

**NATIONAL HUMAN RIGHTS COMMISSION OF KOREA'S
DRAFT CONVENTION ON THE RIGHTS OF OLDER PERSONS**

(2024. 5.)

1. Purpose

The purpose of this draft is to compile and organize the discussions on human rights norms for older persons that have taken place so far within the UN OEWSGA, UN agencies, UN special procedures, UN treaty body system, and intergovernmental bodies.

The UN Open-Ended Working Group on Ageing (OEWSGA) was established in 2010 to consider the existing international framework of the human rights of older persons and identify possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures. However, despite fourteen years of discussion, there remains no clear consensus on whether these gaps exist or, if so, if a legally binding instrument is the most effective way to address them.

In light of this ongoing debate, the National Human Rights Commission of Korea (NHRCK) has taken the initiative to draft a Convention on the Rights of Older Persons. The draft is based on the premise that current international norms do not adequately protect the rights of older persons. It also identifies additional norms that are necessary to better protect the rights of older persons.

This draft serves two key purposes; to contribute to the ongoing conversation about how best to protect the rights of older persons, and to provide a concrete example of what such a convention might look like.

NHRCK hopes that this draft can serve as a reference for future discussions on drafting an instrument on the rights of older persons.

2. Rights

This document identifies rights of older persons that are not adequately addressed within the international human rights system.

Sources for Identifying Gaps:

- Thematic and normative focus of the UN Open-ended Working Group on Ageing (OEWGA)
- General comments of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of Persons with Disabilities (CRPD)
- Reports of the Office of the High Commissioner for Human Rights (OHCHR), the World Health Organization (WHO), the Special Rapporteur on the right to health, and the Independent Expert on the enjoyment of all human rights by older persons
- Inter-governmental documents including the Inter-American Convention on Protecting the Human Rights of Older Persons, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons, and the Council of Europe Recommendation CM/Rec (2014)2

These sources inform the following list of rights that require better protection for older persons within the international human rights framework.

- Equality and non-discrimination
- Autonomy and Independence
- Accessibility
- Right to life
- Freedom from all forms of violence, abuse and neglect

- Right to Justice
- Rights in situation of emergencies
- Right to physical, mental and cognitive health
- Informed consent to care and medical decision
- Long-term care
- Palliative care and hospice care
- Aging in place
- Training of health, social and medical workers
- Right to work
- Right to adequate standard of living
- Full and effective participation in social, public and political life
- Lifelong learning and education
- Statistics and Data Collection
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- Article 22. Statistics and Data Collection
- Article 23. International Cooperation
- Article 24. Implementation and monitoring

PREAMBLE

The purpose of the Convention is to promote, protect, and ensure the respect, full enjoyment, and exercise of the human rights of older persons.

First, it mentions the documents that inspired the drafting, including core human rights instruments, important UN General Assembly documents on older persons, and regional agreements to protect older persons. It then describes the challenges older people face, such as discrimination, institutionalized ageism, and exclusion from society. Finally, it describes the diversity and heterogeneity of older people, but also their similarities, and the common features of aging that make them vulnerable and are not easily understood by younger generations.

(Normative articulation of the Preamble)

States parties to the Convention emphasize that older persons should enjoy the full enjoyment of their human rights, dignity and freedom without discrimination,

Consider the principles contained in the United Nations' fundamental instruments on human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of Persons with Disabilities;

Recognizing that the need for the protection of older persons is recognized in the United Nations Principles for Older Persons adopted by the General Assembly on 7 December 1991 and the United Nations Statement on Ageing adopted on 16 October 1992;

Recognizing the importance and usefulness of regional instruments and multilateral agreements to protect the rights of older persons;

Concerned, however, that despite these various conventions, widespread discrimination against older persons continues to exist, and that the difficult situation of older persons is compounded by multiple or aggravated forms of discrimination, including on the grounds of gender, race, disability, sexual orientation and gender identity or other status;

In particular, it emphasizes that ageism is not just the result of prejudice based on ableism, but is a unique form of oppression that negatively impacts older people, and must be addressed by governments because it is embedded in many aspects of society, law, and policy practice that actually reinforce exclusion and discrimination against older people and prevent them from participating fully and effectively in society on an equal basis with others;

Further, recognizing the vulnerable situations older adults face: physical and financial abuse, neglect, poverty, difficulty accessing quality health care, and experiences of loneliness and isolation;

Whereas, in times of crisis, such as public health or humanitarian disasters, we often see older people deprived of their rights to health, nutrition, education, training and opportunities to maintain a sustainable life and exposed to enormous risks;

Concerned that provisions protecting the human rights of older persons are scattered across multiple conventions and are difficult to access comprehensively, making it difficult to provide comprehensive access for older persons;

Whereas, older adults should have as much control over their lives as possible, while actively pursuing their physical, mental, and emotional well-being to the fullest extent possible, pursuing opportunities to the best of their ability, and living a life of dignity and security;

Honoring the intrinsic and unique value of older people as living histories, transmitters of information, traditions, and social values, and as contributors, mentors, and teachers who build bridges between the past, present, and future of younger generations;

Celebrating the inherent diversity and heterogeneity of older adults, emphasizing that demographic, political, environmental, cultural, social, personal, familial, and physical diversity requires different political responses;

Remembering that aging is a universal and inevitable process that affects all of humanity, and that the reality of unchecked ageism has a negative impact on young people's ability to view their own aging process positively;

Convinced of the need for the Convention on the Rights of Older Persons, we pledged to,

Article 1. Purpose

The need for a Convention on the Rights of Older Persons is due to the lack of protection for older persons' human rights under current international human rights norms. This is because, the right to life means different things to older persons than it does to children under the Convention on the Rights of the Child, i.e. the right not to be arbitrarily deprived of life is the main content of the right to life for children, whereas for older persons it means the right to live a dignified life. Additionally, the Convention should consider the interconnectedness of the right to life and the right to health, and emphasize the right to self-determination.

In addition, the characteristics of older persons, such as health issues and care needs arising from physical aging, are not reflected in human rights instruments.

For older people, dignity means being respected as human beings with individual histories and cultures, regardless of their economic or social contributions, not as people who have ceased to be productive and are living out the rest of their lives. As equal members of society, they should be able to live fully in accordance with their will and preferences (autonomy and independence) and to participate in society and fulfill their potential through education or work.

(Normative articulation of the Purpose of the Convention)

The purpose of this Convention is to promote and protect all human rights and fundamental freedoms of older persons, to recognize their equal enjoyment of these rights, and to ensure their full exercise and participation in society, without discrimination.

Article 2. Definition

In defining the relevant terms, we considered existing UN and regional documents. We also considered the following factors: flexibility, sustainability (i.e., whether it will be applicable to the next generation), intersectionality, and finally, cultural context.

The definition for 'Ageing', 'Discrimination', 'old age' and 'Palliative Care' are adapted from the Inter-American Convention on Older Persons, which is the only instrument that explicitly define the characteristics of older persons.

Instead of Older People, Older Adults, or Senior Citizens, we chose the term "older persons." This is because the Committee on Economic, Social and Cultural Rights chose the word "older persons" for General Comment No. 6, as this term was employed in General Assembly resolutions 47/5 and 48/98.

The definition of 'Intersectional discrimination' and 'ageism' are draws on the work of the Independent Expert on the enjoyment of all human rights by older persons.

Finally, the definition of care is derived from discussions at OEWGA 9, but it does not represent a consensus view.

(Normative articulation of the Definition of the Convention)

For the purposes of this Convention,

"Ageing" refers to the progressive process of biological, physiological, psychosocial, and functional changes that occur throughout life, influenced by the interaction between individuals and their environment;

"Older persons" may be defined by national legislation, considering not only individual characteristics, but also the context of social and cultural factors throughout life;

"Old age" refers to the social construction of the final stage of the life course;

"Discrimination" means any distinction, exclusion or limitation, whether in the political, cultural, economic, social or any other sphere of public or private life, which is intended to impair, nullify or restrict the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms, or which has the effect of doing so;

"Intersectional discrimination" means any distinction, exclusion or limitation on older persons that is based on two or more discriminatory factors;

"Ageism" means any distinction, exclusion or limitation based on age that is intended to impair, nullify or restrict the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal footing, or has the effect of doing so, in the political, cultural, economic, social or any other sphere of public or private life;

"Care" in the context of older persons refers to ensuring their optimal level of health, physical and emotional well-being, and preventing or delaying the appearance of illness;

"Long-term care services" means quality, comprehensive social and health services, whether in the home or in a long-term care facility for older adults, including older persons with moderate or severe dependency;

"Palliative care" means an active, comprehensive, multidisciplinary approach to care for patients who are no longer responding to treatment, or who are suffering from avoidable pain, to improve their quality of life up to the end of their lives. The most important aspect of palliative care is the control of pain, other symp

toms, and social, mental, and spiritual problems in older patients. It involves the patient, the patient's environment, and the patient's family. Palliative care respects life and views death as a normal process, and does not attempt to hasten or delay it.

Article 3. General Principle

This section defines the core principles that guide the Convention. Just as the CRC establishes the principle of the best interests of the child, there is a need to establish a similar principle for older persons.

In addition to other core principles, autonomy and independence should be central for older persons. Maintaining the ability to make choices and live independently reinforces a sense of self-worth and control over their lives. For instance, the assumption that older adults are incapable of making decisions can be very disempowering. Autonomy allows them to challenge stereotypes and demonstrate their competence. Furthermore, being able to make decisions about daily routines, hobbies, and social interactions allows older persons to continue living a life that aligns with their preferences and values. Therefore, autonomy is a fundamental human right that allows older persons to maintain a sense of dignity, purpose, and control over their lives.

(Normative articulation of the General Principle of the Convention)

The principles of this Convention are,

- a) Inherent dignity;
- b) Respect for the autonomy and independence of the individual, including freedom of choice;
- c) Equality and non-discrimination;
- d) Full and effective participation and integration in society, including accessibility;
- e) Self-realization;
- f) Gender equality;

g) Intergenerational solidarity.

Article 4. General Obligation

The General Obligation Article defines the State's responsibility to protect older persons' human rights through necessary legal and administrative measures, while also fostering an enabling environment that removes obstacles and allows for their free exercise. The article acknowledges progressive realization of some rights, but emphasizes the State's ongoing commitment to improvement. International cooperation for sharing best practices and support is encouraged, and the critical role of meaningful participation by older persons is highlighted, as it's essential for their full enjoyment of human rights.

(Normative articulation of the General Obligation of the Convention)

1. States Parties undertake the obligation to ensure and promote the full realization by older persons of all human rights and fundamental freedoms without any form of discrimination.

To this end, States Parties undertake to,

- a) Take all appropriate measures to adopt all necessary legislative, administrative and other measures for the implementation of the rights recognized in this Convention;
- b) Take all appropriate measures, to amend or repeal existing laws, rules, customs and practices that constitute discrimination against older persons;
- c) Integrate the protection and promotion of the human rights of older persons in all policies and programs;
- d) Refrain from engaging in any acts or practices inconsistent with this Convention and ensure that their governmental authorities and public institutions conduct their affairs in a manner consistent with this Convention;

- e) Take all appropriate measures to eliminate discrimination on the grounds of age, whether practiced by any individual, institution or private entity;
- f) Promote awareness of the contribution of older persons to their families, communities and society at large, and promote the human rights capacities of older persons;
- g) Take additional measures to eradicate stereotypes, prejudice, ageism and harmful practices against older persons, particularly in families and communities, in all areas of life, including social and political participation, labor, and education and training.

2. With regard to economic, social and cultural rights, each State Party should undertake measures, individually and through international assistance and cooperation, to the maximum extent permitted by its available resources, to progressively achieve the full realization of these rights, without prejudice to the obligations set forth in this Convention that are immediately applicable under international law.

3. States Parties shall consult closely with and actively involve older persons in the development and implementation of laws and policies to implement this Convention, and in other decision-making processes concerning matters relating to older persons.

Article 5. Equality and non-discrimination

Age discrimination, especially against older persons, is often overlooked outside the labor market. This provision calls for a broader understanding of age discrimination.

It also recognizes ageism, the social prejudice against older adults, as a structural problem that goes beyond individual experiences. Ageism negatively impacts older adults' health, and safety. However, addressing ageism is challenging due to societal norms that condone age-based discrimination. The article addresses ageism in a norm for the first time and encourages State Parties to address it

The provision also explicitly addresses intersectional and multiple discrimination, which affects older persons but is absent from the current human rights conventions.

(Normative articulation of the Right to Equality and Non-discrimination)

1. States Parties recognize that all human beings are equal before and under the law and are entitled, without discrimination, to equal protection and equal benefits recognized by law.
2. States Parties shall prohibit all discrimination on the grounds of age and shall endeavor to address ageism.
3. States Parties shall protect the rights of older persons in all areas, including labor, social security, education, and health care, from the effects of intersecting or multiple discrimination based on age and other intersecting grounds such as, but not limited to, sex, race, ethnic origin, sexual orientation and gender identity, disability, and place of residence.

4. Specific measures which are necessary to accelerate or achieve de facto equality of older persons shall not be considered discrimination under the terms of the present Convention.

Article 6. Autonomy and Independence

For older person, the fundamental principle of recognition is paramount to ensuring a dignified existence. This recognition extends beyond mere legal equality to encompass a holistic approach that safeguards their decision-making autonomy in various aspects of life, including healthcare, social security, and social participation.

Recognition in these spheres is crucial for empowering older person to make informed choices that align with their preferences, values, and aspirations. It fosters a sense of agency and self-determination, enabling them to actively participate in shaping their own lives and well-being.

In instances where an older person's decision-making capacity diminishes or becomes absent, upholding their previously expressed wishes and advance directives becomes even more critical. Respecting these directives demonstrates a deep reverence for their autonomy and ensures that their values and preferences continue to guide their care and treatment.

(Normative articulation of the Right to Autonomy and Independence)

1. The States Parties to this Convention recognize that older persons, on an equal basis with others, have the right to make autonomous decisions and to have those decisions respected, and shall take effective and appropriate measures to ensure that older persons fully enjoy this right in all areas. This includes ensuring that:

- a) Older persons' preferences and wishes are respected in all areas, including economic and financial, so that they can exercise self-determination and control over their lives, and their previously expressed wishes are honored;

b) Older persons can participate in decision-making processes in all areas of their lives, including care and health rights, social security, and social participation;

c) Older persons have the opportunity to choose their place of residence and cohabitants and are not compelled to adopt a particular form of housing;

d) Older persons have access to appropriate support when exercising their legal capacity or making day-to-day decisions, and ensure that decisions are based on the 'best interpretation of their will and preferences', rather than on what is in their best interests.

2. States Parties shall provide additional and targeted protection for older persons in vulnerable situations, including older women, persons with disabilities, migrants, and indigenous peoples.

Article 7. Accessibility

Article 9 of the Convention on the Rights of Persons with Disabilities states that accessibility is a precondition for persons with disabilities to live independently, participate fully and equally in society. The same applies to older persons. Accessibility is a prerequisite to fulfilling many other rights.

(Normative articulation of the Right to Accessibility)

To empower older persons to participate independently and fully in all spheres of life, States Parties shall take appropriate measures to ensure that older persons have access, on an equal basis with others, to the physical environment, transportation, information and communication, including information and communication technologies and systems, and other facilities and services open to or provided for the public, in both urban and rural areas, including:

- a) Develop, promulgate, and monitor the implementation of minimum standards and guidelines relating to accessibility to facilities and services open to or provided for the public;
- b) Ensure that private entities providing facilities and services open to or provided for the public to consider all aspects of accessibility for older persons;
- c) Provide training to stakeholders on accessibility for older persons;
- d) Promote other appropriate forms of support and assistance to ensure older persons' accessibility, including access to information;

e) Facilitate older persons' access to new information and communication technologies and systems, including the Internet;

f) Promote, from the outset, the design, development, production, and dissemination of accessible information and communication technologies and systems so as to make them accessible at minimal cost.

Article 8. Right to life

Respecting the right to life for older persons includes aspects beyond mere survival, encompassing respect for their autonomy and dignity in the final stages of life. It's important to note that this suggestion is optional and depends on the desired level of detail in the Convention.

(Normative articulation of the Right to Life)

States Parties reaffirm that all human beings are endowed with the inherent right to life and shall take all necessary measures to ensure that older persons can effectively enjoy this right on an equal basis with others, including access to palliative care and other measures that ensure their dignity and autonomy until the end of life.

Article 9. Freedom from all forms of violence, abuse and neglect

The right to freedom from all forms of violence is a fundamental human right enshrined in various international conventions. For instance, Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) specifically protects women from violence, particularly within the family. Similarly, Article 19 of the Convention on the Rights of the Child (CRC) mandates states to safeguard children from all forms of physical and mental abuse, neglect, or maltreatment.

Recognizing that older adults are also vulnerable to violence, abuse, and neglect, this article calls for the inclusion of relevant provisions to address their specific needs. Also, the article expands the scope of violence to encompass various forms, including economic abuse, to which older adults, particularly women, are disproportionately subjected.

Furthermore, the article emphasizes the unique characteristics of violence, abuse, and neglect experienced by older adults, which often go unnoticed or inadequately addressed in existing human rights conventions.

The article also acknowledges the evolving nature of violence, particularly the rise of digital or online abuse, and the need to address these emerging forms of harm.

In summary, this article advocates for a comprehensive approach to protecting older persons from all forms of violence, including physical, sexual, psychological, emotional, economic, and cultural abuse, as well as neglect. By incorporating these considerations, we can foster a society where older adults can live free from fear, abuse, and neglect, enjoying their full human rights and dignity.

(Normative articulation of the Freedom from all forms of violence, abuse and neglect)

1. States Parties shall take all necessary legislative, administrative, social, educational and other measures to protect older persons from all forms of violence, abuse and neglect, including economic and financial abuse, whether based on gender or any other factor. This protection shall extend to both within and outside the home, and encompass the online or digital sphere.

2. States Parties shall take all appropriate measures to prevent all forms of violence, abuse and neglect by ensuring accessible and appropriate forms of support and assistance, tailored to the specific needs of individuals, taking into account gender and age, including the provision of readily available information and training on how to prevent, recognize and report violence, abuse and neglect, in particular for older persons, their families, and caregivers. States Parties shall provide such protection taking into account age, gender and disability.

3. States Parties shall ensure that all programs and services designed to protect older persons are effectively monitored by an independent body.

4. States Parties shall take all appropriate measures, including the provision of comprehensive and accessible protective services, to promote the physical, cognitive a

and psychological recovery, rehabilitation, and social reintegration of older persons who have been at risk of experiencing all forms of violence, abuse and neglect. Such recovery and reintegration shall take place in an environment that promotes the health, well-being, self-respect, dignity and autonomy of the victims, considering their individual needs and circumstances, including those based on gender and age.

5. States Parties shall put in place effective and enforceable laws and policies to identify, investigate and, where appropriate, prosecute cases of violence, abuse and neglect against older persons.

Article 10. Right to Justice

Article 13 of the Convention on the Rights of Persons with Disabilities (CRPD) addresses the issue of access to justice for persons with disabilities, specifically focusing on discrimination in criminal justice proceedings.

However, older person often faces difficulties in both civil and criminal proceedings due to age-based discrimination, where their will or capacity to engage may not be fully recognized. Thus, we have created this article as 'Right to Justice' than 'Access to justice', a more comprehensive approach that not only ensure access to older persons to all relevant legal information and resources in a format that is understandable and accessible to them, but also to provide opportunities for older persons to participate in the development and implementation of legal policies and procedures that affect their lives.

(Normative articulation of the Right to Justice)

States Parties shall remove physical and financial barriers to administrative and legal proceedings that limit older persons' right to a fair trial and to obtain redress and compensation, as well as physical and financial barriers to their participation in remedial input and legislation.

Article 11. Rights in situation of emergencies

To encompass a wider range of scenarios, the definition of "disaster situations" has been expanded to include risks, emergency situations, natural disasters, armed conflicts, social conflicts (including those involving indigenous peoples and civil disturbances).

Moving beyond the traditional perception of older persons as solely vulnerable individuals, this article recognizes their potential as agents of change. Accordingly, it advocates for the inclusion of older persons in the formulation, implementation, and monitoring of disaster preparedness plans tailored to their unique needs and capacities.

(Normative articulation of the Right in the situation of emergencies)

1. States Parties reaffirm the right of older persons to be protected and secure in the event of armed conflict, social conflict, natural disasters, epidemics, dangerous situations, and the adverse effects of climate change, including heat waves.

2. State Parties shall take appropriate measures to ensure the participation of older persons, including:
 - a) Adopting all reasonable and proactive measures tailored to the needs of older persons, including the effective dissemination of information to older persons, in preparation, prevention, reconstruction and recovery activities in response to emergencies;
 - b) Developing responsive disaster preparedness plans, policies, legislation that specifically address the needs and reduce the disaster risks of older persons.

Article 12. Right to physical, mental and cognitive health

In his report on the realization of the right to health of older persons, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health addressed four key areas of concern: primary healthcare and chronic illness, long-term care, palliative care, and informed consent.

This convention proposes to elevate each of these areas into separate articles. This ensures that the health issues, which are a significant part of older persons' lives, are adequately addressed.

This article aims to implement a right-to-health framework that shifts the discourse surrounding older persons from a needs-based perspective to a rights-based approach. This shift will enable greater realization of the right to health for older persons.

With regard to the realization of the right to health of older persons, the Committee on Economic, Social and Cultural Rights, in accordance with paragraphs 34 and 35 of General Comment No. 6 (1995), reaffirms the importance of an integrated approach, combining elements of preventive, curative and rehabilitative health treatment.

(Normative articulation of the Right to Care and Health)

1. States Parties recognize that older persons have the right to the enjoyment of the highest attainable standard of physical, mental, and cognitive health without discrimination on the grounds of age.
2. States Parties shall take all appropriate measures to ensure older persons' access to gender-sensitive health services. In particular, States Parties shall:

- a) Ensure that health-related policies apply a life-cycle approach to adequately manage chronic diseases of older persons and prevent preventable diseases;
- b) Adopt a comprehensive and intersectional approach to health, care, and medical treatment, without distinguishing between the care and medical treatment of older persons;
- c) Older persons are guaranteed access to health care services wherever they live, including in rural areas. These services should be available, affordable, and of good quality, and provided as close as possible to their communities;
- d) Address and prevent social isolation and loneliness among older persons through effective measures.

Article 13. Informed consent to care and medical decision

Special rapporteur on health recognizes that guaranteeing informed consent invokes, not only, right to health, but also, right to autonomy, freedom from discrimination, freedom from non-consensual experimentation, security and dignity of the human person, recognition before the law, freedom of thought and expression and reproductive self-determination. Individual autonomy, bodily integrity and well-being are central to the right to health framework. Therefore, persistent denial of the right to informed consent could constitute a form of physical and psychological abuse of older persons, who are much more prone to treatment and care without consent.

Health information needs to be of the highest quality, freely available on a nondiscriminatory basis, accessible to the individual's particular communication needs (including special physical or cultural circumstances), and presented in a manner culturally and otherwise acceptable to the person consenting. In this sense, the role of health-care providers is crucial for ensuring informed consent.

It is also important that older persons are in a position to fully understand health information and make voluntary and informed decisions based on that information. It is the duty of the State to find and implement new and innovative ways to reach out to older persons, identify age-friendly means to disseminate health-related information and encourage their participation.

Finally, the Special Rapporteur points to the importance of increasing awareness and empowering of older persons in order to strengthen their participation in health policymaking and build networks of older persons through which health information can be more easily accessed.

(Normative articulation of Informed consent to Care and Medical Decision)

1. States Parties shall respect the autonomy of older persons and recognize their right to make informed, prior, and fully informed decisions concerning their health, long-term care, medical care, palliative care, and hospice care.
2. To respect this right, States Parties shall:
 - a) Implement laws or policies that ensure older persons are able to make free, prior, voluntary, and fully informed decisions regarding their care and health care;
 - b) Respect older persons' right to change or revoke decisions regarding their health, care, and medical treatment;
 - c) Find and implement new and innovative approaches for older persons to fully understand health information and make voluntary and informed decisions based on that information;
 - d) Disseminate more appropriate, clear, timely, and available information to older persons to facilitate informed decision-making;
 - e) Establish a legal and social framework that respects older adults' care decisions made following established procedures;
 - f) Increasing awareness and empower older persons in order to strengthen their participation in health policymaking.

Article 14. Long-term care

WHO emphasizes the importance of long-term care, as it allows people who experience significant declines in intrinsic capacity to maintain their quality of life and continue to do things that are important to them, as independently and as safely as possible, while ensuring their basic rights, fundamental freedoms, and human dignity are respected.

Access to long-term care services can delay and slow down the loss of intrinsic capacity, allowing people to live independently for longer. This is often the case for age-related declines in function, which tend to happen slowly over time, providing opportunities for appropriate interventions that can prevent or delay capacity losses.

Strong long-term care services benefit the wellbeing of people with long-term care needs, as well as their families and communities. Access to respite care, support services, training and information helps to protect the mental and physical health of informal caregivers, while accessibility and affordability of long-term care services can ensure households are not burdened by undue financial pressures and can take full advantage of economic opportunities.

Strengthening long-term care delivery is also an investment in the sustainability and performance of health and social protection systems. It promotes the efficient allocation of scarce resources, avoids the costly duplication of tasks, and facilitates the delivery of care in the most appropriate settings. Absent or insufficient long-term care services place an increased burden on informal caregivers, limiting their ability to participate in the labor market and consequently reducing potential for economic growth at national level.

(Normative articulation of Right to Long-term Care)

1. States Parties shall recognize the right of older persons who, for health or othe

r reasons, can no longer fully maintain their daily lives independently, to receive long-term care services that support their autonomy and independence.

2. To ensure this right, they shall take the following measures:

- a) Adopt long-term care legislation or policies;
- b) Provide non-discriminatory, affordable, adequate, and integrated long-term care services of good quality;
- c) Provide financial and social support to older persons facing specific vulnerabilities, such as financial hardship or social isolation;
- d) Deliver care that reflects the individual's needs and respects their autonomy over the care they receive, including recognizing their wishes and preferences regarding the location and type of care, to the greatest extent possible;
- e) Implement measures to, support care providers, including family members, with psychological and financial assistance, and to protect the dignity and privacy of older persons throughout the care process;
- f) Establish independent and legitimate authorities or institutions to monitor the quality of care services;
- g) Provide an easily accessible and effective system of redress and compensation in cases of violence, abuse, neglect, or restriction of autonomy and freedom of older persons.

Article 15. Palliative care and hospice care

The UN Committee on Economic, Social and Cultural Rights emphasizes the right to die with dignity and be free from avoidable suffering. Palliative care achieves this by focusing on improving quality of life, relieving pain, and respecting patient autonomy. The report from the Special Rapporteur on the Right to Health stresses that older persons deserve control over their end-of-life care, including choosing pain medication, location of death, and refusing unwanted treatments. Ensuring access to palliative care and respecting patient wishes are crucial for guaranteeing a dignified death, which is an integral part of a person's overall human rights.

(Normative articulation of Right to Palliative care and hospice care)

1. States Parties shall recognize the right of older persons to receive palliative care or hospice care to alleviate suffering from life-threatening or life-shortening illnesses without unnecessary pain or distress.
2. To ensure this right, they shall take the following measures:
 - a) Recognize the right to palliative and hospice care in law or policy;
 - b) Ensure equal access to palliative care and hospice care for all, regardless of age;
 - c) Deliver palliative and hospice care as a comprehensive approach, encompassing palliation of illness, psychosocial support services, supportive care and rehabilitation;
 - d) Provide palliative or hospice care in any setting, including urban and rural areas, homes, public or private residential or healthcare settings, and without distinction between treatment and care settings;

e) Ensure older persons' access to necessary interventions, including appropriate pain medication;

f) Consider denial of access to pain-relieving medications for severe pain and suffering as cruel, inhuman, or degrading treatment or punishment. Additionally, design and implement policies that promote understanding of the therapeutic benefits of necessary medications (or pain-relieving medications) and their responsible use.

Article 16. Aging in place

Ageism can lead to the mistaken belief that older adults are no longer capable of living independently. However, like everyone else, older persons deserve the right to choose where they live. This is why aging in place is a fundamental human right.

The Vienna International Plan of Action on Ageing also recognizes the importance of older persons to continue to live in their own home as long as possible. For many older adults, independence and the ability to make their own choices about their living situation are paramount. Aging in place allows them to remain in familiar surroundings where they feel comfortable and in control, fostering a sense of autonomy and self-sufficiency.

Furthermore, strong social ties often bind older adults to their neighborhoods and communities. Moving away from these familiar environments can disrupt these connections and lead to social isolation, which itself can negatively impact mental and physical health. Therefore, policies and programs that support or provide viable options for aging in place are essential.

(Normative articulation of Aging in place)

1. States Parties shall ensure that older persons have the right to remain in their homes, communities, and other chosen places of residence as long as they wish, and that they are not forced to live in a particular place against their will.
2. To ensure this, they shall:
 - a) Develop policies to build age-friendly and age-integrated communities that take into account the changing physical, social, and service needs of older persons;

- b) Develop and implement policies and programs to support older persons' living in and integration into the community, preventing their marginalization from the community;
- c) Provide economic and social support to families living with older persons, while promoting monitoring of abuse or neglect of older persons by family members;
- d) Take measures to ensure the active participation of older persons in society, including by ensuring accessible and appropriate transportation and mobility options.

Article 17. Training of health, social and medical workers

Older persons exhibit distinct disease manifestation patterns, respond differently to treatments, and often possess complex social needs linked to their chronic medical conditions. Consequently, healthcare, social welfare, and therapeutic professionals who frequently interact with older adults, as well as administrative and judicial personnel tasked with handling such situations, must possess a thorough understanding of these unique characteristics to ensure that the rights and dignity of these individuals are fully upheld.

Paramount among the requirements for elderly care professionals is comprehensive training in geriatric rights, informed consent procedures, and preference elicitation techniques to effectively support older adults' decision-making processes. This training should encompass the development of communication skills (including the use of communication support tools) to facilitate seamless interactions with elderly individuals and cultivate an attitude of utmost respect towards them.

Necessary training domains encompass diverse fields, including gerontology, geriatrics, psychiatry, geriatric nursing, as well as public administration, law enforcement, and the judiciary.

(Normative articulation of Training of health, social and medical workers)

States Parties shall provide appropriate training for health, social, and medical workers responsible for the well-being of older persons. The training shall include:

- a) Rights of older persons and communication skills;
- b) The physical and mental health of older adults, including, age-related changes and common conditions in older adults;

- c) The characteristics of older adults, for law enforcement workers, including police and corrections;
- d) Recognizing and responding to the specific needs of vulnerable and marginalized older populations;
- e) Supporting patients in making informed and autonomous decisions about their quality of life at the end of life.

Article 18. Right to work

In 2018, ILO issued a report called 'a quick analysis of the situation of older persons in the labour market' which laid out the situation of older person in the job market. Older workers are staying in the workforce longer due to social security concerns and population aging, but the job market isn't adapting. This mismatch leads to underemployment for older adults, even though unemployment rates might appear low. They struggle to find jobs that utilize their skills, and employers are hesitant to hire them. The report concludes that labor markets need to change to integrate older workers effectively by finding ways to match their skills and experience with available jobs, while also providing adequate social protection.

The article recognizes older persons in the informal labor sector, particularly older women in domestic or care work, as highlighted in CEDAW General Recommendation No. 27.

To protect older workers, a particularly vulnerable population in the workplace, we highlighted the importance of safe and healthy working conditions, as outlined in Article 7 of the ICESCR.

(Normative articulation of Right to Work)

1. States Parties recognize the right of older persons to decent work on an equal basis with others, without discrimination on the basis of age.
2. State Parties shall take appropriate measures, including legislation, to protect and promote the realization of the right to work. This includes:
 - a) Prohibiting discrimination on the grounds of age in all matters relating to recruitment, working conditions, and social security;

- b) Promoting flexible, supportive, and inclusive work environments that cater to the needs and capabilities of older workers;
- c) Ensure trade union rights for older workers, even after retirement;
- d) Protecting domestic and care workers, informal laborers, especially older women and older migrants;
- e) Protecting older persons from unhealthy working conditions and forced or compulsory labor.

Article 19. Right to adequate standard of living

Social security plays a vital role in guaranteeing older person the resources and support they need to live with dignity and security. This concept is enshrined in several key international documents:

Foundational document is the International Covenant on Economic, Social and Cultural Rights. It establishes the fundamental right to social security, protecting individuals from losing their means of subsistence due to factors beyond their control, such as old age.

Building on this foundation, Principle 1 of the UN Principles for Older Persons specifies that social security for older adults goes beyond just financial security. It emphasizes their right to access basic necessities like food, shelter, and healthcare. Furthermore, it highlights the importance of income security, support from family and community, and self-reliance in achieving a secure and dignified life.

The ILO Social Security Conventions take more concrete steps by requiring countries to establish social security systems, including old-age pensions. These systems provide financial security for older adults, ensuring they have the resources they need to meet their basic needs.

The Vienna International Plan of Action on Ageing, which is the first international agreement on aging adopted by the United Nations (UN) also recognizes that social security encompasses more than just financial well-being. It emphasizes the importance of suitable housing that addresses the psychological and social needs of older persons. It also calls for urban planning that prioritizes social integration, mobility, and accessibility for this population group.

(Normative articulation of Right to adequate standard of living)

1. States Parties shall recognize the right of older persons to an adequate standard of living, including an adequate level of subsistence, continuous improvement of their living conditions, and social protection.
2. State Parties shall take appropriate measures to protect and promote the realization of these rights without discrimination on the grounds of age. This includes:
 - a) Implementing social security systems for older persons, including pension systems and healthcare, without discrimination on the basis of age and gender;
 - b) Implement measures to address poverty and social exclusion faced by older persons, with a particular focus on older women;
 - c) Ensure older persons' access to public housing programs;
 - d) Provide protection for groups of older persons who face difficulties in accessing social security systems, including refugees, asylum seekers, migrants, indigenous peoples, and persons with disabilities.

Article 20. Full and effective participation in social, public and political life

Isolation and exclusion from society is what older persons frequently experience during later life. Members of vulnerable groups, such as older women, also face special challenges in participating in society.

However, recognizing the value of older persons, the UN encourages their active participation in shaping policies, sharing knowledge, and serving communities. This enriches society through their experience and strengthens their own well-being. Moreover, the right to participation should be broadly framed to encompass participation in political processes, notably the ability to vote and lobby for their interests, and access to justice.

WHO recognized that social isolation and loneliness are widespread, with an estimated 1 in 4 older people experiencing them. This, along with a large body of research showing their serious impact on physical and mental health, quality of life, and longevity, makes them a human rights issue. Thus, this article pioneered in incorporating the concept of 'social isolation and loneliness' into norm and called upon State parties to prevent it.

(Normative articulation of Full and effective participation in social, public and political life)

States Parties shall ensure that older persons enjoy social, public, and political rights and opportunities on an equal basis with others, and undertake to:

- a) Involve older persons in decision-making processes related to their rights and well-being, and promote opportunities for their participation;

- b) Encourage their participation in the activities and management of non-governmental organizations and political parties involved in the public and political life of the State;
- c) Support the participation of older persons in movements or associations in all sectors of society to protect their interests;
- d) Take measures to prevent older persons from being isolated or excluded from society.

Article 21. Lifelong learning. education, training, and Capacity Building

United Nations Principles for Older Persons states that "Older persons should have access to appropriate educational and training programmes" and "Older persons should have access to the educational, cultural, spiritual and recreational resources of society".

Educational and vocational training for older people is often discouraged compared to younger people. However, learning is a lifelong process, and no one should be discriminated against, when it comes to learning.

Furthermore, they should also be actively involved in shaping the educational process, not just as recipients of education, but as providers of education or involved in designing their own educational programs.

(Normative articulation of Right to Lifelong learning and education)

1. States Parties recognize the right of older persons to education
2. State Parties shall ensure older persons' full development of their potential through access to education, training, and vocational and continuing education opportunities, without discrimination and on the basis of equal opportunity.

Article 22. Statistics and Data Collection

Gathering comprehensive data is crucial. Also, detailed data of older persons will help better understand how to protect their rights. Furthermore, recognizing that the aging experiences of indigenous peoples, women, and persons with disabilities may diverge from those of others, efforts should be made to enable intersectional analysis.

(Normative articulation of Statistics and Data collection)

1. To effectively implement this convention, State Parties commit to gathering pertinent information, encompassing statistical data and research materials, to inform policy formulation and execution.
2. States Parties shall be responsible for the dissemination of such data and statistics and shall ensure their accessibility to all persons, including older persons, in formats and through means that are easy to understand and use.

Article 23. International Cooperation

This article states international collaboration to devise solutions for safeguarding and advancing the rights of older adults. It also broadens the scope of cooperation stakeholders, underscoring the shared responsibility of all to protect and promote the rights of older persons.

(Normative articulation of International Cooperation)

The Parties recognize the importance of international cooperation and its promotion in supporting national efforts to realize the objectives and goals of this Convention. They shall take appropriate and effective measures in this respect, both among themselves and, where appropriate, in cooperation with relevant international and regional organizations, enterprises, civil society organizations, and, in particular, organizations of older persons.

Article 24. Implementation and monitoring

In line with other international human rights conventions, this convention should establish a treaty body committee to conduct regular monitoring of its implementation. However, at this stage, while a set of norms on comprehensive monitoring framework is necessary, we will include a placeholder for a comprehensive monitoring clause. Furthermore, discussion of how to empower National Human Rights Institutions to effectively fulfill their monitoring role is required.

(Normative articulation of Implementation and monitoring)

1. To ensure effective implementation of this Convention, States Parties shall:
 - a) Take all necessary legal, administrative, and other measures;
 - b) Consider establishing or designating coordinating bodies within their governments to facilitate activities across different sectors and levels;
2. For effective monitoring of the Convention's implementation, States Parties shall:
 - a) Establish a system, including one or more independent bodies, such as a national human rights institution, to promote, protect, and monitor compliance with this Convention;
 - b) Ensure the full participation of civil society organizations, in particular older persons and organizations representing them, in the monitoring process and encourage their active involvement.

[Reference]

- Universal Declaration of Human Rights
- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention on the Rights of Persons with Disabilities

- United Nations Principles for Older Persons(1991)
- United Nations Declaration on Aging(1992)
- Vienna International Plan of Action on Aging(1983)
- Political Declaration and Madrid International Plan of Action on Ageing(2002)

- UN Decade of Healthy Ageing(2021–2030)
- WHO Global Report on Ageism(2021)
- WHO Social isolation and loneliness among older people: advocacy brief(2021)
- WHO Towards a dementia inclusive society (2021)
- WHO Integrated care for older people (2017)
- Normative standards in international human rights law in relation to older persons, Analytical Outcome Paper, August 2012

- OHCHR Human rights of older persons: International human rights principles and standards, Background Paper – revised and updated Open-ended Working Group, GA resolution 65/182, New York, 18-21 April 2011
- OHCHR Update to the 2012 Analytical Outcome Study on the normative standards in international human rights law in relation to older persons Working paper prepared by the Office of the High Commissioner for Human Rights(March 2021)
- Recommendation CM/Rec(2014)2 of the Committee of Ministers to member States on the promotion of human rights of older persons (Adopted by the Committee of Ministers on 19 February 2014 at the 1192nd meeting of the Ministers' Deputies)
- Shifting perceptions: towards a rights-based approach to ageing, FRA(European Union Agency for Fundamental Rights), 2018
- Call to Action: On strengthening the advocacy of NHRIs in the Asia-Pacific region for an international framework for the promotion and protection of the human rights of older persons (Manila, 2023)
- Thematic study on the realization of the right to health of older persons by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover(A/HRC/18/37, 2011)
- Report of the Independent Expert on the enjoyment of all human rights by older persons, Rosa Kornfeld-Matte(A/HRC/30/43, 2015)
- Enjoyment of all human rights by older persons Report of the Independent Expert on the enjoyment of all human rights by older persons (A/HRC/42/43, 2019)

- Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and cultural rights, including the right to development, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak(A/HRC/10/44)
- Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez (A/HRC/22/53)
- ESCR General comment No. 6 (1995): The Economic, Social and Cultural Rights of Older Persons
- ESCR General comment No. 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)
- ESCR General comment No. 19 (2007): The right to social security (art. 9)
- CEDAW General recommendation No. 27 (2010) on older women and protection of their human rights
- CAT General comment No. 2 (2008): Implementation of article 2 by States parties
- CRPD General comment No. 1 (2014) Article 12: Equal recognition before the law
- ILO Older Workers Recommendation, 1980(no. 162)
- Inter-American Convention on Protecting the Human Rights of Older Persons (2015)
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa (adopted in 2016, 2 more signatories required to come into force)

o force)

- Reports from the UN Open-ended Working Group on ageing
- Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises, OEIGWG Chairmanship 3rd Revised Draft (17.08.2021)