



**Center for the Human Rights of
Users and Survivors of Psychiatry**

Submission to the Intergovernmental Working Group on Ageing by the Center for the Human Rights of Users and Survivors of Psychiatry (CHRUSP) 22 April, 2026

CHRUSP is a human rights organization of users and survivors of psychiatry and persons with psychosocial disabilities, including those who are older persons. CHRUSP holds ECOSOC consultative status and regularly participates in the work of UN human rights mechanisms and relevant global and regional processes. See www.chrusp.org for more information.

We respond to the questions posed by the IGWA based on discussions among older users and survivors of psychiatry and persons with psychosocial disabilities, and drawing from experience in the CRPD drafting and negotiations.

1. What overarching framework should guide the international legally binding instrument on the human rights of older persons? Additionally, how can it best reflect and reinforce the recognition that older persons are rights-holders entitled to the full and equal enjoyment of all human rights and fundamental freedoms?

The overarching framework should be recognition that ageism, or discrimination based on age, takes many forms and that the development of a human rights treaty can begin to identify those and provide for their eradication and redress. Ageism works intersectionally with other forms of discrimination, especially sexism and ableism, and these intersectionalities take diverse forms as well.

The human rights of older persons should be embedded in the general human rights framework and contribute to its development. Obligations should be devised that combine substantive and formal equality, incorporating transformative and inclusive dimensions to change the way societies currently relate to older persons and instead adopt a lifecourse approach sensitive to diverse experiences at older ages.¹

Older persons should be guaranteed the same rights as others on an equal basis, and states' obligations to respect, protect and fulfill those rights should respond to the concerns expressed by older persons about how they are prevented from exercising and enjoying those rights on an

¹ See CEDAW GR5 on Article 4.1, paras. 8-10 (transformative equality, having an active dimension to change existing practices); CRPD GC6 on Article 5, para. 11 (inclusive equality, building in substantive equality measures within a common framework).

equal basis. Needs and concerns faced by older persons that are not yet adequately addressed in the human rights framework should be given appropriate expression in the treaty, linking to the existing framework and progressively developing it.

Existing rights applicable in principle to a subset of older persons through existing treaties (such as older women through CEDAW, or older persons with disabilities through CRPD) should be reaffirmed, strengthened by elaborating on states' obligations to ensure the rights to older persons, and where relevant made applicable to all older persons through the new instrument.

Older persons and their representative organizations, including those representing older persons with disabilities and other marginalized constituencies, should play a leading role in the development of the treaty as experts as well as primary stakeholders.

2. What core principles should underpin the legally binding instrument, to ensure it effectively protects the rights of older persons? In addition, how can the legally binding instrument both reaffirm existing human rights for older persons and clearly identify and address gaps where further normative development is required?

Principles.

CHRUSP suggests the following principles from CRPD Article 3:

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- Non-discrimination;
- Full and effective participation and inclusion in society;

We propose as additional principles:

- Equitable access to resources.
This principle should be operationalized by questioning all restrictions of healthcare, food, housing, personal assistance, education, social protection, livelihood and retaining property for their own use, etc., as pertaining to older persons, and devising suitable language to prohibit such restrictions and require that older persons are ensured access on an equal basis.
- Respect for both accumulated experience (years lived, and not only accomplishments) and a person's ongoing development and new pursuits at any age.
This principle should be operationalized by both providing for equal access to opportunities in all fields of life and social goods, and potentially affirmative action, and also providing for opportunities that older persons may uniquely desire and be in a position to benefit (such as serving as mentors and emeritae after retirement; forms of self-managed co-housing that provide housekeeping and community and where support services can be accessed based on each person's will and preferences).

- Accessibility, reasonable accommodation, and provision of support or assistance according to the person's will and preferences.
This is both a principle and a duty that should be operationalized; acknowledging that older persons' functionality is different from that of younger persons, including persons who acquire impairments or functional diversity in older age and those who age as persons with impairments or functional diversity. There should be no direct or indirect discrimination based on actual or perceived impairments of any older person.
- Intersectionality, including a sex and gender perspective and disability perspective, indigeneity, sexual orientation, social class and cultural diversity, in all matters relating to the rights of older persons.
This principle recognizes the diversity of older persons.

Gaps.

The treaty should aim not only to generally guarantee all existing rights to older persons but to identify and address three kinds of gaps:

1) Where older persons have been directly or indirectly discriminated against in the enjoyment and exercise of existing rights, the rights at issue should be identified and addressed by prohibiting discrimination and delineating specific obligations of states to ensure the enjoyment and exercise on an equal basis by older persons.

For example:

- States should be obligated to prohibit and prevent age-based discrimination in health care, particularly the denial of any services to older persons on a triaging basis (i.e. age-based denial of services despite their potential benefit to older persons).
- States should be obligated to ensure that all services available to persons with disabilities, including personal assistance and other support needed to live independently in the community, include older persons with disabilities, without any cut-off age.
- States should be obligated to combat negative stereotypes about the character, needs or abilities of older persons, leading to violations of privacy, dignity and personal autonomy, and to investigate and eradicate such practices with respect to all older persons, including those with disabilities.

2) The human rights of older persons with disabilities must be protected under the new instrument at the same level as under the CRPD, so that there is no confusion or gap. Older persons with disabilities should not be required to choose between two regimes that each are incomplete for their basic human rights protections. Disability is not just an issue for those who age as persons with disabilities, but also for all older persons who may acquire disabilities.

Rights linked to individual autonomy are intertwined with the need to align resources to respond to an individual's will and preferences rather than providing support services or social goods such as housing in ways that limit personal freedom. All older persons are threatened with guardianship or other substitute decision-making, and loss of freedom to involuntary psychiatric commitment and compulsory treatment (including the use of drugs as chemical restraint) as well as long-term institutionalization. But older persons with disabilities are under the greatest threat, as ageism combines with ableism to leave them without hope of ever leaving an institution and establishing a life in the community. The principle of equitable access to resources should be applied to ensure deinstitutionalization is fully available to older persons with and without disabilities and remove threats to older person's legal capacity and personal integrity.

- Legal capacity should be guaranteed to all older persons, including those with disabilities, on an equal basis as others, in all aspects of life, including in legal proceedings, the exercise of free and informed consent in health settings, and financial matters. Guardianship and substitute decision-making should be prohibited. Support and accommodations in exercising legal capacity should be provided according to the person's will and preferences (including the choice to refuse support or accommodations), and free from conflict of interest or undue influence. In addition to prohibiting the formal deprivation of legal capacity or imposition of coercive measures, states should establish proactive measures designed to ensure respect for older persons' will and preferences in encounters with public services, community services and personal services, with effective and prompt remedies for any violations that are user-friendly for older persons, including older persons with disabilities.

Disability remains both the greatest intersectional risk for older persons to be deprived of their legal capacity, and the pretext on which any older person can be subjected to the same. All older persons have an interest in ensuring that protection against guardianship and substitute decision-making will apply irrespective of any disability.

- Liberty and security of the person and freedom from torture and other ill treatment should be guaranteed to older persons on an equal basis as others. Disability-based deprivation of liberty should be prohibited, including civil commitment and security measures in the criminal justice system, along with compulsory treatment, which violates the equal right to security of the person, the right to legal capacity, and the right to be free from torture and other ill treatment.

Disability-based deprivation of liberty and compulsory treatment are specific threats exacerbated due to ageism, and need to be mentioned rather than assimilating these issues to intersectional discrimination generally.

- The right to live independently and be included in the community should be guaranteed to older persons, with choices equal to those of others. Housing choices for older persons, including those with disabilities, should include a wide range of chosen living arrangements, but cannot include institutional settings, for example where staff can impose restrictions on autonomy or where access to support is conditioned on

acceptance of such restrictions. Older persons, including those with disabilities, have a right to receive needed supports to maintain their life in the community and to access all services and facilities for the general population on an equal basis as others.

While the right to live independently in the community is relevant to all older persons, those most vulnerable of being deprived of that right are older persons with actual or perceived disabilities, whose human rights protection should be explicitly ensured.

3) Where issues of concern to older persons have not yet been addressed in the human rights framework, existing rights can be invoked as a background to make an argument for how and where a new right is emerging to be recognized.

Looking to an earlier example, ICCPR Article 12, guaranteeing the right to liberty of movement and freedom to choose one's own residence, provided the underpinning for CRPD Article 19 to recognize 'the equal right of all persons with disabilities to live in the community, with choices equal to others.' In the CRPD this became a hybrid right with economic and social elements requiring the provision of needed support and ensuring access to community services and facilities for the general population.

3. What overall structure or architecture should the legally binding instrument adopt to ensure clarity and effectiveness? For example, should it include a preamble, definitions, general principles, general obligations, specific rights, and implementation provisions?

CHRUSP suggests a preamble; purpose; definitions; general principles; general obligations (which should include both immediate obligations and progressive realization); intersectional provisions; specific rights; and implementation including national implementation and monitoring as well as an international treaty body with the usual powers to review countries' reports, consider individual communications and undertake investigations.

The role of older persons and the organizations representing them, ensuring representation of the full spectrum of diversity of older persons, should be explicitly recognized both in general obligations and in implementation and monitoring provisions, through an obligation of close consultation in implementation of the treaty and all other matters relating to older persons.