**MULTI-STAKEHOLDER MEETING ON THE HUMAN RIGHTS OF OLDER PERSONS**

**TALKING POINTS**

**29-30 August 2022 Room XVII, Palais des Nations, Geneva and online platform (Zoom)**

1. **OBJECTIVE OF THE MEETING**

Discussion on the gaps in the existing human rights protection system for older persons and the dispersiveness of international human rights law. The meeting will bring together Michelle Bachelet, the United Nations High Commissioner for Human Rights, State representatives, national human rights institutions, civil society and other key stakeholders. The meeting will take stock of the progress made, assess the remaining challenges, identify opportunities and develop concrete proposals to accelerate efforts to close the gaps in the existing human rights protection system for older persons.

1. **GREETINGS**

Moderator: Prof. Andrew Byrnes, University of New South Wales

Panelists:

Ms. **Heisoo Shin**, Vice-Chair of the UN Committee on Economic, Social and Cultural Rights

Ms. **Gertrude Oforiwa Fefoame**, Member of UN Committee on the Rights of Persons with Disabilities Ms. **Vasilka Sancin**, Vice-Chair of the UN Human Rights Committee

Ms. **Anna Chabiera**, Senior Specialist, Office of the Commissioner for Human Rights of Poland

1. **TALKING POINTS: Adequacy of existing human rights mechanisms in responding to the challenges (2 MINUTES)**
   1. **BACKGROUND ON THE INTER-AMERICAN LEGAL FRAMEWORK OF THE HUMAN RIGHTS OF OLDER PERSONS**

* The specific protection of older persons has been relatively present in different instruments of the Inter-American System, for example:
  + American Declaration on the Rights and Duties of Man, article XVI: The right of every person to social security which shall protect them from the consequences of old age
  + American Convention on Human Rights, article 4.5., prohibition of the death penalty against persons over 70 years old.
  + Protocol of San Salvador, article 17, obligation to adopt progressive measures regarding suitable facilities, food, and specialized medical care for older persons; programs to give the elderly the opportunity to engage in the productive activity and to foster the establishment of social organizations aimed at improving the quality of life for the elderly.
* Other instruments:
  + Declaration of Commitment of Port of Spain in 2009, Fifth Summit of the Americas, supporting the preparation for the Convention
  + OAS Permanent Council’s Resolution AG/2562 (XL-O/10) on "Human Rights and older persons" in 2010. In these documents, the States decided to promote a review of the feasibility of preparing an Inter-American convention on the rights of older persons and convened a special meeting on human rights and older persons for this purpose.
* Working group: (2011) created to prepare a draft of an inter-American convention for the promotion and protection of the rights of this group. After a long work, on June 15, 2015, the OAS General Assembly adopted the Inter-American Convention on protecting the human rights of older persons.
* Inter-American Convention on protecting the human rights of older persons.
  + Entry into force: June 15, 2015.
  + States parties: Argentina, Bolivia, Chile, Costa Rica, Ecuador, El Salvador, Uruguay, and Peru, being the latest accession in January 2021.
  + Substantive framework: It recognizes the rights of older persons comprehensively while establishing specific obligations to the States that are enforceable by the users of the Inter-American System. Through the Convention, governments and societies are part of a new paradigm regarding the social perception of the elderly, going from a vision of mere protection of older persons to a notion of subjects full of rights, and recognizing the valuable current and potential contributions of an old person to our societies.
  + Procedural framework: enables case and petition system (IACHR). Also sets up a Follow-up mechanism and a Committee of Experts, but for these to begin functions, the Convention require at least 10 ratifications. Efforts are still needed for its universal ratification in the region.
* Request for Advisory Opinion before the Inter-American Court of Human Rights: In November 2019, the IACHR submitted a request for an Advisory Opinion to Court to carry out a joint interpretation of several inter-American norms on the differentiated obligations that the principle of equality and non-discrimination imposes on States in the context of deprivation of liberty, in order to face the situation of real inequality of groups in a special situation of risk, including older persons. The inquiry encompassed the determination of specific obligations regarding detention conditions; the right to accessibility and personal mobility in detention centers; medical and psychological care; outside contact; and, reintegration to society.
  1. **ACTIVITIES OF THE INTER-AMERICAN COMMISSION RAPPORTEURSHIP ON THE RIGHTS OF OLDER PERSONS**
* Unit for the rights of older persons: created by the Commission in 2017.
* IACHR’s Rapporteurship: created by the Commission in 2019. Taking into consideration the normative progress in the region, in 2017. Given the importance of advancing the construction of inter-American standards on the subject, developing new working mechanisms with the users of the inter-American system, and the need to promote the ratification of the Inter-American Convention on the rights of older persons, the Commission created the Rapporteurship.
* **Actions:** 
  + Thematic report: Currently the Rapporteurship is preparing its first thematic report on the topic, which would condense the domestic legal protections for elders within the States of the American Region *vis a vis* the international legal protections set forth in the Convention.
  + Monitoring mechanisms: the Commission has highlighted the situation of violence against older women in the region and the challenges faced due to the multiple discrimination based on their age and gender historically and the emerging challenges during the pandemic for COVID-19. The Commission has called on States to incorporate a gender and age perspective in legal frameworks and public policies in the States of the region.
  + Cases: Poblete Vilches Vs. Chile Case, the Court addressed the right of access of older persons to health services without discrimination, as well as the right to obtain informed consent from them or, if applicable, their representatives. In this regard, the Court established that older people have the right to special and reinforced protection, for which States should adopt differentiated measures to guarantee their rights, including the right to health. It also developed important considerations about the rights of equality and non-discrimination based on age.
  + Resolutions: Resolution 1/20 on “Pandemic and Human Rights in the Americas” and Resolution 1/21 on “Covid Vaccines and Inter-American human rights obligations”, the Commission has called on the States to prioritize including older persons in programs to address the pandemic; to take the measures needed to prevent contagion of COVID-19 among older people; to reinforce in this context measures to monitor violence against older people, and provide access to complain mechanisms; to ensure that medical protocols and decisions about medical resources and treatment related to COVID-19 are implemented without discrimination due to age, among others.
  1. **COORDINATION OF THE REGIONAL AND UNIVERSAL HUMAN RIGHTS PROTECTIONS SYSTEMS**
* Experience: both the Inter-American Human Rights System and the Mechanisms and Mandates of the Office of the High Commissioner for Human Rights have worked in collaboration several times achieving specific results: joint press releases, *in-loco* visits, participation of the UN Rapporteur during the public IAHCR audiences (thematic and geographic).
* Grounds for cooperation: in 2022 the United Nations High Commissioner for Human Rights submitted its report “Normative standards and obligations under international law in relation to the promotion and protection of the human rights of older persons”[[1]](#footnote-1). Given that the Commission is preparing its first thematic report there are two fields for cooperation:
  + The Commission will use the UN Document to enhance its own report
  + Start a dialogue with the OHCHR to set out a future agenda when both reports are available.

1. Summary of the report: The present report, submitted pursuant to Human Rights Council resolution 48/3, provides an analytical overview of normative standards and obligations under international law in relation to the promotion and protection of the human rights of older persons. The report concludes that the current international framework provides fragmented and inconsistent coverage of the human rights of older persons in law and practice and that there is a need to move expeditiously towards developing and adopting a coherent, comprehensive and integrated human rights framework on older persons, while further integrating older persons’ concerns into the work of existing mechanisms. The report is intended to facilitate discussion at a multi-stakeholder meeting mandated in the same resolution, as well as to contribute to all relevant discussions at the national, regional and international levels, including the Open-ended Working Group on Ageing. [↑](#footnote-ref-1)