



Australia's Human Rights Score Card

Australia's 2015 UPR—NGO Coalition Fact Sheet 14

Rights of Older People

A Note on Older People in the UPR

Since the beginning of the UPR process over 35,469 recommendations have been made. Only 27 of these recommendations have solely related to the rights of seniors/aged/elderly/older persons; with an additional 85 mentioning this population amongst their broader recommendations¹.

This highlights inadequate attention on the rights of older persons (which are a significant population group) as part of the Universal Periodic Review process.

General Recommendation:

Member States should consider ways to increase the focus on the rights of older people, by making recommendations that are specific and solely relating to older people, as part of all Universal Periodic Reviews.

Introduction

Australia faces a demographic shift; by 2056 one-in-four Australians² will be over 65. Australians will be living³ longer and staying in the workforce until 70 years (up from 65 years).

In 2004, Australia legislated specific protections for older Australians⁴ and in 2011 appointed an Age Discrimination Commissioner.⁵

Despite no recommendations on the rights of older people during its 2011 UPR, Australia included a range of actions within its 2012 Human Rights Action Plan,⁶ including actions in the areas of aged care reforms, elder abuse, financial security and Freedom from Discrimination.

¹ Analysis of <http://www.upr-info.org/database/> (October 2015)

² Australian Bureau of Statistics 2008, '3222.0 - Population Projections, Australia, 2006 to 2101'.

³ Australian Institute of Health and Welfare *Changes in life expectancy and disability in Australia 1998 to 2009*. AIHW Bulletin No. 111. Cat. no. AUS 166 (2012).

⁴ *Age Discrimination Act 2004* (Cth)

⁵ While this position was initially a full time role, since July 2014 the appointment has been reduced to a part-time role.

⁶ See further information available at <http://www.humanrightSACTIONPLAN.org.au/nhrap/focus-area/older-people>

Unfortunately however the Government has removed a number of committees that provided it with advice on barriers faced by Older Australians.⁷

Model Laws

Australia is a federation of states, with select powers given to the national Government. All other laws are the responsibility of state and territory governments. This results in inconsistency across jurisdictions and differing rights depending on where an older person lives. And difficulties where people live across or move across state borders.

Advanced Care Planning laws include Advanced (Care or Health) Directives and Enduring Powers of Attorney.⁸ These protections are important throughout life but particularly so for older people who may need to delegate decision-making.

In addition, a number of jurisdictions are currently undertaking inquiries into domestic/family violence and/or abuse, neglect and exploitation. These inquiries should consider, and provide a basis for the enactment of nationally consistent laws that protect older people from, all forms of elder abuse, exploitation and neglect (including physical, emotional, psychological, sexual, neglect and financial abuses). Such abuse is particularly an issue for older women. Additional funding for civil society to provide assistance and support to people experiencing such abuse is also required.

Proposed Recommendation:

All Australian jurisdictions should enact agreed, model, uniform Advanced Care Planning laws that ensure older people have easy options to direct their wishes or decisions about their health and care.

Australia should enact model, uniform national laws that ensure older people are protected from abuse, neglect and exploitation.

⁷ For example, the Advisory Panel on Positive Ageing (APPA) and the Insurance Reform Advisory Group (IRAG).

⁸ Parliament of Australia, Senate Community Affairs Reference Committee, *Palliative Care in Australia* (October 2012) rec 36.

Workforce Participation

Despite a rise in the workforce participation by Australians aged 55-64 (particularly amongst women); Australia has a comparatively low workforce participation rate of older Australians compared with other OECD countries (61.1% of workers aged 55-64years)⁹.

The Government commissioned an Australian Law Reform Commission (ALRC) report (2013) into legal barriers to mature age workforce participation, which involved extensive consultations. Amongst the 36 recommended changes to Australian legislation and legal frameworks, the ALRC recommended development of a National Mature Age Workforce Participation Plan.¹⁰

In 2014, the Government funded the AHRC to undertake *The Power of Oldness* awareness campaign¹¹. In 2015 the Government commissioned the AHRC to inquire into 'discrimination in the workplace' faced by older people and people with disability.¹²

However, despite these further inquiries, the Australian Government has announced no specific course of action to support mature age employment, despite the increasing need to rely on an ageing workforce as Australia's demography changes, and the compelling case for intervention already made by various inquiries. Action is required to support both the economic rights of older people and the economic needs of the nation.

Proposed Recommendation:

Australia should implement the recommendations of the ALRC's 2013 Inquiry and develop a National Mature Age Persons Workforce Participation Plan.

Longevity

Australians' life expectancy at birth for those born in 2055 will be 95.1 years for men (up from 91.5 years for those born today) and 96.6 years for women (up from 93.6 today).¹³ This represents a 25-plus year period after the future retirement age of 70 years.

Social isolation¹⁴ is an increasing issue for older people, particularly where longevity means a circle of friends is outlived or physical impairments

decrease mobility to stay in connection. Isolation is recognised by WHO as a key social determinant of health.¹⁵

Tapping into the resources communities to develop programs that utilise resources of people across the age spectrum. Such low cost models can to increase connectivity with community;¹⁶ decrease experiences of social isolation and poor mental health;¹⁷ and provides opportunities for older people to upskill in the use of contemporary technologies.

Proposed Recommendation:

Australia should develop and fund targeted programs to support longevity including in relation to combating social isolation, intergenerational activities and use of technology.

Convention on the Rights of Older Persons

NGOs in Australia consider that there are normative and implementation gaps in the protection and promotion of the rights of older persons internationally.

Australia has attended most sessions of the Open-Ended Working Group on Ageing,¹⁸ largely as an observer with occasional non-committal statements. It has not invited the Independent Expert to make an official country visit. Australian Government Ministers have indicated it "remained unconvinced that a new legal instrument was necessary"¹⁹, despite the urging of the AHRC and NGO's.

Proposed Recommendation:

Australia should strengthen protection and promotion of the rights of older persons by engaging more fully with the work of the *UN Open-Ended Working Group on Ageing* and invite the *Independent Expert on the enjoyment of all human rights by older persons* to make an official country visit.

⁹ OECD, *Employment to population ratios, Older workers as a percentage of population aged 55-64*. (2010).

¹⁰ Australian Law Reform Commission, *Access All Ages—Older Workers and Commonwealth Laws*, ALRC Report 120 (2013).

¹¹ See <http://www.powerofoldness.com/>

¹² Australian Human Rights Commission, *Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability* (2015).

¹³ Australian Government Treasury, *2015 Intergenerational Report Australia in 2055* (2015).

¹⁴ N Nicholson, 'A review of social isolation' *The Journal of primary prevention* 33 (2-3) (2012) 137 – 152.

¹⁵ See <http://www.euro.who.int/en/health-topics/Life-stages/healthy-ageing/data-and-statistics/risk-factors-of-ill-health-among-older-people>

¹⁶ J MacCallum et al, *Community building through intergenerational exchange programs: Report to the National Youth Affairs Research Scheme (NYARS)* (2006).

¹⁷ S Zedlewski & S Schaner, *Older Adults Engaged as Volunteers, The Retirement Project Perspectives on Productive Aging* (May 2006).

¹⁸ See participants at each session <http://social.un.org/ageing-working-group/unohchr.shtml>

¹⁹ *Media statement* by Senator the Hon. Mitch Fifield, Assistant Minister for Social Services (5 September 2015)