

OPEN ENDED WORKING GROUP ON AGEING SESSION 5
National Association of Community Legal Centres (Australia)
INTERVENTION #1 of 2014

I acknowledge the Chair and thank the meeting for providing the NACLC with this opportunity.

We are here for the second time because we have confidence this process will further the rights of older Australians. The NACLC recognizes the Australian Government's approach to older people is comprehensive but we still have some distance to travel.

Today I want to provide a concrete example of a gap affecting older people, where existing mechanisms do not offer proper protections. It is an issue without geographic boundaries. It also shows the interplay of elder specific rights issues.

I speak about financial exploitation of older people towards the end of their life. Australian research indicates abuse affects 5-10% of older people. Sadly, our experience is that end of life decisions and issues are often the arena of exploiters. It is often the case that the abuser scrambles to gain control when the older person is nearing death. The abuser's motivations masked by their apparent concern.

The cost of financial exploitation is substantial. It is not restricted to those who have high incomes or significant assets. Financial exploitation reduces those with income and assets to dependency on the public purse. It reduces those already reliant on the State to abject poverty. Where it occurs in juxtaposition with the end of life, and is perpetrated by family, it casts a shadow of sadness and conflict over all. It stains the ongoing relationship among the family who survive the older person. It causes legal disputation that continues long after death.

Like the drafters of the Chicago Declaration, the NACLC is *Convinced of the need* for a comprehensive international convention to protect and promote the rights of older persons.

A Convention would shine a guiding light for Member States on how to protect its older citizens from these specific abuses and in specific circumstances.

In a recent article in Sydney Law Review, Professor Lacey identified protection from financial exploitation as a substantive and implementation gap.

Can we accept that even if we are not ready to draft a text, we are ready to acknowledge this gap as an obvious element of any future Convention. And it is one that shows the distinctive issues that need to be canvassed that are not part of a y existing instruments. The big picture of what protections are needed must be painted bit by bit. Examples of how rights might be framed already exist in the Principles for Older Persons at article 17 and the Chicago Draft at article 2(m).

To ignore this issue will place a fiscal burden on Government. Protecting older people from financial exploitation save Governments money down the track, as well as recognizing independence and autonomy. We must see that by protecting an individual from financial exploitation we are looking after our national assets, the people, their savings, their income, their ability to survive, their independence from reliance on the state.

Older people do have specific gaps and needs that are not within existing International Law. It is time we moved beyond simply regarding older people within the domain of “other status”. You only need to change 2 letters to get from “other” to “older”.

The more we listen to older people about their lives the more we know about our own futures. When older people say they need their rights better protected they are saying you and I need out rights better protected.

It is no cliché that older people are wise. All cultures have respected their elders because of their life path, recognizing it has seen many highways and byways. This respect must be restored. Ageism is insidious and seemingly embedded in our collective psyche. It is learned behavior that can be “unlearned” if we have an appropriate curriculum of respect.

I thank the Chair