-General concluded that the human rights of older people have not been adequately promoted or protected. Further, the Human Rights Council looked into the human rights of older persons in 2009 by discussing a working paper on "The necessity of a human rights approach and effective United Nations mechanism for the human rights of the older person".<sup>11</sup> This working paper highlighted the importance of conducting a full study on discrimination in the context of the human rights of older persons having regard to the establishment of an international convention on the human rights of older persons.

A report by the Secretary-General (A/65/157), presented in 2009, addresses the shift towards a human-rights perspective and the call for a comprehensive international instrument to protect the rights of older persons by civil society and the wider public.<sup>12</sup> This was reinforced by another report (A/65/158) of the Secretary-General on the implementation of MIPAA in the same year. In this report, he recommended that attention be given to empowering older persons and promoting their rights.<sup>13</sup>

The reports were noted by the General Assembly in Resolution 65/182 in December 2010.<sup>14</sup> It contains the decision to establish an open-ended working group "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 (...)".

### **Mandate of the OEWG-A**

In 2010, the OEWG-A was set up “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 requests the Secretary-General to provide all necessary support within existing resources for the duration of its mandate”.

In 2012, the General Assembly extended the mandate of the OEWG-A through Resolution 67/139 to consider and report on what should go into a new international legal instrument on older persons’ rights.

### **The work of the OEWG-A over the years**

Since 2011, Member States, relevant bodies and organisations of the UN system as well as intergovernmental and non-governmental organisations have been invited to contribute to the work of the OEWG-A.

At the annual sessions, panel discussions take place to discuss issues around ageing and older persons. The reports of the sessions include a summary of the Chair of the OEWG-A. There have been attempts, especially at the 9<sup>th</sup> session in 2018, to conclude the sessions with concrete outcomes reflected in agreed conclusions or decisions. In 2019, a Resolution by the UN General Assembly encouraged Member States to consider at each session the adoption of “intergovernmentally negotiated recommendations to be presented for consideration by the General Assembly” (Resolution 74/125).<sup>15</sup> Such recommendations would allow the OEWG-A to agree on key elements and take stock of concrete progress after each session.

So far, however, there has been opposition by some Member States to have such a negotiated text after each session.

The work of the OEWG-A is coordinated by a Chair and the Bureau consisting of representatives of all major UN regions. The UN Programme on Ageing Unit of UN DESA and the Office of the High Commissioner on Human Rights (OHCHR) support with the organisation of the yearly sessions – especially by preparing synthesis reports of written inputs.

In 2013, the OEWG-A discussed possible main elements for an international legal instrument, proposed by Member States, civil society organisations and organisations of the UN in response to a request by the General Assembly (Resolution 67/139 of 2012).<sup>16</sup> However, no agreement on these elements was reached.

In 2016, the OEWG-A decided – as requested by Germany – to also invite national human

rights institutes (NHRIs) to participate in the discussions. NHRIs are responsible for monitoring the human rights situation, reviewing legislation, carrying out applied research and providing education on human rights. NHRIs can also introduce international debates into the domestic domain and make them more tangible for both the government and the population. They also serve as advisory bodies to governments and can have a similar role as civil society organisations in advocating for a better protection of human rights.

At the same session, the Chair listed 14 issues/focus areas, suggested by civil society, that need to be addressed by the international community in the discussions of the OEWG-A. At each session of the OEWG-A, two of the issues are discussed in depth, based on written inputs by Member States, NGOs and NHRIs.

At the following session in 2017, it was decided that, in addition to substantive inputs on two issues per session, normative content for the development of a possible international standard on protection of the rights of older people would also be requested. This means that in one year, the OEWG-A discusses the challenges and the state of the art in terms of existing protections, and in the following year, how these existing protections can be broadened in a new instrument by suggesting specific elements of rights. Since 2019, the OEWG-A discusses at each session two focus areas as

well as inputs on normative elements on the focus areas of the previous year.

In 2020, the OEWG-A did not take place due to the COVID-19 pandemic. The UN General Assembly, however, did encourage Member States again to consider intergovernmentally negotiated recommendations. The OEWG-A reconvened in 2021 with its 11<sup>th</sup> Session in a hybrid format. Only the opening and closing panels took place at the Headquarters of the United Nations in New York with the allowance of online participation. All other sessions were convened in a virtual format only and transmitted via UN WebTV.

The 12<sup>th</sup> session of the OEWG-A took place at the United Nations in New York in April 2022. A virtual participation was also possible. At this session, Argentina made the proposal to create an informal cross-regional core group, which should prepare a draft decision to be submitted for consideration of the OEWG-A in its next session, to establish a formal intersessional Working Group. Objective of this Working Group would be to prepare and present a draft text determining the main gaps. This would be the basis for the further negotiations of instruments and measures to close these gaps, by Member States and Observers in the OEWG-A. The proposal made by Argentina was supported by many Member States. Austria, Germany, Italy, Slovakia and Slovenia have also expressed their support and interest in participating in the informal core group.

## Focus areas since 2017

Year / Session	Focus area (Substantive input)	Normative elements
<i>The list of 14 focus areas was decided upon in 2016.</i>		
<b>2017 / 8<sup>th</sup> Session</b>	Equality and non-discrimination Violence, neglect and abuse	The discussion of normative elements was decided upon in 2017.
<b>2018 / 9<sup>th</sup> Session</b>	Autonomy and independence Long-term and palliative care	Equality and non-discrimination Violence, neglect and abuse (only addressed in a compilation working document by the Secretariat)
<b>2019 / 10<sup>th</sup> Session</b>	Social protection and social security Education, training, lifelong learning and capacity building	Autonomy and independence Long-term and palliative care
<b>2021 / 11<sup>th</sup> Session</b>	Right to work and access to the labour market Access to justice	Social protection and social security Education, training, lifelong learning and capacity building
<b>2022 / 12<sup>th</sup> Session</b>	Economic security Contribution of older persons to sustainable development	Right to work and access to the labour market Access to justice

### Focus areas for 2023 and beyond

- Four focus areas: accessibility; infrastructure and habitat (transport, housing and access); right to health and access to health services; participation in the public life and in decision-making processes
- Normative elements: the focus areas of the 12<sup>th</sup> session and the four not-yet discussed focus areas

## Civil society participation

Since its inception, non-governmental organisations have been invited to participate in the OEWG-A. NGOs with consultative status to the Economic and Social Council of the UN (ECOSOC) are directly entitled to participate. NGOs without ECOSOC status can apply for accreditation during a time window before each session of the OEWG-A.

Civil society organisations can participate in the discussions by:

- Submitting written inputs to the guiding questions (both substantive content on the focus areas of each session and content on normative elements of the previous session's focus areas)
- Submitting written statements on the different agenda items of each session
- Delivering oral statements during the sessions
- Organising officially recognised side events taking place around the time of the OEWG-A

In addition, representatives of civil society are selected to participate as panellists, moderators or keynote speakers, and, in some countries, to be on official delegations of Member States. The participation of civil society organisations had increased over the years, with an increasing number of NGOs applying for accreditation.

Over the years, civil society organisations and NHRIs have joined forces to raise awareness of the urgency of having a UN Convention on the rights of older persons. Besides the active participation in the sessions, civil society organisations seek

to influence national governments both in capitals as well as via the Permanent Missions of Member States at the UN in New York and Geneva. The NGO Committee on Ageing in New York, for instance, sets up meetings with representatives of Member States' missions at the UN and organises side events and other public meetings to bring the voice of older persons to the discussions and show the need for an international legal instrument to promote and protect the rights and dignity of older persons. Moreover, civil society organisations all around the world mobilise and advocate for the rights of older persons by contacting government representatives about the OEWG-A and the need for a Convention, raising public awareness and seeking support by other influential stakeholders.

At the time of the establishment of the OEWG-A, civil society organisations of international outreach set up the Global Alliance for the Rights of Older People (GAROP) out of the need to strengthen the rights and voice of older people globally.<sup>17</sup> It started with nine founding member organisations and is now a network of over 390 organisations from over 80 countries. GAROP supports and enhances civil society's engagement on the need for a new international instrument on the rights of older persons at national, regional and international levels. It provides information on recent developments around the OEWG-A, resources on the human rights of older people and tools for the adaptation at national and regional level.

To increase the pressure, GAROP initiated the global Age With Rights Campaign in 2021.<sup>18</sup> The Campaign is a way of raising public

awareness at local, national and global levels during the intersessional period, i.e. the time between two sessions of the OEWG-A, and influencing the positioning of Member States. In March 2022, GAROP organised a Global Rally with campaign actions taking place in over 30 countries across the globe, reaching over 1.2 million people worldwide. GAROP member organisations and other civil society organisations, including several human rights organisations such as Amnesty International and Human Rights Watch, as well as NHRIs supported the Global Rally.

In the last years, civil society has increasingly collaborated with NHRIs, also facilitated by the Working Group on Ageing of the Global Alliance of National Human Rights Institutions (GANHRI).<sup>19</sup> Similarly, at European level, the Core Group on the Rights of Older Persons has been established within the European Network of National Human Rights Institutions (ENNHRI).<sup>20</sup> Recent examples of joint actions include an open

letter with specific recommendations for next steps to the Chair of the OEWG-A before its 12<sup>th</sup> session and meetings with the Chair and the Bureau to discuss these suggestions.

Civil society organisations are getting increasingly impatient with the lack of progress in advancing the mandate of the OEWG-A. While many discussions have taken place and ample evidence on the gaps in the existing international human rights framework has been put forward, not only at the OEWG-A but also by other United Nations' bodies, to-date the OEWG-A has not been successful in capturing and holding itself to account for decisions that have been made. Civil society organisations hope that the proposal made by Argentina in 2022 will result in concrete outcomes by 2024. The participation of NGOs and NHRIs is foreseen for the proposed informal cross-regional core group.

### **Advocating for a UN Convention on the Rights of Older Persons in Germany**

Aligned with its work at the national level and its mandate to represent the interest of older persons, BAGSO first joined the discussion on a possible extension of human rights protection for older persons in 2012. It pointed out gaps in protection in German family and social law on the one hand, and the special need for the protection of the human rights of older persons worldwide on the other.

Since then, BAGSO has advocated for a UN Convention, which would specify and substantiate universal human rights from the perspective of older people and against the background of their specific living conditions. BAGSO engages in the discussions of the OEWG-A by submitting inputs as well as written and oral statements, informs its member organisations and other interested parties about the debates and seeks to gain support for a UN Convention by policymakers at the Federal and EU levels. The Secretariat for

International Policy on Ageing, established with the support of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in 2017, is responsible for overseeing international developments, networking with other civil society organisations, preparing statements and informing public opinion. The 2020 statement by BAGSO on the endorsement of a UN Convention for the Rights of Older People highlights aspects that need to be considered to safeguard the rights of older people. In March 2022, BAGSO participated in the Global Rally of the Age With Rights Campaign by organising a virtual dialogue on the right to participation, with a particular focus on the intersectionality of human rights.

The German Institute for Human Rights (*Deutsches Institut für Menschenrechte*) plays an important role in moving the discussions forward at the national level. Since 2017, the Institute has organised both briefing and debriefing meetings to discuss the two focus areas of each session and get the different stakeholder who attend the session prepared for the global exchange.<sup>21</sup> The meetings are targeted at representatives of the government, civil society and academia and are funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. These meetings also serve to inform both about the situation in Germany and the international legal framework on specific rights and, after the respective sessions, about the progress, or lack thereof, in the discussions at the OEWG-A. The Institute also prepares written inputs to the OEWG-A and participates actively in the discussions by giving oral statements.

HelpAge Germany (HelpAge Deutschland), a member of BAGSO, and the Josef and Luise Kraft Foundation (Josef und Luise Kraft Stiftung) have also joined GAROP and are taking action to advance the promotion of human rights of older persons at the national level. HelpAge Germany, for instance, organises side events at the OEWG-A, submits inputs and statements to the OEWG-A, and calls for the protection of the rights of older people, especially within humanitarian and development aid. The Kraft Foundation has a particular focus on the rights of older people living in institutions and supports projects in this area. The Kraft Foundation and Generationsbrücke Deutschland, member organisation of BAGSO, have been accredited to the OEWG-A in 2022.

Another important ally to advance the discussion is AGE Platform Europe, the European umbrella organisation of older people's organisations. Together with AGE Platform Europe, BAGSO is expanding its advocacy at EU level. In 2020, for instance, the two organisations prepared the International Online Conference on Strengthening Older People's Rights in times of digitalisation together with the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. Another concrete advocacy action of



AGE Platform Europe is the „EU Leads The Rally“ campaign.<sup>22</sup> AGE Platform also closely works with other civil society organisations at EU level and develops materials and resources around the promotion of human rights in older age. Furthermore, AGE Platform Europe provides opportunities to exchange information and experiences with civil society organisations in other European countries and strategize together on the way forward, especially in influencing the position of the EU.

## Member States' positioning

In contrast to the joined forces of civil society organisations and NHRIs, the positioning of Member States is far more heterogeneous and sometimes difficult to capture. So far (up until 2022), 44 Member States have made statements in support of a Convention on the Rights of Older Persons in their national capacities during the OEWG-A. These are mainly from the African, Asia-Pacific and Latin America and Caribbean region groups.<sup>23</sup> Austria and Slovenia are the only EU countries that have made official statements in favour of a Convention. Other countries, like Germany, have individually recognised the importance of discussing gaps and possible solutions to closing them.

A good number of EU countries co-sponsored a substantive Human Rights Council Resolution in 2021 on the human rights of older persons (see below). Another positive signal came from the European Union, which in its Statement at the 60<sup>th</sup> Session of the UN Commission for Social Development in 2022 recognized normative gaps in the protection of the rights of older persons<sup>24</sup>. During the 12<sup>th</sup> session in April 2022 some Member States, that had opposed a Convention so far, like Canada and the USA, have

shown more openness for discussion. They also supported the creation of an informal cross-regional core group.

Some supportive countries joined forces as the Group of Friends of Older Persons at the UN in New York to advance the discussions and incorporate human rights of older people in other discussions at the UN.<sup>25</sup> Representatives of Member States of this Group, which regularly comes together in New York and engages with civil society representatives, deliver statements to the OEWG-A on behalf of the whole group. In its statement to the 11<sup>th</sup> session of the OEWG-A, the Group of Friends expressed that it “stands ready to engage in substantive discussions with other Member States and all stakeholders during this session in order to reach a productive outcome and lead a step forward in the process of development of an international instrument for the protection and promotion of the Human Rights of Older Persons”.<sup>26</sup>

Civil society organisations and NHRIs are demanding a more active participation by Member States in the debates at the OEWG-A. This was also one of the central goals of the Global Rally led by GAROP and AGE Platform Europe's campaign “EU Leads The Rally” targeting EU member states,

following a very poor participation during the 11<sup>th</sup> session of the OEWG-A.

## Parallel developments beyond the OEWG-A

In addition to the debates during the annual sessions of the OEWG-A, intersessional events were held to advance the discussions in the meantime.<sup>27</sup> One example of such an international event is the International Online Conference on Strengthening Older People's Rights in times of digitalisation held during the German EU Council Presidency.<sup>28</sup> The conference was organised by the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in collaboration with AGE Platform Europe and BAGSO in September 2020. It led to the adoption of EU Council Conclusions on human rights, participation and wellbeing of older persons<sup>29</sup> which recognises the importance of the work of the OEWG-A, and calls for a stronger human-rights approach in EU external policymaking.

Other UN bodies also contribute to advancing towards a better protection of the rights of older people, within the OEWG-A process and beyond. The Human Rights Council of the United Nations, for instance, has adopted resolutions concerning the rights of older persons, including the recommendation to establish the mandate of the Independent Expert on the Enjoyment of All Human Rights by Older Persons. To leverage global action to improve the lives of older persons, the United Nations established the UN Decade of Healthy Ageing 2021-2030.<sup>30</sup> The Global Report on Ageism, published in

in 2021 by the World Health Organisation (WHO), provides evidence on the scale of ageism.<sup>31</sup> The Report's aim was to promote and protect the realisation and enjoyment of human rights. It contributes to "combating ageism" as one of the four action areas of the Decade and to the wider discussion about the advancement of the human rights of older persons.

There has also been some progress at regional level. The Organisation of American States (OAS), for instance, adopted the Inter-American Convention on Protecting the Human Rights of Older Persons in 2015, which came into force in 2021.<sup>32</sup> The African Union adopted a Protocol to the African Charter on Human and Peoples' Rights on the rights of older persons, which has not yet come into force.<sup>33</sup> The Council of Europe addresses the rights of older people in Article 23 of the revised European Social Charter, a pan-European treaty that guarantees fundamental social and economic rights.<sup>34</sup> However, this article does not need to be accepted when ratifying the revised European Social Charter.

The importance of protecting the rights of older persons and fighting against human rights' violations faced by older persons has become even more evident during the COVID-19 pandemic. Several high-ranking UN officials expressed their concern in relation to the risks that older people face and called for a better protection of the human rights of older persons. The UN Secretary General, for instance, issued a Policy Brief on the impact of COVID-19 on older people in 2020.<sup>35</sup> In this Policy Brief, the Secretary General recommends the

building of “stronger legal frameworks at both national and international levels to protect the human rights of older persons, including by accelerating the efforts of the General Assembly’s working group to develop proposals for an international legal instrument to promote and protect the rights and dignity of older persons”. This Policy Brief was followed by a supporting statement by 140 signatories, including the European Union and Germany.<sup>36</sup>

The **Office of the High Commissioner for Human Rights (OHCHR)**, which serves as secretariat to the Human Rights Council and UN treaty bodies (e.g. Convention for the Rights of People with Disabilities), contributes to the discussions about the human rights of older people. It supports the work of the OEWG-A as its secretariat together with UN DESA as well as the work of the Special Procedures. These are independent experts appointed by the Human Rights Council focusing on the human rights situations of a given country or a thematic topic. Some of these, including the Independent Expert on the Question of Human Rights and Extreme Poverty, the Special Rapporteur on the Rights of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, and the Special Rapporteur on the Rights of Persons with Disabilities, address the human rights of older people from time to time and participate in the debates about a better protection of human rights in older age. However, older persons are not systematically considered within the UN system – neither by the Special Procedures nor by the UN treaty bodies. A UN Convention would address this problem

by providing a legally binding instrument which would enable governments to ensure that older people’s rights are realised.

Within the **Universal Periodic Review**<sup>37</sup> (UPR) process, a peer review mechanism by which all UN Member States are reviewed on their human rights performance regularly, the rights of older persons have gained more visibility over the years. For the last review cycle 2017 to 2021, 76 recommendations regarding older people’s rights have been issued. For previous cycles, the UPR database<sup>38</sup> did not even include a category to specifically filter for recommendations regarding older people.

In 2012, the then **High Commissioner for Human Rights** pointed towards gaps within the existing international human rights framework in her annual report to the Economic and Social Council (ECOSOC) of the United Nations. She further recommended creating a new special procedures mandate holder to focus on older people’s rights. In this report, the High Commissioner concluded: “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.”

Also in 2012, the Human Rights Council, recalling the establishment of the OEWG-A, requested OHCHR to organise an inter-sessional public consultation on the human rights of older persons.

In 2013, the Human Rights Council established the mandate of the **Independent Expert on the Enjoyment of all Human Rights by Older Persons**<sup>39</sup> and a year later, the first Independent Expert, Dr Rosa Kornfeld-Matte of Chile, assumed her functions. The mandate of the Independent Expert is part of the Special Procedures of the Human Rights Council who examine and report back on countries or themes. The Independent Expert examines and reports on human rights of older persons, e.g. by undertaking country visits and preparing thematic reports. These thematic reports are, inter alia, informed by written inputs from civil society organisations, NHRIs, Member States, academia and other interested stakeholders. They are also intended as inputs to the work of the OEWG-A. The Independent Expert's mandate is to work in close coordination, while avoiding unnecessary duplication, with the OEWG-A, other Special Procedures and UN bodies. The Independent Expert is also responsible for communicating with Member States and other parties with regard to alleged cases of human rights violations against older people. Since 2020, Dr Claudia Mahler of Austria has held this mandate. In her work, she

continuously highlights the need for a UN Convention on the Rights of Older Persons.

In 2017, the human rights of older persons were addressed in a **Human Rights Council** resolution on the Protection of the family: role of the family in supporting the protection and promotion of human rights of older persons. In 2018, the Human Rights Council requested OHCHR to prepare a report on the activities undertaken by UN bodies that support Member States' efforts to promote and protect the human rights of older persons. This was presented to the Human Rights Council in 2019.<sup>40</sup> Further, in 2020 the Human Rights Council called attention to the rights of older persons in the context of climate change. Subsequently, the OHCHR submitted a report on human rights of older persons and climate change,<sup>41</sup> which was discussed in a panel discussion in June 2021.<sup>42</sup>

A substantive resolution (Resolution 48/3)<sup>43</sup> on the human rights of older persons was adopted at the 48<sup>th</sup> Session of the **Human Rights Council** in 2021. In this Resolution, the Human Rights Council drew attention to several issues concerning older persons, including ageism and age discrimination. As concrete actions, the Human Rights Council requested the High Commissioner for Human Rights to prepare a report, also in accessible formats, on normative standards and obligations to be submitted to the 49<sup>th</sup> Session

of the HRC. This report demonstrates gaps in law and practice and is a useful source for making the case for a UN Convention (see below). The Resolution further requested OHCHR to convene a multi-stakeholder meeting to discuss the report and submit a summary of the meeting with conclusions and recommendation on addressing possible gaps of international human rights law with regard to older people to the 51<sup>st</sup> session of the HRC. This resolution of the Human Rights Council also took note of the

report of the Independent Expert on ageism and age discrimination<sup>44</sup> and the Policy Brief on the impact of COVID-19 on older persons issued by the UN Secretary General in 2020.<sup>45</sup>

Overall, these developments demonstrate increased consensus within the UN system about the need for a strengthened protection of the human rights of older people and a UN Convention, and provide growing evidence of existing gaps.

### **Reports of the Independent Expert on the enjoyment of all human rights by older persons**

Since the establishment of the mandate of the Independent Expert on the enjoyment of all human rights by older persons in 2013, the following thematic reports were submitted to the Human Rights Council in addition to the first annual report about the mandate in 2014:

- 2015: Autonomy and care of older persons
- 2016: Comprehensive Report
- 2017: Robots and rights: the impact of automation on the human rights of older persons
- 2018: Social exclusion: concepts, manifestations and the impact on the human rights of older persons
- 2019: Human rights of older persons in emergency situations
- 2020: Human rights of older persons: The Data Gap Conundrum
- 2021: Ageism and age discrimination
- 2022 (Upcoming): Older persons deprived of liberty

In addition, since 2020, the Independent Expert has also reported to the General Assembly of the United Nations as requested by the Human Rights Council in 2019:

- 2020: Impact of the coronavirus disease (COVID-19) on the enjoyment of all human rights by older persons
- 2021: The human rights of older women: the intersection between ageing and gender
- 2022 (Upcoming): Older persons and the right to adequate housing

In 2021, the High Commissioner contributed a report of the analytical outcome study on the normative standards in international human rights law in relation to older persons, a follow-up study of the one undertaken in 2012, to the OEWG-A. This study concludes that the human rights of older persons in law and practice are only covered in a fragmented and inconsistent way and that a legally binding instrument is necessary to address these gaps.<sup>46</sup> During the 11<sup>th</sup> session of OEWG-A, Austria and Germany requested for the report to be discussed at the 12<sup>th</sup> session. This request, supported by NGOs and NHRIs, has however not been followed.

In the meantime, the report on normative standards<sup>47</sup> was submitted to the HRC at its 49<sup>th</sup> Session, pursuant to the Resolution of the Human Rights Council at its 48<sup>th</sup> Session in 2021. The report's intention is to facilitate a multi-stakeholder meeting to be held in 2022, mandated in the same resolution in 2021, and to contribute, among other things, to the OEWG-A.

## The way forward

Since the establishment of the OEWG-A, ample evidence for the need for a legally binding instrument has been gathered by the UN system. Civil society organisations around the world have advocated for a UN Convention at national and regional level and put pressure on their governments to

support their call at the OEWG-A. A peak was reached on March 3<sup>rd</sup> of this year during the Age With Rights Global Rally, which reached more than 1.2 million people. Civil society and NHRIs have continuously engaged in the activities of the OEWG-A and in parallel discussions concerning the human rights of older people at global, regional and national levels.

There have been positive outcomes over the years, such as the recent Human Rights Council Resolution (48/3) on ageism and age discrimination. These developments demonstrate a momentum that must be supported, sustained and built on. Global crises such as the COVID-19 pandemic or the war against Ukraine have once again demonstrated the risk of human rights violations.

BAGSO, as federal association of senior citizens' organisations, hopes that all efforts put into the mandate of the OEWG-A and related processes will finally and without further delay result in the drafting and subsequent adoption of a UN Convention for the Rights of Older Persons. As GAROP expressed in its statement prepared for the 12th session: "Now is the time for action and concrete outcomes. Older people have waited and campaigned for over a decade, they cannot wait any longer." Political will and leadership are key to show that the human rights of older persons are seen as equally important.

## Further reading

- Webpage of the OEWG-A: <https://social.un.org/ageing-working-group/index.shtml>
- Webpage on ageing by the United Nations: <https://www.un.org/development/desa/ageing/>
- Webpage of the Independent Expert on the enjoyment of all human rights by older persons: <https://www.ohchr.org/en/special-procedures/ie-older-persons>
- BAGSO Statement „Endorsing a UN Convention on the Rights of Older Persons: BAGSO calls for the worldwide promotion of the rights of older people“: <https://www.bagso.de/publikationen/stellungnahme/un-convention-on-the-rights-of-older-persons/>
- Webpage of AGE Platform Europe on the OEWG-A: <https://www.age-platform.eu/un-open-ended-working-group-ageing-oewg>

## Endnotes

- 1 Further information about the history and background on the OEWG-A can be found in a joint publication by the International Federation on Ageing and the NGO Committee on Ageing at the United Nations in NY, outlining, among others, all relevant Resolutions: <https://ifa.ngo/wp-content/uploads/2019/07/Resolutions-and-Background-OEWGA.pdf>
- 2 <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F65%2F182&Language=E&DeviceType=Desktop&LangRequested=False>
- 3 <https://social.un.org/ageing-working-group/documents/Discurso%20Argentina%20ENG.pdf>
- 4 <https://www.un.org/development/desa/ageing/resources/vienna-international-plan-of-action.html>
- 5 <https://www.un.org/en/observances/older-persons-day>
- 6 [https://www.un.org/en/observances/older-persons-day#:~:text=0n%2014%20December%201990%2C%20the,\(resolution%2045%2F106\)](https://www.un.org/en/observances/older-persons-day#:~:text=0n%2014%20December%201990%2C%20the,(resolution%2045%2F106))
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- 8 <https://digitallibrary.un.org/record/155060>
- 9 <https://www.un.org/development/desa/ageing/madrid-plan-of-action-and-its-implementation/second-world-assembly-on-ageing-2002.html>
- 10 <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F63%2F151&Language=E&DeviceType=Desktop&LangRequested=False>
- 11 <https://digitallibrary.un.org/record/681369>
- 12 <https://undocs.org/A/65/157>
- 13 <https://undocs.org/A/65/158>
- 14 <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F65%2F182&Language=E&DeviceType=Desktop&LangRequested=False>
- 15 <https://undocs.org/A/RES/74/125>
- 16 <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F67%2F139&Language=E&DeviceType=Desktop&LangRequested=False>
- 17 <https://rightsofpeople.org>
- 18 <https://rightsofpeople.org/age-with-rights>
- 19 <https://ganhri.org/working-group-ageing>
- 20 <https://ennhri.org/our-work/topics/rights-of-older-persons/>
- 21 <https://www.institut-fuer-menschenrechte.de/themen/rechte-aelterer/nationale-aktivitaeten>
- 22 <https://www.age-platform.eu/campaign/eu-leads-rallying-un-convention>
- 23 According to an unpublished analysis done by Bridget Sleep, former Senior rights policy adviser at HelpAge International
- 24 [https://eeas.europa.eu/delegations/un-new-york/110846/eu-statement-%E2%80%93-un-commission-social-development-general-discussion\\_en](https://eeas.europa.eu/delegations/un-new-york/110846/eu-statement-%E2%80%93-un-commission-social-development-general-discussion_en)



- 25 The Group is comprised of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Indonesia, Kenya, Malaysia, Mexico, Panama, Paraguay, Peru, Philippines, Qatar, Slovenia, South Africa, Trinidad and Tobago, Turkey and Uruguay.
- 26 [https://social.un.org/ageing-working-group/documents/eleveth/REGIONAL%20GROUPS/Chile%20\(E\)%20OB0%20Friends%20of%20Older%20Persons.pdf](https://social.un.org/ageing-working-group/documents/eleveth/REGIONAL%20GROUPS/Chile%20(E)%20OB0%20Friends%20of%20Older%20Persons.pdf)
- 27 [https://social.un.org/ageing-working-group/intersessional\\_events.shtml](https://social.un.org/ageing-working-group/intersessional_events.shtml)
- 28 <https://www.bmfsfj.de/resource/blob/162666/a4a428633a89b17143b27377cc6c0835/en-documentation-eu-ageing2020-data.pdf>
- 29 <https://www.consilium.europa.eu/en/press/press-releases/2020/10/12/improving-the-well-being-of-older-persons-in-the-era-of-digitalisation-council-adopts-conclusions>
- 30 <https://www.decadeofhealthyageing.org>
- 31 <https://www.who.int/publications/i/item/9789240016866>
- 32 [https://www.oas.org/en/sla/dil/inter\\_american\\_treaties\\_a-70\\_human\\_rights\\_older\\_persons.asp](https://www.oas.org/en/sla/dil/inter_american_treaties_a-70_human_rights_older_persons.asp)
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- 34 <https://www.coe.int/en/web/european-social-charter/article-23>
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- 37 <https://www.ohchr.org/en/hr-bodies/upr/upr-main>
- 38 [https://upr-info-database.uwazi.io/#\\_blank](https://upr-info-database.uwazi.io/#_blank)
- 39 <https://www.ohchr.org/en/special-procedures/ie-older-persons/about-mandate>
- 40 <https://www.ohchr.org/en/documents/reports/ahrc4132-report-technical-cooperation-and-capacity-building-regarding-human>
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- 43 <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F48%2F3&Language=E&DeviceType=Desktop&LangRequested=False>
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- 45 <https://unsdg.un.org/resources/policy-brief-impact-covid-19-older-persons>
- 46 <https://social.un.org/ageing-working-group/documents/eleveth/OHCHR%20HROP%20working%20paper%2022%20Mar%202021.pdf>
- 47 <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F49%2F70&Language=E&DeviceType=Desktop&LangRequested=False>

## BAGSO – The voice of older people

BAGSO, the German National Association of Senior Citizens' Organisations, represents the interests of older generations in Germany. It stands up for active, healthy and self-determined ageing in social security. BAGSO is an umbrella organisation of over 120 civil society organisations that are run by or work for older people.

In a colourful and diverse society, BAGSO promotes a differentiated image of old age. This includes both the various opportunities arising from longer lives as well as times of vulnerability and the need for care. BAGSO calls on politicians, society and businesses

to offer conditions that allow for a good and dignified life in older age – in Germany, Europe and worldwide.

At the United Nations, BAGSO is actively involved in the development of a UN Convention for Older People. BAGSO is also a member of the Global Alliance for the Rights of Older People (GAROP), an international alliance of over 200 civil society organisations that advocates for the rights of older people. BAGSO's Secretariat for International Policy on Ageing provides information on current international developments in ageing policy and contributes the interests of civil society to international processes.

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