

A UN convention on the rights of
older people: time for the UK to lead



‘All human beings are born free
and equal in dignity and rights.’

Universal Declaration of Human Rights



Foreword

Eleanor Roosevelt, who helped draft the Universal Declaration of Human Rights (UDHR), said: ‘I could not, at any age, be content to take my place by the fireside and simply look on.’ And, indeed, had she been content or compelled to do so, there is good reason to believe that the UDHR would have been a very different document, if it had been adopted at all.

Yet in drafting that remarkable declaration, Eleanor and her colleagues ‘blinked’, because for all of its wisdom, the UDHR does not contain any prohibition of discrimination on the basis of age. This is a remarkable omission. The UDHR explicitly prohibits discrimination on the basis of pretty much everything else – race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or ‘other status’ – but not a word about age.

As a result, very little attention has been given to the human rights of older people by international human rights mechanisms.

Older persons represent a large and fast growing constituency who, like all of us, are entitled to live ‘free and equal in dignity and rights’ (UDHR), and yet who suffer particular forms of abuse – precisely because of their age. Around the world, the experience of old age is all too often marked by vulnerability, exclusion, discrimination, deprivation and abuse. Even where racism and sexism are declining, evidence of ageism is increasing.

In the absence of international standards, and in the face of low or non-existent national standards, shocking cases of institutional neglect and abuse of older women and men are commonplace. Often they are denied work, social security, essential services and the full range of their economic and social rights because of their age. The consequences can be truly terrible.

Remediating this situation requires more than piecemeal approaches; it needs a multi-faceted, thought-through strategy. As an important part of this, many in the international community have already mobilised to promote the creation of an international convention on the rights of older persons.

This convention would provide a comprehensive framework for setting standards; a single platform for advocacy; a vehicle for constructive international dialogue and cooperation; and an instrument for accountability. Most importantly, a convention would result in a shift away from looking at older persons as passive victims toward their recognition as active rights holders. Empowering older people in this way could help transform their lives and outcomes, giving many a new sense of hope.

Today, it is simply a fact of life that older people live longer, work longer, and contribute longer. As the past High Commissioner for Human Rights Navi Pillay said, ‘the irony of the elderly being increasingly excluded from the very societies and institutions that they have built is too tragic to ignore.’ And so it is.



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1. This is an abridged version of a longer article, *The Human Rights of Older Persons: international law's grey area* that was published in *Facing the facts: the truth about ageing and development*, Age International, 2015.

Introduction

‘The UK is a passionate, committed and effective defender of human rights.’ With these words, the UK Government launched its campaign to re-join the Human Rights Council in 2014.

The UK Government has a long and proud history of promoting human rights globally and is a powerful and respected leader in global affairs. Through championing human rights in the UN, the UK has been instrumental in creating the global rights architecture that has changed the lives of millions for the better. As Baroness Anelay, Minister of State at the Foreign and Commonwealth Office (FCO), said to the Human Rights Council in 2015: **‘we have a collective responsibility to address human right concerns whenever and wherever they occur.’**²

It is unthinkable that any significant group in society could be overlooked in the international rights agenda, yet this is exactly what is happening with older people. The world’s governments must ensure a person’s rights are protected at all stages of their life.

The UK Government has an opportunity to demonstrate its leadership by ensuring the rights of older people are fully understood and protected globally. This should include participating actively in the UN’s Open-Ended Working Group on Ageing (OEWG). The Government should also join the growing number of member states globally that recognise the important role a convention could play in strengthening the protection of older people’s rights. Both within the EU and globally, the UK’s backing would have enormous influence.

Age UK and Age International have come together to call attention to the urgent need for the UK to support the creation of a new human rights convention for older people. We hope that the information in this paper will provide a useful starting point for discussions about protecting older people’s rights globally and stimulate debate about the role the UK Government should play in promoting these rights.

Why is a convention needed now?

We are living in a time of unprecedented population change; in short, the world is getting older. There are currently 868 million people over the age of 60 in the world – approximately one in ten of the population – and by 2050 this number will reach more than 2 billion – one in five of the world’s population – with most living in developing countries.³

An inadequate response

Despite these enormous demographic changes, not enough attention is paid to the implications of population ageing. To listen to discussions about international development, you could be forgiven for thinking that older people do not really count. The Millennium Development Goals (MDGs) largely ignored ageing issues and, although the post-2015 Sustainable Development Goal framework is better because it mentions people of all ages, older people remain largely absent in the global discourse.

‘South Africa is no different to most other nations, in that older persons often are discriminated against or experience inequality in society.’⁴

2. 28th Session of the Human Rights Council, 2015: www.gov.uk/government/news/baroness-anelay-on-conclusion-of-un-human-rights-council

3. UNDESA Population Division.

4. From a group discussion in South Africa – *In Our Own Words*, GAROP, 2015.

Where policy is concerned, ageing is often viewed solely as a challenge or even worse as a threat; for example, as the cause of health care demands that simply cannot be met, or of a catastrophic loss of economic productivity. This is an incredibly unbalanced perspective, however, since ageing brings many opportunities alongside its challenges. The contributions older people make to their families and the wider society are routinely ignored and not given economic value. This approach also fails to take into account the opportunities of developing new consumer markets of goods and services for people in later life. Policy that only considers ageing as a problem is unlikely to construct solutions that lead to a more positive future for people of all ages.

The role of human rights

How we respond to demographic change as a society has a huge impact on the lives of older people. Rather than cast people in later life as a burden, we need to recognise the hugely valuable resource that they bring to our society; as employees, volunteers, carers, parents and grandparents, elected representatives, elders, and in many other roles too. But older age can also be a time of frailty, vulnerability and ill health. We have a responsibility to ensure that a person is able to live in dignity and fulfill their potential at all stages of their life. This is what human rights are all about.

By human rights we mean the rights people are entitled to simply because they are human beings, irrespective of their age, citizenship, nationality, race, ethnicity, language, gender, sexuality, or abilities. These rights are set out in the Universal Declaration of Human Rights (UDHR) and subsequent international human rights conventions.

If everyone's rights are to be respected and put into full effect, these rights need to be clearly articulated for people of all ages and a proper framework of legislation and support put in place. This means recognising that rights are universal, that they do not diminish with age, and that they may need special protection at different stages of our lives.

Existing human rights conventions, such as the Convention on the Rights of People with Disabilities (CRPD) and the Convention on the Rights of the Child (CRC), have demonstrated how such treaties can improve the way people are viewed and treated by society. Human rights conventions can create a platform for positive change and stimulate better policy responses.

Eradicating age discrimination

There is good reason to believe that ageism holds back more older women and men in the world from living well and with dignity than any other single factor. Negative attitudes towards older people are widespread across many cultures and societies, and rooted in out-dated stereotypes. Older people are often viewed as victims of declining mental and physical capacity, as 'has-beens' with no aspirations for the future, or even as threats to the opportunities of younger people.

The direct effect of this ageism is that older people are at major risk of experiencing discriminatory treatment globally and across a wide range of situations; from undignified and inadequate care in the household, hospitals and residential homes, to unequal treatment in employment and inadequate responses in emergency and humanitarian situations.

‘Older people are treated differently or discriminated against because of the lack of national policies to protect older people and improve the quality of their life.’⁵

Internationally, however, there is no universal prohibition against this type of discrimination.

Time for a UN convention

A new international convention on the rights of older people would transform debates about how to respond to global ageing. It would clearly articulate the rights which every older person holds that would enable them to continue contributing to society across their lifetimes. It would provide older people with an important tool for holding their governments to account when they experience the harmful effects of age discrimination. The process of consulting on, drafting, ratifying and implementing a convention would drive the rights of older women and men and their needs up the agendas of governments worldwide, including in countries where older people are at particular risk of discrimination and poor treatment.

Opposite: Mageni in Tanzania was accused of being a witch and attacked with a machete. Her brother was jealous when he thought Mageni – who had cared for their parents until their death – would inherit the land and livestock. He organised the attack. The police investigated, but did not take any action.

The state of older people’s rights

There is much evidence that older people’s fundamental human rights are routinely breached across a wide range of areas. We have chosen four key areas to highlight the gaps in protection for older people across the globe.

Unequal access to healthcare

Despite the fact that older women and men are more likely to experience ill health and therefore be the largest users of health services, there is widespread evidence of age discrimination in health policy and practice around the world.

The case of hypertension is a good illustration of this. Hypertension, if uncontrolled, greatly increases the risk of strokes, heart attacks and other life-threatening conditions. It is now the leading cause of preventable mortality and disability in low and middle income countries. However it receives scant attention from policy makers and politicians.

In 2011, a UN summit on non-communicable diseases (NCDs) proposed 10 global targets, including a 25 per cent reduction in hypertension, but no specific funds were set aside by member states to achieve these targets. In addition, these targets focus on younger age groups, rather than older women and men, who are most at risk of NCDs. Health services in many countries remain strongly orientated towards tackling infectious disease and mother and child health, ignoring the fact that NCDs are becoming the greater health challenge for society.⁶ Of course these existing priorities continue to be important, but not at the cost of ignoring hypertension.

5. From a group discussion in Liberia – *In Our Own Words*, GAROP, 2015.

6. Lloyd-Sherlock, P. Investing in health: the case of hypertension in *Facing the facts: The truth about ageing and development*. Age International, 2015.





Hereward Holland/Age International

Lack of dignified long term care

The number of older people who need support to live independently in developing countries is forecast to quadruple by 2050.⁷ Without access to quality care services these older women and men face breaches of their fundamental rights to freedom, respect, equality, dignity and autonomy.

‘At times I feel affected and lonely, especially when I am told that what is being done and discussed is not for me, as I am old.’⁸

In many regions of the world demographic change interacts with other trends such as migration and evolving family structures to create particular challenges for those providing social care. In Asia

for example, where traditions of elder respect and familial responsibility are strong, family members have until recently been the main providers of care. However, increasingly younger people are forced to move to urban centres or to work abroad and are unable to look after their parents who often remain in rural areas. Where no care system exists, these older women and men risk being left with no support at all.⁹

Above: In Myanmar, 73 year old U Ne Myunt is house-bound and cared for by a community-based volunteer.

7. *Agenda for Later Life*, Age UK, 2014.

8. 50–59 year old female respondent – *In Our Own Words*, GAROP, 2015.

9. Klein, E. *The care challenge: experience from Asia in Facing the facts: The truth about ageing and development*. Age International, 2015.

Lack of opportunity in the labour market

A lack of clearly articulated rights for older people in the labour market prevents older people from realising their potential.

‘At my age, we are not able to get a decent bank credit or start paying health insurance just because you are more than 65 years old.’¹⁰

In developing countries, ageism in the labour market often means that older women and men are forced to take physically-depleting, demeaning or low-paid work that younger people are no longer willing to do.

Many are forced to work long hours (over 78 hours a week in some trades) for very little income. A great deal of the economic contribution of older people is also invisible. Those working in family businesses or taking on onerous domestic or care work may not receive any income or recognition.¹¹

Below: In Kenya, Brigita cares for eight orphaned grandchildren and sells charcoal to support them.



10. From a group discussion of people over 50 years old in Argentina – *In Our Own Words*, GAROP, 2015.

11. Vera-Sanso, P. Are older people a burden? Challenging the myths in *Facing the facts: The truth about ageing and development*. Age International, 2015.

Poverty and lack of income security

Older people often do not have enough income to cover basic essentials such as water, energy, food, and housing. More than 300 million older people live without any secure income,¹² and only one in four older people in low and middle income countries receives a pension.¹³ As a result, many older people continue working out of necessity. If and when they become unable to work, they often find themselves plunged into poverty or, if they are lucky, reliant upon family support. Older women are particularly vulnerable to poverty due to the accumulated and multiple levels of discrimination they face.

Below: There are now more than 11 million women and men in the UK aged 65 and over, and this is projected to rise to over 16 million within a generation.

Older people's rights in the UK

We are more familiar, of course, with the realities of population ageing in more developed countries like the UK. There are now more than 11 million women and men in the UK aged 65 and over,¹⁴ and this is projected to rise to over 16 million within a generation. One of the fastest growing age groups is people over the age of 85, and the number of people over 85 is predicted to double in the next 20 years and nearly treble within 30.¹⁵

The situation for older people's rights in the UK has improved markedly in recent years with the introduction of comprehensive domestic legislation to outlaw harmful age discrimination in employment and the provision of services, the removal of the Default Retirement Age, and the Government's



12. Meissner, *Ways out of old-age poverty*, 2010.

13. Global AgeWatch Index, HelpAge International, 2014.

14. Mid-2013 Population Estimates UK Office for National Statistics, 2014.

15. National population projections, 2012-based, Office for National Statistics, 2013.

commitment to increase the basic State Pension by the 'triple lock' to maintain its value. However, it is clear that in certain areas older people continue to face serious breaches of their fundamental rights here at home. For example, the need for further improvements in the quality of health and social care is all too evident following a string of scandals including those at Stafford Hospital, Winterbourne View and Operation Jasmine. Older people's experience of services urgently needs to be transformed and a UN convention can play an important role in bringing this about.

Ageism continues to blight our society with the result that older people frequently experience discrimination. We know that older women and men have poorer access to treatment for common health conditions. Treatment rates drop disproportionately for people aged 70–75 years in areas such as surgery,¹⁶ chemotherapy,¹⁷ and talking therapies,¹⁸ and in ways that health commentators agree cannot be explained by older people's frailty or vulnerability.

In the sphere of employment, the removal of the Default Retirement Age has not yet resulted in a labour market free from age discrimination. Forty per cent of 50+ workers believe they have been disadvantaged at work for appearing too old.¹⁹ Increasingly there is a growing awareness across the UK that a focus on older people's rights on the international stage would help to strengthen and support moves to secure older people's rights here at home.

How would a convention work?

Closing protection gaps

A UN convention on the rights of older people would provide for the first time a definitive, universally acknowledged global standard that recognises the rights which all people hold as they get older and prohibits age discrimination. Additionally, it would clarify and articulate how existing rights – currently dispersed throughout various other instruments and interpretive documents – should work to protect older people.

Providing accountability

Crucially a convention would provide a global legal standard with accompanying accountability mechanisms. To date such accountability has been lacking for older people around the world, with the result that their rights are routinely breached. A convention would be a powerful advocacy and education tool for older people and those who represent them in claiming their rights.

Groups of older people in many countries are actively engaging with local and national governments to claim their rights. For example, Older People's Associations (OPAs) in Zanzibar met with the President and senior government officials to bring about a new universal social pension. They will also have a key role to play in ensuring their government implements the pension appropriately. A UN convention would help strengthen this dialogue.

16. *Access all ages*, Age UK/Royal College of Surgeons, 2012.

17. *Are older people receiving cancer drugs?*, NHS England, 2013.

18. The treatment of common mental disorders across age groups: Results from the 2007 adult psychiatric morbidity survey, Cooper C, Bebbington P, McManus S, Meltzer H, Stewart R, Farrell M, et al., *Journal of Affective Disorders* 2010; 127 (1–3): 96–101.

19. CIPD/CMI, *Managing an ageing workforce*, 2010.

Blandina Mbaji, who leads an OPA in her community in Kibaha, Tanzania, said: ‘Older people should have the right to be recognised and acknowledged as people... We are not even recognised as a group of people who not only have value, but can also be vulnerable... When politicians talk about how a country can develop, they talk about other age groups; they don’t even mention older people. So we have to advocate for older people so politicians can do something to help us.’

Focusing policy making

In the absence of a convention, the urgent opportunities and challenges raised by global ageing are largely being ignored. A convention can provide a framework to guide policy responses to demographic ageing based on rights, equity and social justice. It can encourage a paradigm shift from older people being considered as passive recipients of welfare, to older people as active rights holders.



Judith Escribano/Age International

Above: Blandina organises older people in her community to claim their rights.

Steps towards a convention

Creating a useful human rights convention requires a strong, collective understanding that a problem exists, the willingness of UN member states to act on it, the full engagement of civil society to work with governments to achieve a meaningful result, and the awareness and commitment of all stakeholders to put these agreements into practice. We are already a significant way down this path, but much more needs to be done.

The Open-Ended Working Group on Ageing

Since 2011, UN member states have been meeting with non-governmental organisations and experts in New York to understand how to better protect the human rights of older people. The Open-Ended Working Group on Ageing (OEWG) has a broad mandate to examine the existing international framework in relation to the human rights of older people, to identify possible gaps and how best to address them and to present proposals on the main elements of a new legal instrument to the General Assembly. From the outset, the potential for a convention has dominated the discussion.

Supporters for a convention exist across all regions of the world and their numbers are growing. As has been the case for all previous human rights conventions, however, there are member states, including many in the EU, who are reluctant to embark on a drafting process until convinced it is necessary.

The OEWG is not a decision-making body but is critical for building greater understanding and support for protecting older people's rights. The global conversation taking place in New York and across nations' capitals is building momentum towards a convention that has never occurred before.

Independent Expert

Another milestone in this process has been the establishment of a Human Rights Council Independent Expert on the rights of older people, Rosa Kornfeld-Matte, that is independent of and complementary to the work of the OEWG. The task of the first three years of this position is to shine a light on different aspects of how the rights of older people can be best protected. Ms Kornfeld-Matte will submit her final report to the Human Rights Council in the autumn of 2016. This will provide very useful evidence to help member states decide whether to proceed along the path to a convention.

The UK Government – time to lead

In its application to the Human Rights Council, the UK stated 'We are committed to a strong, effective international human rights system'. It also made three important pledges for the period 2014–2016.

The UK pledges to:

- Work for the protection of the most vulnerable in society.
- Respond actively to global challenges.
- Look ahead to a future of universal human dignity.²⁰

Championing a human rights convention for older people would be entirely consistent with these pledges and would also help to put them into practical effect.

To date, however, while it has been present at every session of the OEWG, the UK Government has not contributed to these discussions and has been held back in doing so by the lack of a clearly identified lead department to pursue this agenda. The FCO has been observing the proceedings through its New York Mission staff but without a mandate to enable it to share the UK's experience with other member states.

20. FCO (2013) UN Human Rights Council United Kingdom, 2014–2016 candidate.

As the numbers of older people globally continue to grow, there is no doubt that there will be more and more focus on their rights and on how governments and civil society should respond. Similarly, the debate over drafting a new human rights convention for older people is sure to intensify over the next few years and the UK Government has an opportunity to play a leading and influential role.

Rather than wait for this agenda to be set by others, with its strong stance on promoting human rights globally, the UK Government is well placed to take the lead in this area and help shape the convention. To this end, we believe it should act now to back calls for a convention. Millions of older women and men worldwide stand to gain as a result.

Conclusion

Clearly, international human rights law and institutions alone cannot solve the problems of abuse and discrimination experienced by older women and men. However, they have a crucial part to play.

Our case is simple: people of all ages need to be able to fully participate and to fully contribute as equal members of society, safe in the knowledge that they will be treated with dignity and respect and have their basic rights protected. This must be as true for older people as for everyone else.

As it has been so often in the past, the UK should be at the heart of making this a reality.

Recommendations for the UK Government

Working towards a convention

The UK Government should:

- Support the creation of a human rights convention for older people and encourage other UN Member States to do the same.
- Make a public commitment to the UN Human Rights Council to strengthen the protection of the rights of older people globally.
- Establish a joint UK Government-civil society task force, including older people, to develop the UK Government's input into the creation of a convention.

Taking action now to strengthen rights

The UK Government should also:

- Foster greater awareness in the UK for the need to better protect the rights of older people globally and take immediate steps to strengthen these rights for all older people.



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