**Multi-stakeholder meeting on the human rights of older persons**

*Session 2: Adequacy of existing human rights mechanisms in responding to the challenges*

**UN Human Rights Committee and older persons (Vasilka Sancin)**

Among the currently existing 10 human rights treaty-bodies, the UN Human Rights Committee, established under the International Covenant on Civil and Political Rights, with currently 173 States Parties, has been since its establishment in many respects, particularly given its *broad subject-matter mandate*, ranging from right to life, prohibition of torture and ill-treatment, non-discrimination, freedoms of religion, expression, association, right of peaceful assembly etc., in many respects, a ‘core actor’ within the UN treaty-body human rights system. Despite occasional attempts of States parties to demonstrate to the Committee otherwise, no country’s record is without challenges, that consequently trigger concerns, expressed in COBs or Views issued on the basis of individual complaints.

Given a constant increase of the number of UN HR bodies, there exists also a certain degree of overlap, which is particularly notable in case of reporting obligations under various human rights bodies. Thus, the resulting complexity and at times, inconsistency, is the inevitable result of a multiplicity of actors, sometimes seeking to achieve diverse objectives within the same overall institutional architecture. In spite of various efforts to avoid unnecessary repetition and overlaps, and organization of coordination meetings among treaty-body chairs and the HRC’s Special Procedures mandate-holders, the problems of duplication have by no means be resolved. Nevertheless, efforts are underway to reduce them and even profit from them (e.g. the CCPR has already coordinated some back to back reviews with CESCR), while trying to ensure the overall coherency, avoid competition, and rather endeavour to achieve synergies among them.

The **Human Rights Committee**, when periodically reviewing States parties – now, according to the 8-year predictable review cycle - following its internal rules, prepares a list of around 25 issues, that are to be in the focus of discussion during the ensuing dialogue in Geneva, which normally takes place over 6 hrs in 2 days (each day for 3 hrs). In the preparation for the dialogue, the Committee consults, in addition to the documentation submitted by the State party under review, all materials from all parts of the UN system and other stakeholders submitted to it. Before each review, the Committee also regularly holds briefings with various stakeholders, in person and increasingly also online. It is thus of great relevance that stakeholders engaged on a particular topic, in light of today’s debate – rights of older persons – do provide inputs for the Committee’s work as these are duly taken into account by Committee members.

Although, the 2022 OHCHR report correctly observed that “The Human Rights Committee has made few explicit references to older persons in its General comments and concluding observations.” (A/HRC/49/70, para. 36), the Committee within its limited capabilities to identify the violations that older persons experience in the fields of civil and political rights, has been addressing such concerns, when raised and brought to Committee's attention. A recent example are the Concluding observations on the fifth periodic report of Ireland (adopted in July 2022) which in paras. 29 and 30 adreess the concern about the rate of COVID-19 related deaths in nursing homes throughout the course of the pandemic exacerbated by the collective living arrangements in long-term institutional care, and ask the State party to continue its efforts to carry out a comprehensive review of the regulatory and protection framework for social care services to ensure the older and structurally vulnerable communities have adequate protection and support and to put in place measures to guarantee the inspection mechanisms are adequate, independent, supported by a human rights framework, and incorporate all public, voluntary, and private health and social care providers. The State party is also asked to continue to take targeted measures to protect older persons from COVID-19 and/or other major public health emergencies.

The external observers might sometimes wish that more detailed questions and more questions generally, could be asked during the dialogue on the rights of older persons. The reasons for paucity of Committee’s practice on such issues, while also noting that the older persons are entitled to all the civil and political rights monitored by the Committee, are thus both conceptual, as there is no specific reference to the rights of older persons in the ICCPR or a thematic HR treaty, and operational, as there is simply little time and resources to do so under the current architecture of Committee’s functioning. Possibly, a new treaty on the human rights of older persons could importantly contribute to the work of the existing human rights treaty bodies. If such a treaty would establish, as was the case with other thematic treaties (CRC and CRPD), a separate monitoring body, that could result in streamlining the dialogue on older person's rights within such a forum. Nevertheless, even without an additional monitoring body, a new treaty would offer a subject-matter substantive legal basis, that could potentially increase the engagement with rights of older persons within the already existing Committees.

In relation to strengthening the protection of the human rights of older persons within the HR treaty-body context, the key recommendations would thus be the following:

* First, a general observations, which concerns all the existing treaty bodies, including the CCPR, is that the States parties need to seriously address some of the major obstacles the Committees are facing in the 21st century, such as insufficient material and human resources and ensure election of best qualified and independent members in a transparent process, taking into account the need for gender parity.
* Second, the Committees regularly refer to the General Comments and Recommendations when examining reports and engaging in a constructive dialogue with state representatives or adopting Views. It is noteworthy that in recent years, some of them have engaged in preparation of joint projects of GCs or GRs. Particularly, when it comes to issues that are of concern to more of them, as is the case with the rights of older persons, such approach seems a welcome innovation, that should be further explored and implemented.
* Third, the increasing workload and multiplicity of substantive issues before the Committees, calls for re-consideration of long-term feasibility of the system as it currently stands. While the committees already developed some practices of reaching out to other treaty-bodies, for example, through appointment of focal points among members for each of the other treaty bodies, organising briefings with other parts of the UN human rights system and organising, also inter-sessionally, meetings with regional human rights courts, there is certainly still room for more systematic consultation and coordination with various parts of the UN system and beyond.
* Fourth, for the Committees to keep their significance going forward, it is of utmost urgency to ensure their evolution, including through the use of modern technologies in their functioning, and further, given the growing and aging world population, nothing short of a small revolution, resulting in the long-term in establishment of a full-time permanent human rights body, a World Human Rights Court of a kind, is warranted. Until then, considerations of adoption of a new international legal instrument (in the form of a new treaty or otherwise, with or without a monitoring mechanism) should continue, and, to the extent feasible and appropriate, rights of older persons should be more systematically included in dialogues within existing human rights mechanisms. This requires also greater mobilization and increased inputs focusing on rights of older persons to be presented to the Committees by various competent stakeholders.