

Human Rights of Older Persons – Advancing an International Agenda

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Main message:

The human rights dimension of policy on ageing goes beyond ensuring the various rights of older persons. It can also be viewed as a vehicle for advancing the entire international agenda on ageing.

Outline of presentation

1. Ageing and older persons in the United Nations instruments on human rights
2. Human rights in the UN policy frameworks on ageing.
3. Progress in implementation of the UN policy frameworks on ageing.
4. Towards a Convention on the rights of older persons.

1. Ageing and older persons in the United Nations instruments on human rights

Ageing and older persons are missing from the main documents of the United Nations on human rights

Milestone documents of the United Nations on human rights:

- ❑ the Universal Declaration of Human Rights (1948)
- ❑ the International Covenant on Economic, Social and Cultural Rights (1966)
- ❑ the International Covenant on Civil and Political Rights (1966)
- ❑ the Convention on the Elimination of All Forms of Discrimination against Women (1979)

None of the above documents contains direct references to older persons.

Usual pretext:

While the milestone documents of the United Nations on human rights do not directly refer to older persons, the universal nature of these documents implicitly recognizes the rights of older members of a society.

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*Meanwhile,
the rights of older persons have specifically been
reflected in:*

**The International Convention on the Protection of the
Rights of All Migrant Workers and Members of Their
Families (1990)**

**The Convention on the Rights of Persons with Disabilities
(2006)**

(2)

26 November 1948



DOCUMENT A/C.3/213/REV. 1

Agenda item 56

Argentina: draft resolution

[Original text: Spanish]
[26 November 1948]

The General Assembly,

Whereas the Members of the United Nations by virtue of Article 55 of the Charter, are pledged to create conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, by promoting higher standards of living, full employment and conditions of general progress and the solution of related social problems;

Whereas in order to achieve these ends it is essential to provide for mankind an atmosphere of peace and stability such as is best brought about by the social progress now existing and in the process of achievement; and

Taking into account that social questions are not concerned solely with poverty but with the human insecurity resulting from the discrimination created by society in the utilization of its wealth; and

Considering that the social progress arising from the concern shown by the working masses is affected by legislation designed to establish more precise, effective and widespread human safeguards, extending beyond the limits of man's working capacity;

Declares

That old age rights, having the same origin and purpose as other universal social safeguards, are essential for the improvement of the living conditions of the worker and for his welfare when his physical strength is at an end and he is exposed to poverty and neglect;

Takes special note of the declaration of old age rights submitted by the Argentine delegation and appended as follows:

1. *Right to assistance.*

Every aged person has the right to full protection by his family. In the case of destitute persons, it is the duty of the State to provide such protection, either directly or by means of institutions or foundations created for the purpose or already existing, without prejudice to the right of the State or the said institutions to claim appropriate contributions

from solvent relatives guilty of neglect, for the support of the aged person in question.

2. *Right to accommodation.*

Every person, and therefore also those who have reached old age, has the inherent right to a healthful place of abode, with a minimum of home comfort.

3. *Right to food.*

Special attention should be paid to the provision of a healthy diet adequate for the age and physical condition of the individual.

4. *Right to clothing.*

In addition to the right to food, the inherent rights of the individual include that of adequate clothing, appropriate to the circumstances and climate.

5. *Right to the care of physical health.*

The care and protection of the physical health of the aged must be the special and constant concern of institutions and Governments.

6. *Right to the care of moral health.*

The right to free intellectual, as well as moral and religious, development, such as will enable the aged to maintain a state of moral health, should be safeguarded.

7. *Right to recreation.*

Aged persons have the right to a reasonable minimum of recreation, to enable them to spend their leisure and retirement in a satisfactory manner.

8. *Right to work.*

Every aged person has the right to prevent the diminution of his powers whilst still able to work, and institutions and States should assess his productive capacity and afford him possibilities of work.

9. *Right to stability.*

Every aged person has the right to a definite and assured state of stability and a life free from distress and worry in the final years of his life.

10. *Right to respect.*

Aged persons are entitled to the full respect and consideration of their fellow-men.

Decides to transmit this declaration to the Economic and Social Council for detailed study in consultation with the International Labour Organization.

1. RIGHT TO ASSISTANCE
2. RIGHT TO ACCOMMODATION
3. RIGHT TO FOOD
4. RIGHT TO CLOTHING
5. RIGHT TO THE CARE OF PHYSICAL HEALTH
6. RIGHT TO THE CARE OF MORAL HEALTH
7. RIGHT TO RECREATION
8. RIGHT TO WORK
9. RIGHT TO STABILITY
10. RIGHT TO RESPECT

Also, several draft documents that specifically addressed the rights of older persons were submitted to the UN:

➤ Declaration of Old Age Rights (Argentina, 1948)

➤ Declaration on the Rights of Older Persons (IFA and the Dominican Republic, 1991) → **UN Principles for Older Persons**

➤ Charter for a Society for All Ages (AARP, 1999)

➤ Declaration of Interdependence (the Dominican Republic and AARP, 1999)

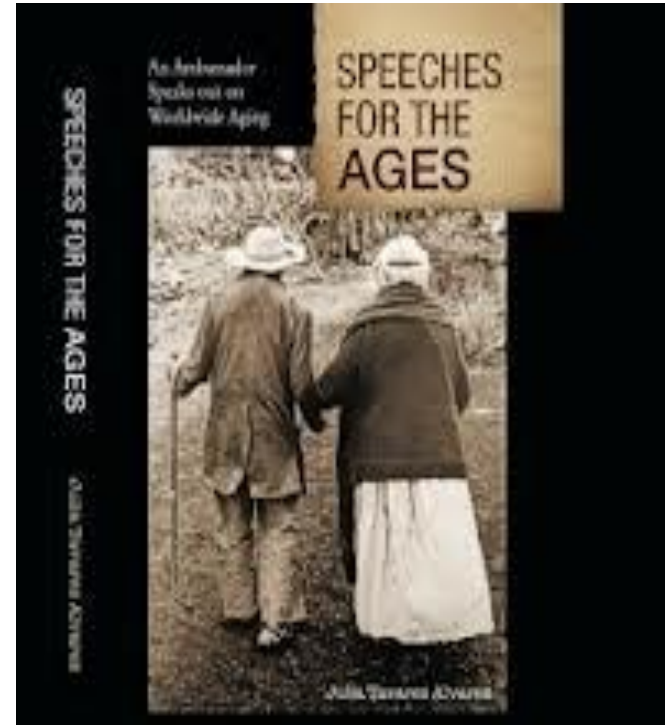
Only one modified document was adopted: The UN Principles for Older Persons

“UN Ambassador for Ageing”



**Ambassador Julia
Tavares Alvarez**

1937 - 2012



2. Human rights in the UN policy frameworks on ageing.

The UN policy frameworks on ageing are inclusive of human rights of older persons

UN Strategic Documents on Ageing

1982

World
Assembly on
Ageing

Vienna, Austria,



1991

United
Nations
Principles
for Older
Persons



*Independence
Participation
Care
Self-fulfillment
Dignity*

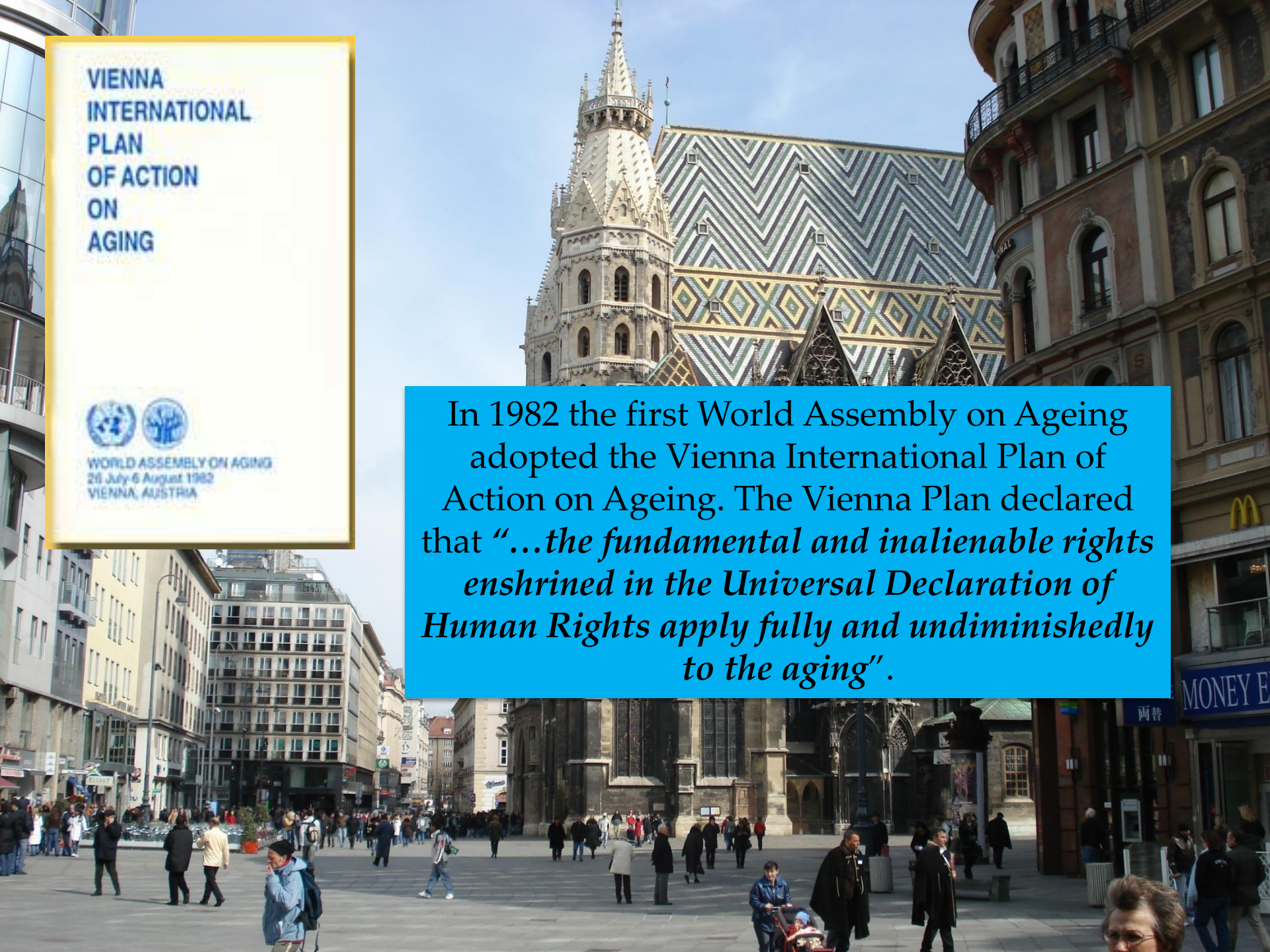


VIENNA
INTERNATIONAL
PLAN
OF ACTION
ON
AGING



WORLD ASSEMBLY ON AGING
26 July-6 August 1982
VIENNA, AUSTRIA

In 1982 the first World Assembly on Ageing adopted the Vienna International Plan of Action on Ageing. The Vienna Plan declared that *"...the fundamental and inalienable rights enshrined in the Universal Declaration of Human Rights apply fully and undiminishedly to the aging"*.





**United
Nations
Principles for
Older
Persons**

1991

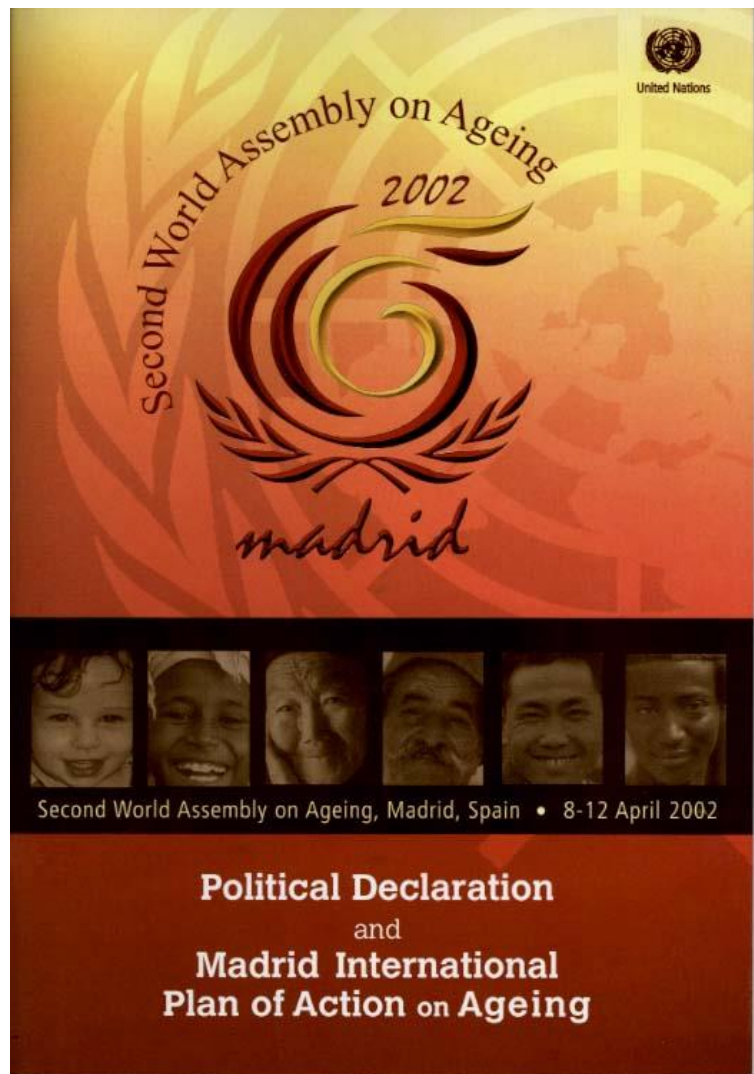
INDEPENDENCE

PARTICIPATION

CARE

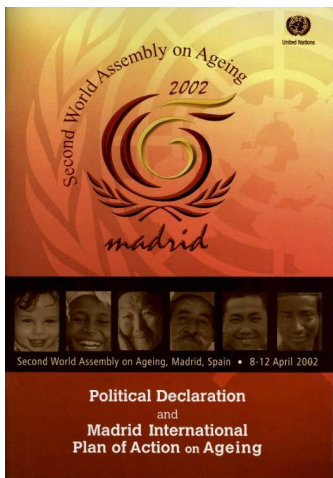
SELF-FULFILLMENT

DIGNITY



Political Declaration

- ...promote democracy...
- ...strengthen the rule of law...
- ...promote gender equality...
- ... promote and protect human rights and fundamental freedoms, including the right to development...
- ...eliminate all forms of discrimination, including age discrimination...
- ...recognized that persons, as they age, should enjoy a life of fulfillment, health, security and active participation in the economic, social, cultural and political life of their societies...
- ...enhance the recognition of the dignity of older persons and to eliminate all forms of neglect, abuse and violence...



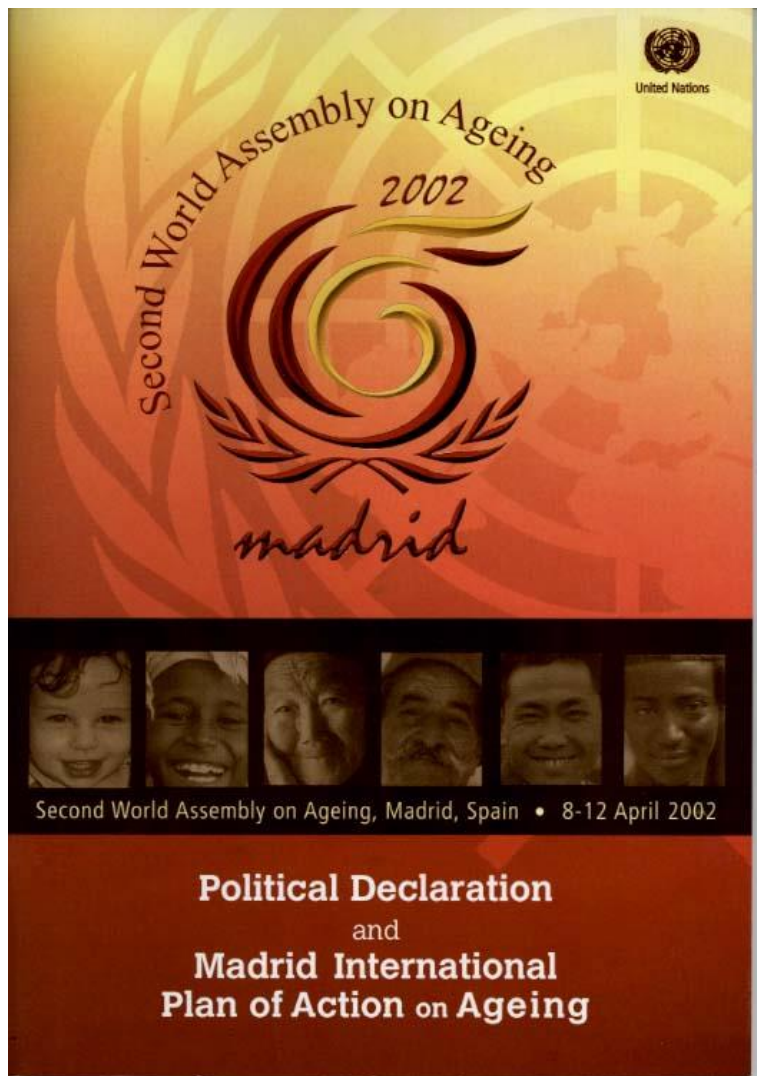
I. Introduction

10. ...The **aim** of the International Plan of Action is to ensure that persons everywhere are able to age with security and dignity and to continue to participate in their societies as citizens with full rights.
(...)

12. ...Central ***themes*** (11) of the Madrid Plan of Action:

- (a) The full realization of all human rights and fundamental freedoms of all older persons;
- (b) Ensuring the full enjoyment of economic, social and cultural rights, and civil and political rights of persons and the elimination of all forms of violence and discrimination against older persons;
- (f) Commitment to gender equality among older persons through, inter alia, elimination of gender-based discrimination...

13. The promotion and protection of all human rights and fundamental freedoms, including the right to development, is essential for the creation of an inclusive society for all ages in which older persons participate fully and without discrimination and on the basis of equality. Combating discrimination based on age and promoting the dignity of older persons is fundamental to ensuring the respect that older persons deserve.



Priority direction III: Ensuring enabling and supportive environments

Issue 3: Neglect, abuse and violence

Objective 1: Elimination of all
forms of neglect, abuse and
violence of older persons.

Objective 2: Creation of
support services to address
elder abuse.

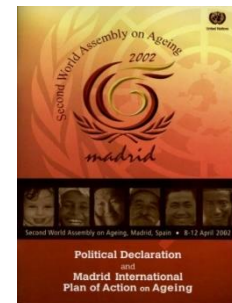
3. Progress in implementation of the UN policy frameworks on ageing.

Thus, the human rights of older persons are included into the main strategic documents of the United Nations on ageing.

What about the progress in implementing these documents?



Two international plans of action on ageing – similar results of implementation...



1985: First Review & Appraisal:

“...limited progress in improving the living conditions of [older persons]...”

2007: First Review & Appraisal:

‘some success’, as well as ‘significant gaps in progress’

1989: Second Review & Appraisal:

“...little progress...”

2012: Second Review & Appraisal:

‘Overall progress in the implementation ... has continued to be uneven, with several shortfalls.’

1993: Third Review & Appraisal

“... daunting task.”

2017: Third Review & Appraisal:

(No global conclusion: review and appraisal were conducted at national and regional levels)

1997: Fourth Review & Appraisal

“... minimal response...”

What are the causes of the limited progress in implementing the international strategies on ageing – the Vienna and the Madrid Plans of Action?

Legally non-binding nature of strategies (without ratification; there is no mandatory reporting mechanism; there is no international body for monitoring the compliance and progress in implementation...)

Self-reporting, self-assessing and **non-binding** nature of the review and appraisal exercise

Lack of **continuity** and **consistency** in the periodic review of results

The **benchmarks**, the interim results (**outputs**) and the final points of destination (**outcomes**) are loosely defined or descriptive at best.

Absence of clearly defined **criteria** for appraising the progress, the findings of the review and appraisal are usually based on anecdotal evidence and self-assessment

Most often it is **outputs**, not **outcomes** that are monitored and assessed, thus making the analysis of policy impact obscure.

Limited, if any, use of **indicators** prevents analyzing the dynamics of national actions and comparing implementation progress in different countries.

How to make the implementation of international strategies on ageing more streamlined, efficient and effective?

I. Improve the public significance and political power of the United Nations strategic documents in the field of aging:

- Develop and adopt an international *legally binding* instrument, such as a *convention*

II. Develop and implement **universal tools** and a **universal procedure** for assessing the progress of implementation and compliance

4. Towards a Convention on the rights of older persons

Where do we stand?

I. Develop and adopt an international *legally binding* instrument on ageing



United Nations and rights of older persons: most recent developments

The UN General Assembly, 65th session, 2010 - 2011

Excerpts from the Resolution:

28. *Decides to establish an open-ended working group (...)* for the purpose of strengthening the protection of the human rights of older persons by considering the existing international framework of the human rights of older persons and identifying possible gaps and how best to address them, including by considering, as appropriate, the **feasibility of further instruments and measures (...)**;

I. Develop and adopt an international *legally binding* instrument on ageing



United Nations and rights of older persons: most recent developments

The open-ended working group on
strengthening the protection of the
human rights of older persons

<http://social.un.org/ageing-working-group/>



General Assembly

Sixty-seventh session
Agenda items 27 (b) and (c)

Resolution adopted by the General Assembly on 20 December 2012
[on the report of the Third Committee (A/67/449 and Corr.1)]

67/139. Towards a comprehensive and integral international legal instrument to promote and protect the rights and dignity of older persons

1. Decides that the **Open-ended Working Group on Ageing...** consider proposals for an **international legal instrument** to promote and protect the rights and dignity of older persons...

2. Requests the Working Group to present to the General Assembly, at the earliest possible date, a proposal containing, *inter alia*, 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 and therefore require further international protection.



General Assembly

Human Rights Council

Twenty-fourth session

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

25 September 2013



The Human Rights Council,
... 5. *Decides to appoint, for a period of three years,*
an **independent expert** on the enjoyment of all human
rights by older persons...

In May 2014, the Human Rights Council appointed Ms. Rosa Kornfeld-Matte (Chile) as the first Independent Expert on the enjoyment of all human rights by older persons



General Assembly

2013, 2014, 2015, 2016, 2017...

No mentioning of a legally binding document on ageing...



General Assembly

Open-ended Working Group on Ageing

Eighth working session

New York, 5-7 July 2017

Report of the Open-ended Working Group on Ageing on its eighth working session

...there is still no unanimity with regard to the need to develop a new international legally binding instrument specifically devoted to the rights of older persons...

(p. 13)

Progress towards developing a legally binding document on the rights of older persons is slow.

But...

2013-2017: Continuing challenges and ongoing priorities

Social Protection

Continuing challenges:

- Low level of coverage by pension schemes, particularly in developing regions of the world.
- Pension benefits are insufficient to meet basic needs and prevent impoverishment.
- Lack of resources for providing social protection (low income countries)
- Declining number of working-age tax payers and thus shrinking budget capacity to provide for support mechanisms (high and middle-income countries)

Policy priorities:

- ☐ introducing pension benefits;
- ☐ improving already existing pension benefits (e.g., through indexing and/or adding pension supplement);
- ☐ expanding pension coverage, including to informal sector workers;
- ☐ strengthening sustainability of social protection system

Health & Social Care

Continuing challenges:

- Non-communicable diseases (“New epidemics”)
- Senile dementia(s)
- Limited and unequal access to services

Policy priorities:

- ☐ Active and healthy ageing
- ☐ ‘Ageing in place’
- ☐ De-institutionalization of care provision
- ☐ Expanding community and in-home care models
- ☐ Introduction (improvement) of regulation of care services and care institutions

2013-2017: Continuing challenges and ongoing priorities

Human Rights

Continuing challenges:

- Age discrimination in labour market.
- Neglect and abuse of older persons, particularly older women, in the family and in institutions.

Policy priorities:

- ☐ Introducing new and amending existing national legislation to attend to the human, social and economic rights of older persons.
- ☐ Adopting regional legal documents to protect the rights of older persons (e.g., Americas, Africa)
- ☐ Addressing human rights at the global level (UN Working Group on Ageing)



OAS | More rights
for more people

INTER-AMERICAN CONVENTION ON PROTECTING THE HUMAN RIGHTS OF OLDER PERSONS

Adopted at: Washington, D.C., United States of America.

Date: 06/15/2015 (Monday, June 15, 2015).

Total number of countries: 35

Number of signatures: 6

Number of ratifications: 6

**African
Union**



PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF OLDER PERSONS

Date of Adoption:

January 31, 2016

Date of last signature:

January 29, 2018

Total number of countries: 55

Number of signatures: 5

Number of ratifications: 0





General Assembly

Human Rights Council

Thirty-ninth session

10–28 September 2018

Agenda item 10

Technical assistance and capacity-building



The Human Rights Council,

3. *Underscores* the need to strengthen international, regional and bilateral cooperation and dialogue in the promotion and protection of human rights, including the human rights of older persons;

7. *Decides...* that the theme for the annual thematic panel discussion... to be held during its forty-first session, will be “Technical cooperation and capacity-building in the field of the human rights of older persons...”

In conclusion...

We need a convention on the rights of older persons, first and foremost, for ensuring and guaranteeing the human rights of older persons.

We need a global legally binding document on ageing for streamlining and advancing policy action on all major directions: social security, health, care, participation... We need it for constructing a society for all ages, as called for in the Madrid Plan of Action.

*towards a society
for all ages*



Thank you!



EUROPEAN CENTRE FOR SOCIAL WELFARE POLICY AND RESEARCH