



General Assembly

Distr.: General
XX August 2014

English only

Human Rights Council

Twenty-seventh session

Agenda item 3

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

Written statement* submitted by National Association of Community Legal Centres Inc. , The, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 August 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Statement of the National Association of Community Legal Centres (Australia) on the Rights of Older Persons

Introduction

1. The National Association of Community Legal Centres (Australia) (NACLC) makes the following written statement to the 27th Session of the Human Rights Council.
2. This statement relates to the Interactive Dialogue arising under Agenda Item Number 3, specifically the Report of the ‘Independent Expert on Older Persons’.
3. NACLC supports the work of the Human Rights Council and recently appointed Independent Expert on the Enjoyment of All Human Rights by Older Persons (IE) Ms Rosa Kornfeld-Matte. NACLC encourages the HRC to continue to support the work of the IE and the Open Ended Working Group on Ageing (OEWGA) and to other moves towards creating a binding, universal, international instrument for the promotion and protection of the rights of older persons.

Background

4. NACLC is the national peak body for approximately 200 community legal centres (CLCs) in Australia. NACLC has ECOSOC Special Consultative Status.
5. Community legal centres are not-for-profit, community-based organisations that provide legal advice, casework, advocacy, information and a range of community development services to their local or special interest communities. Many CLCs provide assistance to older persons and some specialise in assisting older persons with elder rights-specific issues including elder abuse, financial exploitation, social protection including social security, aged care and accommodation, decision-making and guardianship.
6. NACLC has been closely engaged with the issues around the human rights of older persons both nationally and internationally, including through:
 - Making submissions on national issues affecting older persons, including but not limited to human rights, age discrimination, aged care, and decision-making;
 - convening its own Network of Older Persons Legal Services (OPLS);
 - filing submissions with the Office of the High Commissioner for Human Rights Public Consultation on the Human Rights of Older Persons; and
 - attending the 4th and 5th Sessions of the Open Ended Working Group on Ageing.
7. NACLC notes the remarks in E/CN.5/2014/4 about the involvement of civil society in ageing-related UN processes:

53. Compared to other areas of activism, the number of civil society organizations led by or dedicated to the development of older persons at the national and international levels is low, and in the majority of cases their capacity to interact with governments and influence policy on behalf of their constituents is

low. Of the organizations that do exist at the national level in developing countries, many are focused on the provision of welfare-type services for older persons.

8. In light of this, NACLC welcomes the Report of the IE (A/HRC/27/46), particularly its recognition of the ‘central role of non-governmental organisations, including in providing her with information and engaging with and assisting her as she fulfils her mandate’.
9. NACLC emphasises its willingness to contribute to the work of the IE and OEWGA, drawing on CLCs’ many years of practical experience assisting older clients in relation to identified issues such as poverty, social protection, work, health care, abuse and violence, and age discrimination as well as expertise and understanding of systemic human rights-related issues for older persons, and in identifying substantive and normative gaps.

The Need for a Specific International Instrument

10. Older persons continue to suffer from neglect, abuse, discrimination, stigmatisation, poverty and social exclusion.
11. The lack of a specific international human rights instrument to promote and protect the rights and dignity of older persons has significant implications. As a result, there is increasing recognition of the need for a specific international human rights instrument, that is particularly important in light of the fragmented nature of limited references and normative and substantive gaps for older persons within existing international instruments.
12. The need for such an instrument is also important in light of population trends that indicate that one quarter of the world’s population will be older persons by 2050.

Statement on Ongoing Processes

13. NACLC supports the work of the HRC, IE and OEWGA in working towards a comprehensive and international legal instrument to promote and protect the rights and dignity of older persons. NACLC notes in particular Resolutions A/HRC/RES/24/20 and A/HRC/RES/24/25 and agrees with the conclusions reached at Resolution 24/25, ¶78.
14. The processes operating between Geneva (Resolution 24/20) and New York (Resolution 65/182), the implementation of the Madrid International Plan of Action on Ageing (E/CN.5/2013/6), the Follow up to the Second World Assembly on Ageing (A/RES//68/134), and the Post-2015 Development Agenda are all complementary processes and must be approached as such.
15. NACLC suggests that the work of IE, by reference to Resolution 24/20 ¶5(g), must further the areas of work not already within the mandate of Resolutions 65/182 and 67/139. Alongside Resolution 24/20, A/RES/68/134 provides guidance for the IE. NACLC suggests that duplication of thematic research such as is covered by A/AC.278/2011/4, A/AC.278/2011/5, A/AC.278/2012/1 and A/AC.278/2013/2 and findings such as E/CN.5/2014/4, A/68/167, A/AC.278/2013/CRP.1 and A/HRC/24/25 is unlikely to be the most productive approach.

16. NACLC emphasises the importance of the differing mandates of OEWGA and the IE.
17. In particular, the mandate of the OEWGA, as outlined in Res 67/139 is to: consider proposals for an international legal instrument to promote and protect the rights and dignity of older persons; and present the main elements that should be included in an international legal instrument which are not currently addressed sufficiently by existing mechanisms and therefore require further international protection.
18. The mandate of the IE, as outlined in Res 24/20 is, amongst other things, to assess the implementation of existing international instruments with regard to older persons while identifying both best practices in the implementation of existing law related to the promotion and protection of the rights of older persons and gaps in the implementation of existing law. The IE has also been tasked to assess the human rights implications of the implementation of the Madrid International Plan of Action on Ageing.
19. In light of these differing mandates, one on a new international legal instrument and the other on implementation and best practice of existing law, the key point of overlap is that both mandates warrant an assessment of the protections of the rights of older persons as a distinct group.
20. NACLC welcomes the Report of the IE (A/HRC/27/46), including statements which recognise the differing mandates of these two mechanisms.

Conclusion

21. NACLC strongly supports the need for a specific international human rights instrument to promote and protect the rights and dignity of older persons.
22. NACLC encourages the HRC to continue to support the work of the IE and OEWGA and other moves towards creating a binding, universal, international instrument for the promotion and protection of the rights of older persons.
23. NACLC emphasises the importance of the HRC, IE and OEWGA ensuring that their respective efforts contribute to a timely convergence of opinions about the landscape of protections of the rights of older persons under international law.
24. NACLC encourages the HRC to acknowledge the importance of Member States; the HRC and other special procedures and subsidiary organs of the HRC including the IE; relevant UN bodies and treaty bodies; as well as regional bodies, in ensuring that momentum towards a Convention is steady and progressive. All those tasked to work on this and related issues must do so without duplication and with a sense of urgency to ensure that the rights and dignity of older persons are protected worldwide.