

**Multi-stakeholder meeting on the human rights of older persons 29-30 August 2022**  
**Room XVII, Palais des Nations, Geneva and online platform (Zoom)**

**Question and Statement by Community Legal Centres Australia**

**Session 2**

Community Legal Centres Australia seeks to intervene by way of asking the question stated and makes the following written statement.

NOTE: the written statement is not intended for oral presentation.

**QUESTION:**

I acknowledge that I come to you from Gurrumbilbarra, the land of the Wulgurukaba people. I pay my respects to their elders – past, present, and emerging.

It is deeply concerning that Australia is not represented in an official capacity here at this important meeting.

It is therefore beholden on members of Australian Civil Society to reveal that voluntary commitments, such as given by Australia<sup>1</sup> at its Second Cycle Universal Periodic Review (UPR) in 2015, have been wholly ineffective in addressing older persons' human rights.

In 2015, Australia committed thus:

Australia committed to promoting and protecting the rights of older people internationally by modelling and advocating better use of existing United Nations human rights reporting mechanisms. Australia committed to including a dedicated section on the rights of “older Australians” in all relevant human rights treaty and universal periodic review reports. Australia will seek to have the rights of older persons reflected in United Nations resolutions and encourage existing Special Rapporteurs to consider the application of their mandate to older persons in close collaboration with the Special Rapporteur on the enjoyment of all human rights by older persons.

Now seven (7) years on from that commitment, the attention given to older Australians in UPR, and treaty body processes has been sporadic and superficial. Older Australians have continued to remain invisible, and their human rights interests and issues remain unresolved.

Given this, what do we say to the families of older persons who died during the covid-19 pandemic who did not fall under the protection of the Convention on the Rights of Persons with Disabilities?

Did the lack of manifesting ableism mean we ignored the obvious impacts of ageism?

How can we continue to ignore the international human rights system's bias towards older persons?

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<sup>1</sup> A/HRC/31/14, paragraph 143; see <https://www.ag.gov.au/sites/default/files/2020-03/UPR-2015-Opening-Statement.pdf>; National Report of Australia – UPR 2020-2021 - Consultation Draft - as at 30 June 2020, Part H, paras 1229-132; Consultation draft as at 30 June 2020 - AUSTRALIA Annex 2: Australia's Voluntary Commitments – Second cycle UPR 2015 – Status of implementation, part 6.

## **STATEMENT:**

1. Community Legal Centres Australia<sup>2</sup> (CLCs Australia) is a non-governmental organization in special consultative status with the Economic and Social Council. CLCs Australia thanks the Chair for the opportunity to participate in this Multi-stakeholder Meeting.
2. We congratulate the Human Rights Council (the HRC) on its historic resolution<sup>3</sup> requesting the Office of the High Commissioner for Human Rights (the OHCHR) convene this meeting and provide a summary report addressing possible gaps and the dispersiveness of international human rights law with regard to older persons.
3. CLCs Australia notes the aim of this session is to discuss current practices and identify recommendations on how the UN human rights mechanisms (Treaty Bodies, Special Procedures and UPR) can enhance the integration of the human rights of older persons in their work. CLCs Australia agrees with the report of the High Commissioner (A/HRC/49/70), that the engagement of the UN human rights mechanisms on the human rights of older persons is not adequate, systematic nor sustained.
4. CLCs Australia confirms that over more than a decade, and to date, OHCHR's work<sup>4</sup> in this area has provided a consistent and clear message – existing treaties, and their constituent bodies, at regional and international levels, have been unable to adequately protect and promote the human rights of older persons.
5. Furthermore, CLCs Australia confirms the body of extant work and international commentary has determined that better implementation and strengthening processes will still lack a fundamental conceptual basis to provide specific and necessary protections for the world's older persons, including protections needed for specific abuses experienced by persons by virtue of being older, the status or experience of older age, the ageing process, the discriminatory application of national laws and policies and through the scourge of ageism.<sup>5</sup>
6. Notwithstanding the excellent work of treaty bodies, the constraints of their existing workload, and the treaty body strengthening process means they cannot adequately and systematically address older persons' human rights. Accordingly, recommendations are now made following.

## **Recommended Inclusions in Summary Report of Multi-stakeholder Meeting**

### **A New Instrument is Urgently Needed**

7. Recognizing that many specific rights are not covered by existing treaties and treaty body processes, and while existing mechanisms can accomplish incremental changes, a new Convention is the obvious and necessary solution to address underlying conceptual and contextual gaps.

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<sup>2</sup> List of non-governmental organizations in consultative status with the Economic and Social Council as of 1 September 2018\* E/2018/INF/5 as “National Association of Community Legal Centres (2003)”.

<sup>3</sup> A/HRC/RES/48/3.

<sup>4</sup> Office of the High Commissioner for Human Rights, Normative standards in international human rights law in relation to older persons, Analytical Outcome Paper, August 2012; Office of the High Commissioner for Human Rights, Update to the 2012 Analytical Outcome Study on the normative standards in international human rights law in relation to older persons, Working paper prepared by the Office of the High Commissioner for Human Rights, March 2021; Office of the High Commissioner for Human Rights, Normative standards and obligations under international law in relation to the promotion and protection of the human rights of older persons Report of the United Nations High Commissioner for Human Rights\*, A/HRC/49/70.

<sup>5</sup> World Health Organization, Tackling abuse of older people: five priorities for the United Nations Decade of Healthy Ageing (2021–2030), WHO 2022; World Health Organization, Global Report on Ageism, WHO 2021.

8. The work of the OEWGA should be supported as it nears completion of its mandates to the General Assembly and as it identifies the main elements and possible content that should be included in an international legal instrument.
9. Within a new Convention, National Human Rights Institutions (NHRIs) should be indicated as monitoring bodies.
10. Within a new Convention, Civil Society should be indicated as having guaranteed, meaningful mechanisms for participation in all processes.

### **Treaty Bodies**

11. Notwithstanding the need for a new Convention, treaty bodies should take steps to elevate older persons' human rights within the UN system.
12. Treaty bodies should include specific questions on older persons' rights in Lists of Issues and integrate older persons' rights in Concluding Observations, General Comments & Recommendations.
13. Treaty bodies should revise reporting guidelines to request States parties to include more focused information about older persons in their reports.
14. Treaty bodies should ensure the regular inclusion of questions about the human rights of older persons in their Lists of Issues sent to States parties prior to reporting.
15. Treaty bodies should ensure that the human rights of older persons are given significant attention in their Concluding Observations, including the identification of issues for follow-up.
16. Treaty bodies should establish a focal point for the human rights of older persons to ensure attention is given to these issues within their committee, to liaise with similar focal points in other committees and other relevant mechanisms.
17. Treaty bodies should hold a day of general discussion on human rights of older persons.
18. Treaty bodies should adopt General Comments or other formal statements specifically on older persons that explicitly address the human rights of older persons or revising and updating existing General Comments on that subject.
19. Treaty bodies should consider the possibility of adopting joint General Comments with other treaty bodies on the theme of the human rights of older persons.
20. Treaty bodies should include on the agenda of the regular meeting of the chairpersons of the human rights treaty bodies a standing item relating to the engagement by the human rights treaty bodies with the rights of older persons on a biennial basis starting in 2023.

### **Special Procedures**

21. Notwithstanding the need for a new Convention, the HRC should take steps to elevate older persons' human rights within the system of special procedures.
22. The mandate of the Independent Expert on the Enjoyment of all human rights by older persons should be extended and consideration should be given to uplifting the mandate to Special Rapporteur status.

23. The HRC should call on all special procedures to integrate the implications of ageing and the human rights of older persons in their work, including their thematic reports and country reports as they have been asked to do in relation to issues such as gender.<sup>6</sup>
24. The HRC should include in all new mandates and renewals of existing mandates a specific reference to the need to integrate the perspectives of older persons and their human rights in the work of that mandate and to consult with older persons human rights organizations as a stakeholder.
25. The HRC should request the annual meeting of mandate holders to include on its agenda as a regular item [for discussion on a biennial basis starting in 2023] the engagement by the special procedures with the human rights of older persons.

### **Universal Periodic Review**

26. Notwithstanding the need for a new Convention, treaty bodies should take steps to elevate older persons' human rights within UPR processes, including specific questions on older persons' rights.

### **States parties**

27. Notwithstanding the need for a new Convention, States parties should take steps to elevate older persons' human rights within the UN system.
28. States parties to the principal UN human rights treaties should increase their efforts to include substantial information about the human rights of older persons in their periodic reports under the treaties.
29. States parties to the principal UN human rights treaties should consult with organisations of older persons in the preparation of those reports and the implementation of relevant concluding observations adopted by the treaty bodies.
30. States parties to the principal UN human rights treaties should take steps to ensure that they nominate and elect persons with expertise and experience in the field of the human rights of older persons.
31. States parties to the principal UN human rights treaties should ensure that the mandate of their national human rights institutions explicitly includes the human rights of older persons and age discrimination and are adequately resourced to protect and promote the human rights of older persons.

### **National Human Rights Institutions**

32. Notwithstanding the need for a new Convention, NHRIs should take steps to elevate older persons' human rights within national systems.
33. National human rights institutions should take steps to ensure that the human rights of older persons and age discrimination fall within their mandates where that is not already the case.
34. National human rights institutions should ensure that adequate resources are dedicated to the human rights of so that these issues are a substantial part of their work.

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<sup>6</sup> <https://www.ohchr.org/en/2016/09/human-rights-council-discusses-integration-gender-perspective-throughout-its-work-and>

35. National human rights institutions should ensure that the issues relating to the human rights of older persons are included in the information that they provide to the human rights treaties, the UPR, the special procedures and to relevant Parliamentary and other national bodies.

**Engagement with OEWGA**

36. Urge States to conduct consultations with older persons to contribute to work of OEWGA in satisfaction of its mandates to the General Assembly.

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