

Workshop on the Social Integration and Rights of Older Persons in the Asia-Pacific region

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Bangkok

Report of the Workshop



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Note

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Social Integration and Rights of Older Persons in the Asia-Pacific region: Report of the Workshop (United Nations)

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Explanatory Notes

The following abbreviations are used in this document:

| | |
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| ADB | Asian Development Bank |
| APF | Asia-Pacific Forum of National Human Rights Institutions |
| AU | African Union |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CRPD | Convention on the Rights of Persons with Disabilities |
| CSO | Civil Society Organisation |
| DESA | Department of Economic and Social Affairs |
| DSPD | Division for Social Policy and Development |
| IFA | International Federation of Ageing |
| MIPAA | Madrid International Plan of Action on Ageing |
| MDGs | Millennium Development Goals |
| NGO | Non-Governmental Organisation |
| NHRI | National Human Rights Institution |
| NTA | National Transfer Account |
| OEWG | The General Assembly's Open-ended Working Group on Ageing |
| OHCHR | Office of the High Commissioner for Human Rights |
| SDGs | Sustainable Development Goals |
| UNESCAP | United Nations Economic and Social Commission for Asia and the Pacific |
| UNFPA | United Nations Population Fund |
| UN WOMEN | United Nations Entity for Gender Equality and the Empowerment of Women |
| WHO | World Health Organization |

I. Background to the Workshop

Asia and the Pacific is the fastest ageing region in the world. It is expected that by 2050, one fourth of the total population in Asia and the Pacific will be 60 years old or older. Due to increased life expectancy and continuing fertility decline, all sub-regions in Asia and the Pacific are ageing. In East and North-East Asia, the fastest ageing sub-region, one third of the population will be above 60 and in South Asia, persons above 60 will make up almost one fifth of the population. But in spite of older person's increasing importance in the demographics of the region, rights of older persons are often inadequately considered in policies and programmes. For example in East Asia, only 18.5 per cent of the working-age population is covered by pension systems, and in South Asia the population is only 7.5 per cent. Therefore, a large number of older persons has to continue working or is dependent on family support.

The regional review of the Madrid International Plan of Action (MIPAA) in 2011/2012 led to the adoption of the Bangkok Statement on the Asia-Pacific Review of the Implementation of the Madrid International Plan of Action on Ageing. Member States identified the following prevailing and emerging issues related to older persons: the need to expand social protection and health-care coverage; address the gender dimensions of ageing; enact and enforce specific legislation to protect the rights of older persons; and promote employment opportunities for older persons. The social integration of older persons is a key element in combating the social isolation and ageism that can lead to discrimination. This includes, inter alia, access to work and employment, community and social participation, civil and political participation, access to goods and services, age-appropriate health care, housing and transportation and long-term care.

These challenges have also been at the forefront of global discussions at the Open-ended Working Group (OEWG) on Ageing. The OEWG was established by the General Assembly (A/RES/65/182) on 21 December 2010, and is considering the existing international framework of the human rights of older persons and identifying possible gaps and how best to address them. In the deliberations within the OEWG, there is consensus amongst member States on the serious gaps that exist in protecting the rights of older persons, while consensus on the means to do so remains elusive. In 2012 the OEWG was therefore requested by the General Assembly to consider proposals for an international legal instrument to promote and protect the rights and dignity of older persons. In the same resolution, the regional commissions, the United Nations Department of Economic and Social Affairs (DESA) and other relevant parts of the United Nations were mandated to contribute to the work of the Open-ended Working Group on Ageing (A/RES/67/139, paragraph 3).

Against this backdrop, DESA, the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) and the Asia-Pacific Forum of National Human Rights Institutions (APF), with the support of the United Nations

Population Fund (UNFPA), HelpAge International and the International Federation of Ageing (IFA), jointly organized a Workshop on the Social Integration and Rights of Older Persons in the Asia-Pacific region, to foster a regional dialogue towards building consensus around promoting social integration and rights of older persons.

II. Opening

Ms. Nanda Krairiksh, Director of ESCAP's Social Development Division, welcomed participants to the meeting on behalf of ESCAP, and expressed deep appreciation for the partnership with DESA, APF, UNFPA and HelpAge. Ms. Krairiksh noted the timeliness of the workshop both in terms of the ongoing demographic transition in Asia-Pacific and in terms of the current discussions on the framework for the rights of older persons in the Open-Ended Working Group on Ageing (OEWG). She concluded by saying that expressing hope that the Workshop will mark the first steps towards shaping a rights-based society for all ages in Asia-Pacific.

On behalf of DESA and the Division for Social Policy and Development (DSPD), Ms. Rosemary Lane, Senior Social Affairs Officer and Focal Point on Ageing welcomed the participants to a first-of-its-kind workshop on this topic in the Asia-Pacific region, which brought together Government experts, several United Nations entities – DESA, UNESCAP, OHCHR and UNFPA -, as well as National Human Rights Institutions (NHRIs) and civil society organisations (CSOs). Ms. Lane emphasised the importance of this pilot workshop to bring together various stakeholders to informally discuss social integration and rights of older persons, and if successful, to be replicated in other parts of the region.

Ms. Susan Ryan, Australia's Age Commissioner, addressed the participants on behalf of the Asia-Pacific Forum of National Human Rights Institutions (APF). Ms. Ryan noted that a meeting of the region's national human rights institutions held earlier that year to discuss the rights of older persons in the region had further reinforced the global and regional significance of the ageing population and produced practical proposals on the elements of a new international instrument to protect the rights of older persons. Ms. Ryan also noted that many developed countries supported the proposal for the new convention and expressed her hope that many would soon endorse the proposal. She had closed by reiterating the call for action to protect the rights of older persons in the region.

Mr. Eduardo Klien, Regional Director, speaking on behalf of the South-East Asia Office of HelpAge International, stated that in the twenty-first century, when a large proportion of older persons came into the later stages of life, their respective societies were not able to provide them with the space for the process of productive ageing. Hence, he highlighted the need to see a reorganization of societies with human rights at the core of this reorganization. Mr. Klien concluded

by reiterating the commitment of HelpAge International to promoting the rights of older persons in the region.

III. Objectives of the workshop and overview of ageing in Asia and the Pacific

Mr. Srinivas Tata, Chief of Social Policy and Population Section, Social Development Division at ESCAP, presented an overview of ageing in Asia and the Pacific focusing on trends, challenges and gender dimensions of ageing in the region. He highlighted that the region was ageing fast in terms of the proportion of population, absolute numbers as well as the pace of ageing, and was characterised by strong gender dimensions. Older women in Asia and the Pacific outnumbered older men, especially in the oldest old category, and would continue to do so in the future. He noted that in Asia-Pacific, a much smaller proportion of older persons have income security than in any other region. The limited health coverage coupled with increasing demand for long term care also characterised the region, although large urban rural differences were present. Mr. Tata concluded with emphasizing that ageing and the rights of older persons were not on political agenda in the region, although older persons must be at the centre of any development process.

Ms. Amal A Rafeh, Social Affairs Officer at DSPD/DESA presented an overview of the workshop, and introduced the participants to three milestones, namely: (a) the second review and appraisal of MIPAA; (b) the General Assembly's OEWG on Ageing; and (3) older persons in the post-2015 development agenda. The OEWG on Ageing moved discussions at the United Nations away from a medical/welfare assistance framework towards discussions from a human rights perspective. Interaction and dialogue with experts, non-governmental organisations and older persons themselves, contributed to presenting ample evidence of the practical bearing of ageist attitudes towards older persons, and generated a better understanding of the barriers they face in the full enjoyment of their rights.

IV. Review of National Experiences in Implementing Laws, Policies and Programmes for Social Integration and Protection of Older Persons

Mr. Christian Courtis, Human Rights Officer at the OHCHR Regional Office for South-East Asia, presented an overview of the international human rights framework as it pertains to the rights of older persons. Mr. Courtis outlined the main components of the international human rights framework, highlighting the absence of a specific legal instrument for promoting and protecting the rights of older persons and the fact that the existent human rights treaties made very few references to older persons.

Mr. Courtis suggested there were two main ways to address the rights of older persons which were either through mainstreaming the rights of older persons in international human rights law or through establishing a new legally binding mechanism specifically devoted to the rights of older persons. The mainstreaming option had not been used effectively to date as existing treaty body work tends to exclude the rights of older persons, with the notable exceptions of the CESCR Committee and CEDAW who both issued a relevant General Comment on older persons. Mr. Courtis noted the general lack of specific data on the rights of older persons in the context of treaty body work rendering older persons invisible and unaccounted for. Using existing references to 'other status' in international human rights law instruments to address age-based discrimination had not worked.

Efforts to address this invisibility had been made by some of the special procedure mandate holders, the Special Rapporteur on extreme poverty and human rights, the Special Rapporteur on the right to health and the Special Rapporteur on the rights of women. A new mandate of the Independent Expert on the enjoyment of all human rights by older persons (HROP) has been established by the Human Rights Council in 2014 and the mandate holder is currently planning country visits, which is an opportunity for the region to interact with the Independent Expert.

The weak protection of the rights of older persons in the international human rights framework suggests that either mainstreaming needs to be rendered significantly more effective or it may be worth to consider following the path of other special groups, such as women, children and persons with disabilities to secure their specific rights in a dedicated legal instrument. Mr. Courtis concluded by reminding the participants that legal instruments were legally binding only for the State parties and the rate of ratification of international human rights instruments in the region was low.

V. Abuse, Violence and Neglect of Older Persons

Dr Dong Hee Han, Director of the Research Institute of Science for the Better Living of the Elderly in Korea, delivered a presentation entitled "Overview of abuse, violence and neglect of older persons in Asia and the Pacific: Toward an inclusive ageing society." She began with an overview of ageing in the Republic of Korea, noting that the older population (aged 65 years or over) which accounted for 7.2 per cent in 2000, was expected to double to 14.3 per cent in 2018 and projected to grow to 20.8 per cent by 2026. Dr Han emphasised that the older population itself was ageing. Currently, the oldest-old population (aged 85 years or over) accounted for 0.9 per cent, and was projected to increase to 2.5 per cent in 2030 and 7.7 per cent by 2050.

Dr Han noted that although not a new phenomenon, the speed of population ageing worldwide has given rise to fear that abuse of older persons, may increase in its incidence, prevalence and complexity. She cited a number of key

issues related to elder abuse, namely: definitional issues; problems with terminology; missing voices of older persons; lack of recognition in comparison to other types of violence; and differing responses and interventions. Dr Han presented a comparative analysis of elder abuse in several countries in the region including Australia, China, Japan, Republic of Korea, New Zealand and Thailand.

Dr Han shared an illustration of the “cycle of vulnerable victims” with the participants, and noted high risk predictors of abuse, including changing societal values; complex family dynamics; older persons with no children; social exclusion and isolation; lack of income security; poor health condition and dependency. She concluded by citing a number of elder abuse prevention strategies including awareness raising; provision of support services to mitigate risk factors; training of formal and informal care providers; establishment of minimum standards of care in institutional settings, accompanied by regular monitoring; as well as creation of help-lines and enhancing access to legal support teams.

During the interactive dialogue that followed, several experts noted the gap between policies and practice when it comes to elder abuse in the region. Some made reference to the specific situation of older migrants and refugees. Participants also underlined a number of risk factors that make older persons vulnerable to mistreatment, including living in rural areas, changing family structures, family feuds related to inheritance, property or possessions, as well as harmful traditional practices including accusations of witchcraft.

The absence of an agreed definition of what constitutes elder abuse and violence and the lack of reliable data were identified as some of the problems leading to a lack of visibility. Some representatives further expressed the view that without a legally binding international convention on the human rights of older persons, it would be difficult to reach an agreed definition of elder abuse. Experts also noted that older persons often felt ashamed of their abuse and neglect experiences, and therefore chose not to report them, especially because in the majority of cases, perpetrators are family members upon whom older persons rely for care. The lack of awareness in society, lack of hotlines to seek out help from trained experts, and inadequate training of police to respond appropriately to elder abuse – all contribute to under-reporting and prosecution. Ageism was cited as a root cause of elder abuse, neglect and exploitation that contributes to conditions that marginalise and devalue older persons. It was further highlighted the role of older persons in community-based response and prevention programmes to enhance the recognition and reporting of elder abuse. Deliberations concluded with a call for the recognition of the gendered nature of violence against older persons; a need to address the lack of data collection and problems around definitional issues; as well as the need for independent monitoring and investigation.

VI. Ensuring Income Security for Older Persons

Dr Donghyun Park, Principal Economist at the Asian Development Bank delivered a presentation on “Ageing, Economic Growth and Old-Age Security in Asia.” Dr Park noted that, while countries in Asia had put into place institutions and policies to capture the potential demographic dividend, this era was slowly coming to an end. Despite differences between countries, Dr Park noted that demographic change was a region-wide trend with region-wide ramifications, from which countries with younger populations would not be exempt. Asian countries must overcome a number of structural obstacles to meet the challenges of under-developed financial systems and rigid labour markets.

Dr Park also presented the findings of a research project undertaken by ADB to assess the impact of ageing on Asia’s growth¹. He made reference to the recently developed National Transfer Account (NTA), which represents a significant advance in the understanding of resource allocation across the ages. Dr Park concluded with a summary of main policy recommendations including for developing Asian countries to build-up strong national pension systems for older persons; to establish processes to help individuals make sound financial decisions for retirement; and for increases in public transfers to older persons to be kept sustainable and not significantly weaken the incentives for individuals to save for old age.

During the interactive dialogue, participants emphasised that guaranteeing at least a basic level of income security for older persons was an essential right reflected in international labour standards and human rights instruments. However, retirement in most Asian countries is a privilege enjoyed by some public and private sector workers which, by and large, does not extend to workers in informal employment. Participants also noted the reality for a majority of older persons who have neither savings nor access to a pension, and, therefore, continue working to sustain their livelihood. For many older persons in Asia, assets are held in property, and cannot be easily used. As in other regions, older women are at higher risk of poverty than men. There are underlying reasons for this, such as their greater life expectancy, poorer access to contributory pensions and micro-credit systems. Some participants raised issues related to decent work conditions, occupational safety and health, as well as flexible working arrangements. Others proposed the establishment of a regional centre of excellence for skills development and retraining programmes to harness the knowledge and expertise of older persons and help them learn new ones.

In response to questions raised during the deliberations, the following key issues were highlighted:

(a) The idea that jobs performed by older persons takes employment away from younger people is false and based on an incorrect assumption that the number

¹ <http://www.adb.org/publications/aging-economic-growth-and-old-age-security-asia>

of jobs in an economy is fixed. According to ADB, evidence shows that expanding older persons' employment does not reduce youth employment, and that countries with a healthy labour market for older persons also have a healthy labour market for the youth;

(b) Employment for older persons is of critical importance. Many older persons in the region are forced into retirement as early as 55 years of age, often with insufficient savings. There is a need to enhance freedom of choice for older persons when it comes to work, and mandatory retirement ages deprive society from the potential contributions of older workers. This, in addition to limited public transfers, and the fact that adult children are experiencing tough socioeconomic challenges and cannot be relied on for support as was the case in the past, contribute to the need for older persons to continue to work for income security;

(c) There is wide-spread institutional prejudice against older persons. With improved healthcare, older workers are both mentally and physically fit to continue working beyond retirement age, however, they are confronted with the lingering institutional depiction of old age as a social and economic burden. There is a need for Governments in the region to take the lead in de-institutionalising old age prejudice by extending retirement age and educating employers about the skills expertise and knowledge of older persons, and persuading them to make more use of this forgotten workforce;

(d) Public transfers are low in the region, and should not be viewed as welfare, but rather an investment. Social pensions contribute to income security in old age, but also enhance the local economy. However, while social pensions are important, there is a need for the development of an integrated approach, including innovative systems with different methods of financing for universal coverage;

(e) Financial education is key in the region. One of the barriers to old age economic security in Asia is people's lack of understanding on the need to save. Financial education could contribute to changing behaviour towards saving for retirement.

VII. The Right to Health

Ms. Britta Baer, Technical Officer at the Western Pacific Regional Office of WHO, delivered a presentation on "The right to health of older people in the Western Pacific region". Ms. Baer presented the WHO Regional Framework for Action on Ageing and Health in the Western Pacific (2014-2019), which is based on the principle that the highest attainable standard of physical and mental health is a fundamental right of all older people, without discrimination. The four action pillars of the framework include fostering an age-friendly environment; promoting healthy ageing across the life course and preventing functional decline; reorienting health systems to respond to the needs of older persons; and strengthening the evidence base on ageing and health.

Mr. Baer noted that international human rights law sets out four elements to the right to health, which were availability, accessibility, acceptability and quality; and these four elements formed the basis of the four pillars of the Regional

Framework for Action. She also highlighted that the human rights-based approach to health required all health interventions and processes to follow core human rights standards and principles such as non-discrimination and equality; participation and inclusion; and accountability.

During the interactive discussion, participants emphasized that the right to health was protected as part of economic, social and cultural rights, although due to the nature of these rights it was also subject to progressive realisation that depend on the capacity of the Government to fulfil it. Some NHRI participants highlighted significant progress in advancing the right to health due to key partnerships involving the national human rights institution, the Government, civil society and private sector. Potential gender bias in access to health care was noted as in some settings. Older women often found it difficult to access health services, and in some cases older men were less likely to get access to care than older women, and this needed to be taken into consideration while designing programmes. Physical access to health care services was also highlighted as some communities, particularly indigenous communities living in remote areas, lacked access to medical care or could not afford transportation to access it.

Several participants were of the opinion that it was necessary to advocate for a new international convention to promote, protect, respect and fulfil the rights of older persons at both regional and national levels. The new convention must supplement and complement existing human rights treaties, mark a paradigm shift and generate positive change. Some Government experts emphasized that current gaps and challenges could be addressed when national efforts were complemented by regional efforts. At the global level, it was noted that at the critical juncture of setting post-2015 development agenda it was imperative to ensure inclusion of older persons who were left out in the Millennium Development Goals.

In response to questions raised during deliberations, it was noted that the accountability aspect of the right to health needed to translate into an accountability mechanism with independent monitoring based on set indicators. Governments need to put in place systems that would allow the voices of older persons to file complaints if their rights are violated. Mechanisms to channel such complaints could be provided at the local level and at national level - the national human rights institutions can also serve as a channel. With regards to the right to health being subject to progressive realisation, it was emphasized that it was important to check and ensure that the Governments take concrete steps towards full realization. Economic growth should translate into better enjoyment of economic, social and cultural rights for all, including older persons. Using qualitative and quantitative mechanisms to assess progressive realisation is necessary to determine whether and how it is taking place. Participants agreed that the right to health needed to be at the core of all policy and programmatic initiatives concerning older persons.

VII. Long-term Care of Older Persons

Mr. Ng Wai Chong of the Tsao Foundation in Singapore presented an overview of long-term care of older persons in Asia and the Pacific, using, inter alia, the outcome of the Asia-Pacific Expert Group Meeting on Long-term Care in December 2013 in Shanghai, China. Mr. Chong defined long-term care as services and support required to meet personal care and health needs of older persons over an extended period of time, and noted that long-term care is a safeguard for the rights of older persons. He presented an overview of the elements of long-term care in China, India, Indonesia and Australia before proceeding to discuss the long-term care system in Singapore, based on the key principles of promoting self-reliance, family as the first line of support and co-payment to promote financial sustainability of the system. He also highlighted the legal framework for the protection of the rights of older persons in Singapore, including the Women's Charter and the 2010 Mental Capacity Act. Mr. Chong noted that a key challenge is the need for effective integration of the different services that older persons required, including integration of medical care and social care. Care management services were regarded as the 'lead-integrator' in care integration, which went beyond care coordination.

The discussions at the Asia-Pacific Expert Group Meeting on Long-term Care indicated that only a few countries in the region had developed national policies on long-term care and those policies, when in place, emphasized the importance of family involvement taking into account the tradition for family responsibility as a fundamental value in Asia. Furthermore, experts at the meeting in Shanghai suggested an emerging consensus on the need for cost-efficiency and the preference for family or community-based care over institutional care.

In terms of priorities for the region, Mr. Chong highlighted providing support for family caregivers; addressing ageism and mental health issues; securing access to primary care; and the need for further research into ethical issues relating to long-term care. In conclusion, Mr. Chong reiterated the highly complex and multi-faceted nature of long-term care and outlined key recommendations for using long-term care to safeguard the rights of older persons, including focusing on person-centred care; developing age- and disability-friendly primary care; developing care management systems for community-based care; incorporating family carers, including partners, into the care team; and developing comprehensive long-term care architecture and human capital competencies.

During the interactive dialogue, participants emphasized the traditional preference for family care as the main form of long-term care in the region, in some instances due to the lack of trust in institutional care. At the same time, participating experts noted that ongoing socio-cultural change was moving the focus from family-based to community-based care. Demographic changes in family structure and financial considerations make family-based care inaccessible for many older persons.

The cost of full-time family-based care was considerable and requires involvement of the state, the family and the community.

In the context of long-term care of older persons, participants also discussed who the duty bearer is and noted the obligations of the State even when care is provided at home by family members or the community. It was noted that care outside institutions may be a cost effective option, but also that it is in line with the concept “ageing in place”, entailing the right of everyone to live where they want and with whom they want. This may require additional support such as home care, meal delivery, transport and other support with activities of daily living, as well as modifications of the home.

Some participants noted that a new concept of day care was being developed in their countries, where an older person would have access to a day centre during the day time but spend the evening and the night time at their home. It was also noted that in some countries a shift in the understanding long-term care was already underway and the number of institutional care units had decreased significantly, with the majority of long-term care units being community-run. In terms of institutional care, the State has an obligation to establish clear standards and monitoring systems to protect the rights of older persons in institutional care. This may also be required for other modalities of long-term care.

As the income tax rebates given for family carers in some countries, as a support to caregivers, were discussed it was noted that those who take care of older persons often do not work outside the home and hence would not benefit from the tax rebate. It was also highlighted that at a certain point home or family-based care ceased to be cost-effective particularly when the older persons requires care on a continuous basis. An example given of a community-based cost-effective model that addresses mental health issues is where both the older person living with dementia and his or her caregiver receive support from the community-based facility with social workers trained in providing specialised services for dementia patients. This model provided support for both caregivers and older persons while creating a community for persons living with dementia and also for their caregivers. Finally, it was noted that in terms of long-term, private insurance should be viewed as a small part of the solution but the sole answer to ensuring long-term care for all older persons.

IX. The Rights of Older Women

Dr V. Mohini Varaha Giri, Chairperson of the Guild of Service in India, delivered a presentation entitled “Rights of Older Women: Power of Old Age.” She noted that in reality, both ‘social integration’ and ‘social sciences’ continue to fall short of including older women, who remain invisible. Despite efforts towards an enabling environment, older women continue to be vulnerable and victims of gender and age based discrimination. Dr Giri presented an overview of the situation of older women in India and shared a number of recommendations, including

guaranteeing the right of older women to social security; to economic empowerment (such as micro-financing); and to healthcare provision (such as one-stop centres). She also shared with the participants the activities and facilities provided for older women through the Guild of Service in India. Dr Giri also noted that the following suggestions were proposed to the National Policy on Older Persons in India: mainstreaming older persons, especially older women; promoting the concept of ageing in place; establishing care facilities; viewing senior citizens as a valuable resource; focus on income generating opportunities for older persons; as well as the provision of counselling, career guidance and training services. Dr Giri concluded with a call for building on existing foundations, even if they were fragile, to include the strength and capacities of older women in influencing and redirecting the political will to invest in the rights of older women.

During the interactive discussion, experts noted the shrinking family sizes and the growing need for Governments to provide more support for care of older persons. They highlighted marginalized groups of women, such as widows, women in the informal sector as well as older women living in rural and remote communities. Some experts took the opportunity to share the guiding principles of draft national laws on the rights of older persons from their countries. Participants highlighted the multiple discrimination experienced by older women in employment, healthcare and social services provision, in addition to their subjugation to patriarchal traditions. Despite these challenges, older women are not a high on the priority agenda of Governments in the region. Some CSOs and NHRIs called for a legally binding international convention on the human rights of older persons to guarantee the rights of older women, who continue to be invisible, even in the work of the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), which primarily focuses on girls and on women in their reproductive ages. HelpAge International noted that since the issuance of General Recommendation No. 27² to CEDAW in 2010, it has conducted research as to whether or not this General Recommendation has had an impact on content of national reporting in terms of including information on the situation of older women. To date, only two State parties have provided specific data on older women and protection of their human rights in their national reports. General Recommendations are issued by the Committee on the Elimination of Discrimination against Women, which monitors CEDAW, to bring to the attention of State parties specific issues that require more attention. Such General Recommendations are of an advisory nature and are not legally binding. Participants called for awareness raising to sensitise police personnel on the rights of older women, and for incorporation of gender sensitisation into school curriculum.

X. Identification of Key Elements of a Comprehensive Normative and Policy Framework for the Protection of the Rights of Older Persons, Including the Roles of all Stakeholders

² CEDAW/C/2010/47/GC.1

Participants were divided into two groups, focusing on issues relating to the following two areas:

- (a) Normative and implementation gaps in national frameworks to promote and protect the rights of older persons, and ways to address these gaps
- (b) The roles of stakeholders in the promotion and protection of the rights of older persons

a. Normative and implementation gaps in national frameworks to promote and protect the rights of older persons, and ways to address these gaps

The first part of the discussion focused on the legal frameworks at the national level to protect and promote the rights of older persons. The group noted that most countries have some provisions in their legislation that could cover older persons, and yet implementation often remains insufficient. The group also noted that the legislation in some countries takes a rights-based approach while others are developed around the welfare/charity model. A number of countries also have national plans of action or national policies in relation to older persons.

The group concluded that most jurisdictions in the region have constitutional protection for their national human rights frameworks, including guarantees of equality, with some countries making explicit reference to older persons. Some of those rights could be litigated directly before the courts, while others needed to be translated into national legislation and policy. There is also a range of discrimination laws in countries across the region, with some examples of specific efforts to legislate on age discrimination. In most jurisdictions there were examples of general non-discrimination frameworks that may be used to protect the rights of older persons.

The participants provided examples of social welfare, social security and pension laws. It was noted that these laws have significant gaps and challenges. Contributory schemes tended to provide lesser benefits to those whose participation in the formal labour market varied significantly during their working lives, such as women, and did not apply to workers in the informal sector. While non-contributory schemes are available they often cover only part of the population.

Participants noted a number of examples of legislative frameworks regulating the provision of long-term care of older persons as well as examples of specific protections against domestic violence and violence in the family, with a few affording specific protections against elder abuse and neglect. Several countries in the region have legislation pertaining to filial duties. The group noted the challenges in enforcing this legislation under which parents can initiate legal proceedings against children for a failure to provide them with support, as well as legislation permitting parents to protect their right to their own property. The effectiveness of such legislation remains unclear and workshop participants noted the reluctance of parents to institute proceedings under such laws.

Experts concluded that a new international convention on the rights of older persons would trigger a review and assessment of existing provisions at all levels of policy-making (community, civil society, government) and move national frameworks towards a rights-based approach, viewing older persons as active agents and the holders of human rights.

A range of institutional structures exist to support national frameworks and policies on older persons. There are two broad types of institutions referred to:

- Advisory and general oversight bodies, often with broad membership and/or participation from government, specialised independent agencies, and civil society and. A number of jurisdictions had National Commissions, Committees or Councils on ageing or older persons. These bodies play a monitoring role and provide recommendations to government. It was also noted that Parliamentary bodies may play an oversight role in relation to existing or new legislation and policy.

- Remedial bodies or complaint jurisdictions, such as NHRIs, welfare ministries, labour departments and courts.

It was suggested that a new convention might contribute to (a) a more coherent framework and stimulus for coordination between different sectors, as well as (b) generating a momentum for implementation – a main challenge faced by existing frameworks. Another obstacle identified was the devolution of accountability for implementation when authority is divided between central governments, state/provincial and local governments. In several countries in the region this creates challenges for the implementation of a coherent framework on the rights of older persons, supported by policies and resources.

Experts noted the common misperception that ensuring the rights of older persons is only an expenditure and as such, the budgetary consequences render protection impossible. Noting the challenge of securing adequate resources, it was suggested that it may be important to also highlight the contribution of active older persons to society and to the public revenue of social integration of older persons and of keeping older persons engaged in economic activities. In this regard it was suggested that the experiences of CEDAW, gender budgeting, and economic, social and cultural rights and national budgets, may be useful for undertaking budget impact assessments for guaranteeing the rights of older persons.

The group also discussed the relevance of international human rights treaties to the development of domestic law and policies in relation to the rights of older persons, as well as exploring whether elaboration of a new convention on the rights of older persons would assist the realization of the human rights of older persons at the domestic level. There was broad general support for a new international instrument, as a tool to support and supplement domestic frameworks. Several experts gave examples of how international conventions had made important contributions to acceleration the domestic protection of human rights in various areas, include the CRC, CEDAW and CRPD, with international instruments

informing legislation and policy-making, as well as the decisions of the courts, tribunals and administrative agencies. Participants suggested that a new international instrument would serve as a normative tool, an advocacy tool to be used both within governments and by civil society, an accountability tool to monitor and evaluate the performance of State obligations, and a tool to strengthen the institutional basis for rights protection, providing guidance to implementing agencies/organisations.

b. The roles of stakeholders in the promotion and protection of the rights of older persons

The group discussed the roles of different stakeholders in the promotion and protection of the rights of older persons. The group noted that the collaboration of a multitude of relevant stakeholders is vital to the effective promotion and protection of the rights of older persons. Central agents in all matters relating to older persons are older persons themselves, both individually and as a group. Noting the challenges present in this regard, the group noted the need to ensure that older persons have a voice in the policy debate, in discussions on the implementation of policies and programmes, as well as in the deliberations on an international convention. Other stakeholders play an important role in ensuring that this space is provided to older persons and to support older persons to be advocates for change.

To ensure adequate protection of the rights of older persons a comprehensive framework is required at the national level. Governments and lawmakers accordingly play a key role in ensuring that adequate legal and policy frameworks are in place and that they are in accordance with international law. Mindful of the differences in systems between countries, the group noted the need to ensure that governments at central, provisional and local levels are coordinated, and the role of government in ensuring coordination of work between different stakeholders and sectors, such as justice, education, health and finance. It was suggested that a champion department/institution can be useful, as the rights of older persons depend many sectors, some which do not necessarily consider older persons a priority.

National human rights institutions have a unique role to play as the interface between the government and the civil society, and between the national and international level. NHRIs are central to ensuring accountability of stakeholders, especially government institutions, and based on the observations resulting from the monitoring work of NHRIs they can take the lead in suggesting policy changes and raising inadequacies in the existing protection of the rights of older persons. The group also noted that NHRIs can play a role in advocacy, highlighting publicly issues of concern.

Civil society can provide the direct link to the older persons themselves, including at the community level, and could offer an avenue to further involving older persons and making their voices heard. Often civil society is also an implementer of programmes for older persons, such as in the example noted on CSO involvement in ensuring income security in the Philippines. Innovative examples of government- civil society

collaboration from Australia were also shared. Civil society should provide an independent monitoring voice and is central to advocating for the rights of older persons. The group noted the need for further action and for collaboration between CSOs working on ageing and human rights respectively, where the CSO dedicated to ageing could benefit from working from a more rights-based perspective while human rights organisations would need to give more attention to the rights older persons than is currently the case. Some participants also suggested more collaboration with the disability movement in areas of mutual concern, while regretting that there is at times reluctance in the disability movement to address issues relating specifically to older persons.

The group also noted the important roles to be played by (a) the health care system, not only as a service provider but also to detect violence and abuse; (b) academia in monitoring and evaluating compliance with national laws, regulations and international frameworks and in conducting research on issues relating to the rights of older persons as well as promoting the development of data and evidence; (c) courts and the judiciary to uphold the rights of older persons; (d) international and regional organisations in setting standards, (e) promote regional co-operation and in providing a forum for exchanging good practices; and (f) financial institutions and donors in supporting stakeholders to ensure a strong protection of the rights of older persons. In addition, the fundamental role of media, arts and religious institutions in combatting stereotypes and ageism, and in changing attitudes towards older persons, was highlighted by the group.

It was noted that adequate legal frameworks are required for creating enabling environments safeguarding the rights older persons. It was also suggested that National Actions Plans could provide a tool to create enabling environments. The group also made reference to the importance of collaboration and co-ordination between stakeholders, as well as the need to create greater awareness among people in general, including older persons themselves, of the rights of older persons. Another key enabler would be to move from a charity-based perspective to a right-based approach on issues relating to older persons, which could be facilitated by the development of an international instrument. It was noted that such a process could also serve as a tool to strengthen the older persons' movement.

The CRPD article 33 was highlighted as a good practices to be modelled to also strengthen national implementation and monitoring of the rights of older persons, in stipulating an obligation on State Parties to designate a focal point and coordination mechanism within governments; to establish a framework which would include independent mechanisms to promote, protect and monitor the implementation of the Convention; and explicitly recognizing the roles of NHRIs and the civil society.

XI. Overview of Ongoing Global and Regional Processes to Protect and Promote the Rights of Older Persons

Ms. Rosemary Lane, Senior Social Affairs Officer and United Nations Focal Point on Ageing delivered a presentation and stated that the General Assembly established an Open-ended Working Group (OEWG) on Ageing, pursuant to resolution 65/182 (2010) for the purpose of strengthening the protection of human rights of older persons by considering existing international frameworks and identifying possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures. Pursuant to resolution 67/139 adopted in 2012, the OEWG on Ageing was requested to consider proposals for an international legal instrument to promote and protect the rights and dignity of older persons, based on the holistic approach in the work carried out in the fields of social development, human rights and non-discrimination, as well as gender equality and the empowerment of women. The Working Group was also requested to present to the General Assembly a proposal containing the main elements that should be included in an international legal instrument to promote and protect the rights and dignity of older persons, which are not currently addressed sufficiently by existing mechanisms.

To date, the OEWG on Ageing has held five working sessions, comprised of interactive expert panel discussions to examine the extent to which existing policies, policy provisions and practices as well as legislation, adequately address the human rights of older persons. Ms. Lane highlighted the issues discussed so far: (a) discrimination and multiple discrimination (e.g. intersection of age, gender and ethnicity); (b) right to the enjoyment of the highest attainable standard of physical and mental health, including access to palliative care; (c) violence and abuse; (d) social protection and the right to social security; (e) ageism and social exclusion; (f) access to justice; (g) right to an adequate standard of living (housing, care, accessibility); (h) right to work, age discrimination and access to employment; (i) contributions from the second review and appraisal of MIPAA to the human rights of older persons (2012); (j) planning for end of life – financial and legal issues; (k) human rights and care.

Ms. Lane elaborated on the viewpoints of Member States so far, mainly following two streams, with the first arguing that: (a) international human rights treaties apply to all people - they are universal – they just need to be implemented better (implementation gap); (b) the current human rights system is already overloaded and needs reform and the cost of negotiating and implementing a new instrument is too high; (c) regional human rights frameworks should be established or enhanced in place of new international action; (d) improved implementation or drafting of national human rights legislation is required; (e) MIPAA needs to be implemented and monitored more fully; (f) revisit and update the United Nations Principles on Ageing (1991) and adopt as “guiding principles”; (g) mainstream the rights of older persons within existing human rights frameworks and within the United Nations system; while others claim that: (h) few existing human rights instruments have specific mention of older persons (ex. General Recommendation of the CEDAW Committee); (i) protection mechanisms for older persons are fragmented and do not address certain critical issues sufficiently as they affect older

persons (lack of specificity); (j) an international convention will clarify State responsibilities, improve accountability and provide the framework for improved implementation of policies/MIPAA; (k) an international convention will reframe how older persons are viewed (as rights holders and not recipients of welfare); and (l) some issues such as long-term care and end of life are not addressed in the existing international human rights law (normative gaps).

XII. Addressing Gaps in Existing International Frameworks for Promotion and Protection of the Rights of Older Persons: How Best to Contribute to the Work of the General Assembly's Open-ended Working Group on Ageing

Participants noted that several human rights treaties dealt with the protection of older persons against discrimination as an open-ended category such as “on other grounds” or “other status”, but only two binding international instruments make explicit reference to “older persons” or to “age” as grounds for impermissible discrimination³. A number of participants noted that older persons today are in a similar position to that of persons with disabilities before the adoption of the Convention on the Rights of Persons with Disabilities (CRPD) and that this Convention, in which the Asia-Pacific region had taken the lead, might prove to be a helpful precedent. Furthermore, implementation of CRPD provided evidence of many improved national laws and policies on the rights of persons with disabilities in the States that ratified the Convention.

Government experts called for a coordinated multisectoral approach involving ministries, civil society and community based organisations to achieve a comprehensive strategy for the social integration and rights of older persons, which would include micro-level (family), meso-level (general community), and macro-level (State) elements. Participants noted the need for establishing adequate monitoring mechanisms for programmes and policies geared towards protecting the human rights of older persons, such as national councils of older persons. Member States should be encouraged to strengthen research, data collection and analysis, as well as exchange best practices.

Civil society representatives urged participants to start exploring the main elements that should be included in an international legal instrument to promote and protect the rights and dignity of older persons, which are not currently addressed sufficiently by existing mechanisms. Participants emphasised the need for sub-regional discussions to flesh out further common positions of key elements for submission to the OEWG. The principles of autonomy, participation, accessibility, dignity, prohibition of age-based discrimination, were raised in the deliberations. Representatives discussed the need for the non-governmental sector in the region to strengthen its coordination and collaboration in order to assume a strong advocacy

³ CRPD and CRMW

role and become more influential in the field, through raising awareness, building coalitions, meeting national focal points and lobbying Governments towards strong national implementation, monitoring and accountability mechanisms, as well as effective international reporting mechanisms.

Participants noted that the Asia-Pacific region needed to assume stronger leadership on the issue of human rights of older persons, and emphasised the need to continue discussions towards driving national change on the promotion and protection of these rights, possibly through pursuing regional advocates and Government champions to gain traction in securing a common regional position and seek the support of Member States for their active participation in the OEWG. Many member States in the region had not formed a firm position on the matter and some may need more information on the implications and feasibility of having a new convention.

Civil society participants emphasized the importance of amplifying the voices of older persons in the process of discussions taking place in the OEWG through direct participation of older persons and their organisations.

Annex I. Final Workshop Agenda

1. Opening of the Workshop
2. Overview of the ageing situation in the Asia-Pacific region
3. Review of national experiences in implementing laws, policies and programmes for social integration and protection of older persons
 - a) Normative standards for promotion and protection of the rights of older persons
 - b) Abuse, violence and neglect of older persons
 - c) The right to income security
 - d) The right to health
 - e) Long-term care of older persons
 - f) The rights of older women
4. Identification of key elements of a comprehensive normative and policy framework for the protection of the rights of older persons, including the roles of all stakeholders
5. Consideration of international and regional initiatives to protect and promote the rights of older persons
 - a) Overview of ongoing global and regional processes to protect and promote the rights of older persons
 - b) Addressing gaps in existing international frameworks for promotion and protection of the rights of older persons
6. Closing of the Workshop

Annex II. List of participants

A) Experts from Governments

Cambodia:

Mr. Sor Soputra, Under Secretary of State, Ministry of Social Affairs, Veterans and Youth Rehabilitation, Phnom Penh

Mr. Som Monorum, Office of the Department of Elderly Welfare, Ministry of Social Affairs, Veterans and Youth Rehabilitation, Phnom Penh

India:

Mr. Giriraj Rangasamy, Deputy Director, National Institute of Social Defence, Ministry of Social Justice and Empowerment, New Delhi

Indonesia:

Mr. Kiki Riadi, Deputy Director on Institutional and non-Institutional Service at the Directorate for Elderly Welfare, Ministry of Social Affairs, Jakarta

Lao PDR:

Mr. Bounneuang Sidavong, Deputy Head of Secretary of the National Committee of Disability and Elderly, Ministry of Labour and Social Welfare, Vientiane

Myanmar:

Mr. Swan Yi Ya, Assistant Director, Department of Social Welfare, Ministry of Social Welfare, Relief and Resettlement, Nay Pyi Taw

Nepal:

Mr. Krishna Prasad Poudyal, Director General (Joint Secretary), Ministry of Women, Children and Social Welfare, Kathmandu

Philippines:

Ms. Gemma Borja Gabuya, Director, Department of Social Welfare and Development, Quezon City, Manila

Republic of Korea:

Mr. Hyoungoen Shin, Minister and Permanent Representative to ESCAP, Embassy of the Republic of Korea, Bangkok

Ms. Seh Young Kim, Specialist and Assistant Permanent Representative to ESCAP, Embassy of the Republic of Korea, Bangkok

Sri Lanka:

Ms. Marie Ann Emelda Sukumar, Secretary, Ministry of Social Services, Battharamulla

Thailand:

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Ms. Siriwan Aruntippaitune, Expert on the Elderly, Ministry of Social Development and Human Security, Bangkok

Ms. Arpar Ratanapitak, Social Development Officer, Ministry of Social Development and Human Security, Bangkok

Ms. Jitvipa Benjasil, Counsellor, Ministry of Foreign Affairs, Bangkok

Ms. Manusavee Monsakul, First Secretary, Ministry of Foreign Affairs, Bangkok

Viet Nam:

Ms. Hoang Thi Hoai An, Specialist, Ministry of Labour – Invalids and Social Affairs, Hanoi

B) Experts from National Human Rights Institutions

Australia:

Ms. Susan Maree Ryan, Age Discrimination Commissioner, Australian Human Rights Commission, Sydney

India:

Mr. Rajesh Kishore, Secretary General, National Human Rights Commission of India, New Delhi

Indonesia:

Mr. Hafid Abbas, Chairperson, Indonesian National Commission on Human Rights, Jakarta

Malaysia:

Ms. Wan Norhafizah Junid, Officer, Human Rights Commission of Malaysia (SUHAKAM), Officer, Kuala Lumpur

Myanmar:

Mr. Sit Myaing, Vice Chairman, Myanmar National Human Rights Commission (MNHRC),
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Nepal:

Mr. Basudev Bajagain, Human Rights Officer, National Human Rights Commission of Nepal
(NHRC), Lalitpur

Philippines:

Ms. Karen S. Gomez Dumpit, Director, Government Linkages Office, Philippines
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Ms. Shirani Rajapakse, Director, Education and Special Programmes, Human Rights
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Mr. Tairjing Siriphanich, Commissioner, National Human Rights Commission of Thailand
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Ms. Hansa Boonrat, Senior Human Rights Officer, International Human Rights Affairs
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C) Experts from Civil Society Organisations

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Mr. Ashish Thapa Magar, Programme Officer, Ageing Nepal

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Ms. Susan Somers, President, International Network for the Prevention of Elder Abuse (INPEA), New York, United States of America

Mr. Soon Ting-Kueh, President, National Council of Senior Citizens Organizations (NACSCOM), Kuala Lumpur, Malaysia

Mr. Boonthan Verawongse, Director, Rights to Health and Well Being Promotion Division, National Health Commission Office (NHCO), Nonthaburi, Thailand

Mr. Vann Vichheka, Programme Manager, HelpAge Cambodia

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