



INTERNATIONAL CONFERENCE

Human Rights of older persons & **non-discrimination**



October 3 and 4, 2017, Santiago, Chile



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PONTIFICIA
UNIVERSIDAD
CATÓLICA
DE CHILE



Naciones Unidas
Derechos Humanos
OFICINA DEL ALTO COMISIONADO

Experta Independiente de los Derechos Humanos de las Personas de Edad (IU)

INTERNATIONAL CONFERENCE

Human Rights of older persons & non-discrimination

October 3 and 4, 2017. Santiago, Chile.

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The Office of the United Nations High Commissioner for Human Rights (OHCHR)

ISBN N° 978-956-14-2242-1

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Introduction

The 2030 Agenda for Sustainable Development marks a paradigm shift towards a more balanced model for sustainable development aiming to secure freedom from fear and freedom from want for all, without discrimination. Strongly grounded in international human rights standards, the new Agenda strives to “*leave no one behind*” and puts the imperative of equality and non-discrimination at its heart.

The implementation of the 2030 Agenda and the SDGs comes at a time of a demographic transition across the globe. By 2050, there will be more older persons than children under 15 worldwide. This unprecedented demographic shift has far-reaching implications for society at all levels. As the world population continues to age, notably the human rights dimension of ageing becomes an ever-growing concern.

This demographic shift makes it urgent to ensure that older persons can fully participate in all spheres of social life. There is ample evidence of the important contribution of older persons to economic and social development with their experience, skills and knowledge, both in formal and informal sectors.

The reports of the Independent Expert on the enjoyment of all human rights by older persons attest to the fact that older persons face a number of actual as well as legal and policy challenges in the enjoyment of their human rights. It is therefore necessary that ageing is looked at consistently through the human rights lens. Consequently, assessments, evaluations and monitoring of the human rights situation of older persons need to take into consideration the full set of human rights, from economic, social and cultural rights to civil and political rights.

By virtue of the establishment of the mandate of the Independent Expert on the enjoyment of all human rights by older persons, the Human Rights Council in September 2013 filled a human rights protection gap. This heralded a long overdue change from the predominant economic and development perspective to ageing to the imperative of a human rights-based approach that views older persons as rights-holder rather than beneficiaries.

It was also the beginning of a dedicated human rights process, in complementarity and support of the intergovernmental Open-ended Working Group on Ageing in New York, which gave also the initial impulse for the launching of the Geneva Group of Friends of the human rights of older persons by Argentina and Slovenia on Wednesday, 8 June 2016. The Group of Friends supports the mandate of the Independent Expert on the enjoyment of all human rights and provides a forum to exchange information on initiatives, events and good practices concerning the rights of older persons. Further, it aims at furthering the discussions at the level of the UN human rights machinery and the Human Rights Council in pursuing rights-based solutions.

States are under the obligation to ensure that older persons can enjoy the full spectrum of their human rights and age with dignity. Yet, the debate on ageing has for long turned around the identification of gaps in the international framework and in implementation without leading to tangible improvements for older persons in the enjoyment of their human rights.

As existing mechanisms designed to guarantee the full exercise of human rights of older persons have flaws, a variety of proposals are on the table to address shortages and achieve the long required *desideratum*, including a new instrument, a dedicated convention or an optional protocol to an existing convention, to provide remedy and assist states in protecting the human rights of older persons. Addressing existing gaps at the global level will require to take the debate to another level taking into account the findings of the Independent Expert on the enjoyment of all human rights by older persons in her comprehensive report to the Human Rights Council.

Building on the cross-regional consensus about the need to strengthen the human rights protection of older persons, this side event seeks to discuss how existing gaps at the global level can best be addressed and how States could step-up their efforts in determining the best way forward.

The overall objective of the seminar is to share views and good practices on the full spectrum of the rights of older persons and to develop concrete proposals and actionable recommendations to enhance their protection ensuring that older persons are put on an equal footing with others.

The seminar seeks to bring together a vast array of actors, including representatives from States, civil society, NHRIs as well as experts from the academia, regional human rights mechanisms and the United Nations, to ensure that the issues at stake are examined taking into account theory and practice.

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We appreciate the cooperation granted by all the participating national and foreign institutions, exhibitors and moderators, who have made possible the realization of this important Conference. Also appreciate the presence of Ms Petra Česen Čatar, Counselor from the Embassy of Slovenia in Buenos Aires, Argentina.



Inauguration
Ceremony

Opening Words

- **Eduardo Valenzuela**

Dean of Faculty of Social Sciences. Pontificia Universidad Católica de Chile.

- **Amerigo Incalcaterra**

Regional Representative of the Office of the United Nations High Commissioner for Human Rights.

- **Hernán Quezada**

Director of Human Rights of the Ministry of Foreign Affairs of Chile.

- **Ignacio Sánchez**

Rector of Pontificia Universidad Católica de Chile.

EDUARDO VALENZUELA

*Dean of the Faculty of Social Sciences of Pontificia
Universidad Católica de Chile*

Population ageing, an accelerated and recent process, poses relevant challenges in different areas. Older persons are very likely to suffer conditions of deprivation and social vulnerability. For this reason, both scientific researchers as well as the ones who make decisions on public matters should consider it as a serious manner.

This seminar addresses the treatment provided to severely disabled older persons who depend on family and non-family caregivers where neglect and abuse may take place. Likewise, the right of older persons to autonomy and independence in a society that prematurely prevents them from working, participating and politically contributing, or from making their own decisions, is addressed.

One of the main contributions of the United Nations in the past 50 years has been the approach adopted regarding the rights of the child, migration and old age. This program addresses awareness-raising and visibility issues, and it seeks to influence public policies to support older persons and to promote scientific research and its communication to the entire society.

This seminar provides the Centro UC Estudios de Vejez y Envejecimiento, CEVE UC, [Center of the UC of Studies of Old Age and Ageing] a special opportunity to discuss with experts of different areas and from different nationalities. This is the largest meeting that has been organized in the past years in terms of its extension and the quality of the lecturers; this will allow us share knowledge and make progress in significant proposals for the well-being and the protection of the rights of older persons.



AMERIGO INCALCATERRA

*Regional Representative of the Office of the United Nations
High Commissioner for Human Rights.*

Population ageing is one of the most important global phenomenon of the 21st century. More than 900 million people are currently 60 or over, but this is expected to double by 2050. Chile is no exception; the amount of older persons has tripled since 1990. For this reason, the need to look after the necessities and problems of older persons has become increasingly evident.

We must acknowledge that many older men and women are indeed a contribution to society, as long as the proper conditions are provided, such as good health, economic stability, proper housing, etc., which are elements that ensure ageing with dignity. Older persons currently face the issue of vulnerability that affects the enjoyment of their fundamental human rights and freedoms. Alarming poverty conditions affect this vulnerable group, particularly women, people with disabilities, Afro-descendants, indigenous people, minorities, people who live in the countryside or on the street, refugees. Age discrimination is a universal concern that manifests in many ways and aspects of life.

Negative perceptions and stereotypes about older persons are also a major obstacle.

Regarding employment, the results of a study called "Older persons, an asset for Chile", showed that 75% of them have no problems to concentrate or remember things. 84% have no problems to learn new tasks, study and work. Furthermore, clients who were assisted by older persons showed a 93% of satisfaction.

The international community has been studying this situation since 1982, with the Vienna International Plan of Action on Ageing. In 2013, 11 years after the Madrid Plan of Action on Ageing, the General Assembly adopted a new perspective that has guided the national and international development of laws and social policies on the human rights of older persons.

Several implicit statements of international treaties recognize and promote the exercise of the human rights of all persons, no matter their age; however, explicit statements on ageing are scarce. One example is the convention on the elimination of all manifestations of discrimination against women; this was the first international instrument on human rights prohibiting age discrimination.

Most international treaties have an open category including discrimination on the basis of age. The Committee on Economic, Social and Cultural Rights considers that older persons are capable to enjoy their right to a good life as long as their basic food, income, care and self-sufficiency needs, among others, are met.

Each State needs to take proper measures to ensure social security plans for all older persons, without discrimination, to ensure equal rights for men and women.

In spite of the advances and initiatives taken so far, the Council requested the office of the United Nations High Commissioner for Human Rights to carry out a public consultation on the promotion and protection of the human rights of older persons that live in the member states of the United Nations. The conclusion was: “Despite most human-rights international instruments apply to all age groups, including older persons, not enough attention has been given to human-rights related issues in old age.”

Older persons are still having problems in our time, but in 2015 the General Assembly of the United Nations approved the 2030 agenda for sustainable development, which includes a plan of action to improve the conditions of persons, the planet and prosperity and also specific goals to tackle age discrimination.

In conclusion, population ageing is a global issue that needs to be addressed from a human-rights based approach. Older persons should be able to enjoy their rights fully and under equal conditions, without suffering age discrimination nor being victims of abandonment, mistreatment or violence. This goal can be achieved as long as all of us, including governments, civil society, communities, international organisms, families and older persons themselves participate in developing a new culture.



AMBASSADOR HERNÁN QUEZADA

*Director of Human Rights of the Ministry of
Foreign Affairs of Chile.*

The current human rights crisis in several parts of the world, as well as the setbacks and challenges regarding equality and non-discrimination, make reinforcing the validity of human rights urgent. However, we must acknowledge that, unlike this situation in the past, today we have a set of international instruments and obligations that allow us to handle this with from an uplifting perspective. The strengthening of a multilateral, operational and effective system that acknowledges the deep interaction between peace and safety, sustainable development and human rights is a priority.

One of the main points of Chile's foreign policy regarding human rights, which has been stated in several international forums, has been progressing in equality and non-discrimination of all the groups living in vulnerable conditions, boosting the protection and promotion of their human rights and basic freedoms.

Older persons are among these groups. All over the world older persons are at disadvantage or socially vulnerable, both in the public and the private areas. As they are not a homogenous group, their basic rights vary. While some are active participants, others face neglect, violence and abuse.

Due to the world's population ageing, the States and international community face many challenges, so ensuring the respect and promotion of human rights and basic freedoms of older persons is essential.

At a national level, we have to acknowledge and value the institutional progress made by the Servicio Nacional del Adulto Mayor (National Service for Older Persons), organism that has developed a comprehensive perspective of human rights. In turn, in the international scope, important efforts have been made to handle these challenges from a human rights standpoint and to therefore turn it into a priority in the agenda of multilateral forums; this issue needs to be related with gender, disability and social development, as well as inclusion, equality and non-discrimination.

In general, most of the treaties on human rights establish international obligations that are also applicable to the protection of older persons. However, older persons are explicitly mentioned only a few times, so one of the most important challenges in this matter is progressing towards the creation of a binding international instrument under the aegis of the United Nations.

We have to highlight that Chile has attended each and every international initiative for the acknowledgement and exercise of human rights of older persons, such as the co-sponsoring of resolution “Human rights of older persons” of the Human Rights Council of the UN.

We must highlight that, in the 45th ordinary period of the sessions of the OAS General Assembly, the Inter-American Convention on the Protection of Human Rights of Older Persons was approved on 15 June 2015. The OAS became the first inter-governmental organism to adopt a legally binding instrument in this matter. Thus, a new framework of rights for older persons was implemented for the Latin American States.

One of the main aspects of this convention is that it corrected an omission made by the International Law on Human Rights about older persons, thus generating a series of standards and important guarantees that no other international binding instrument had explicitly considered before, such as the right to life, dignity in old age and the right to independence, autonomy and participation, among others.

In the multilateral universal scope, Chile will continue supporting the international community to achieve specific universal standards for older persons.

Finally, I would like to address the new and interesting use of advanced technologies, including robotics, to support older persons in the improvement of their life standards, autonomy and independent life. In said respect, Chile acknowledges the importance of creating human-rights based public policies to ensure the well-being of persons in all their stages of life by using technology and scientific progress. This requires respecting their dignity, freedom, right to privacy and autonomy, based on equality and non-discrimination.



IGNACIO SÁNCHEZ

Rector of Pontificia Universidad Católica de Chile.

On behalf of the university I would like to thank you all for your presence in this seminar: representatives of organizations of this field, the academic community, government institutions, international governmental organizations, the private sector and non-governmental organizations, and the lecturers.

The United Nations 2030 Agenda for Sustainable Development highlights the need of a paradigm shift towards a balanced model of sustainable development without discrimination of any kind.

In order to ensure the promotion and protection of the rights of the older persons, all the actors must become involved; hence, I congratulate each of you who contribute in different fields. The aim of the seminar is to share points of view, good practices and the challenges on the issues of human rights of older persons.

Building an inclusive society for persons of all ages in a context of accelerated ageing is a significant challenge. The ongoing demographic change has forced us to take measures that ensure that older persons will participate in all the areas of social life.

Finally, I would like to invite each of you to promote the recognition and the actual respect of this age group of society and their rights. We should remember that our elders participated in the construction of our country, our society, and our communities, and with their hard work and perseverance, they were able to turn family into a strong institution. They need us to make our best effort to recognize and include them in our society.



Round Table

1

From assistentiality to Human Rights of older persons worldwide

● Martín García-Moritán

Chairperson of the Open-ended Working Group on Aging of the United Nations. Permanent Representative of the Argentine Republic to the United Nations.

● Rosa Kornfeld-Matte

Independent Expert on the enjoyment of all human rights by older persons of the United Nations and Executive Director Pontificia Universidad Católica de Chile Center of Old Age and Aging Studies.

● Isolina Dabove

Doctor of Law University Carlos III, Madrid, Spain. Professor Law Faculty, University Buenos Aires, Argentina. Researcher at the National Council for Scientific and Technical Research CONICET, Argentina.

MODERATOR

● Mercè Pérez Salanova

PhD in Psychology, Universidad Autónoma de Barcelona. Researcher in Social Gerontology.

Older persons as rights holders: Strategic areas to address

MARTÍN GARCÍA-MORITÁN

Argentina, which possess a long tradition of leadership at the national, regional, and International level in relation to issue of the Human Rights of older persons, was one of the main promoters of the Inter-American Convention on the Promotion and Protection of the Human Rights of Older Persons. The main subject is related to the assistance of Human Rights of elderly worldwide. This implies a paradigm change in the ageing phenomenon. In the last one hundred years, because of development, increased life expectancy, and lower fertility rates in developed countries, today, the number of older persons worldwide has increased.



Argentina trusts that older persons can make a significant contribution to development. To ensure that, some guarantees are required. The enjoyment of all Human Rights and Fundamental freedom of the elderly will assure their contribution to social development. It is necessary to move away from a focus that considers older persons as passive subjects, to a focus that considers them as agents and beneficiaries of change. Only through the full exercise of civil, political, economic, social, and cultural rights, older persons will participate actively in society.

By the year 2050, older persons will be the highest growing age group globally, and any strategy must include them as active subjects and agents of change. To achieve that, there must be guarantees of promotion, protection, and the enjoyment of all their human rights. One of the fundamental premises of the UN is that without Human Rights there can no development. The Open-ended Working Group on Ageing of the General Assembly constitutes the main stage where the issues related to the human rights of older persons are discussed. Its main goal is to enhance the protection of the human rights of older persons, examining the

existing international legal framework, identifying possible deficiencies and gaps, and exploring ways to address them, including the study of the need of new instruments and measures.

During the last sessions, delegations made references to the important contribution that older persons can make to the development of their societies. By 2030, the number of older persons



globally is expected to grow from 900 million to 1.400 million, outnumbering youth, and by 2050, it is expected to reach 2.100 million, globally outnumbering children. In developing countries, this increase will be higher. Ageing populations generate new challenges for the social and sustainable development of societies. The delegations dismissed to consider elderly as an active group that can make a contribution to the development, they said that older persons are agents and beneficiaries of change, emphasizing the need to empower them in order to participate in sustainable development. All of this, for the enjoyment of their Human Rights and fundamental freedoms.

Delegations from Latin America and the Caribbean made reference to the Declaration of Asunción on Ageing and Rights. After the general debate, the conclusion was that, even though the Universal Declaration of Human Rights proclaims that all humans are born free and equal, the enjoyment of their rights decrease with age due to the negative perception that older persons are less productive, more vulnerable, and less appreciated by the society because they represent a burden for the economy and younger generations. This age discrimination and structural prejudices lead to exclusion and discrimination of the elderly.

The general principle of the International legal framework related to the right to equality and non-discrimination is included in the majority of State constitutions and national laws, but not in all of them. However, in almost all cases, there aren't specific references to the rights of older persons and to discrimination on the basis of age. Where those references do exist, the normative is limitedly applied, for example, only in the workplace. Also, such normative is not applied equally from one case to another, which is an evidence of the lack of normative coherence. The reality is there is no universally applicable international normative which could be used a basis for the development of laws and monitoring and reparation mechanisms.

The majority of delegations agreed that the existing framework of International human rights law does not recognize age as a cause of forbidden discrimination, which constitutes a clear deficiency in the current system, which makes that many serious violations of the Human Rights of older persons be invisible, because of lack of investigation. They also affirmed that there is a lack of coherence in the current system, and that it is not enough to apply existent instruments worldwide. An example of this is that of the 2.500 recommendations from the Human Rights Treaty Bodies, only 0.8% are related to older persons.

Delegations also held a debate about the elaboration of a new legally binding international instrument. Regarding equality and non-discrimination, some representatives from Member States, National Human Rights Institutions and NGOs, indicated that the elaboration of a specific regime for the protection of the human rights of older persons at the international level would provide coherence to the fragmented framework of legal provisions and would clarify State's obligations regarding this matter. Also, they highlighted the importance of the lack of reports, standardized criteria, and legal provisions to measure abuses against the elderly.

According to World Health Organization's estimates, 1 in 6 persons aged 60 years or older suffers from abuse. This amounts to almost 141 million persons worldwide, an increasing number because of the fact that violence, abandonment, and abuse against older persons are some of the less reported violations due to embarrassment, lack of knowledge or information. This is a clear display of the importance of this matter and the need to provide concrete and immediate measures to prevent and combat those violations.

The lack of specific data information prevents us from determining with precision the real magnitude of the problem and elaborating effective response measures. Regardless, the available information shows that violence, abandonment, and abuse against older persons take many forms (such as physical, psychological, financial, social and sexual), and occurs in different settings (within the family, the household, the workplace, care institutions, public spaces, the media and cyberspace, among others. Equally, these violations can be perpetrated by relatives, care providers, legal guardians, health professionals, public officials, financial agents, and others. The lack of coherence in the current system makes it very difficult, and in some cases impossible, to report and hold those who commit such abuses against older persons accountable. Financial abuse is one of the most frequent forms of violence against older persons. It is evident that neither the International Covenant of Economic, Social and Cultural Rights or the Guiding Principles of the United Nations about Businesses and Human Rights contain specific provisions to protect older persons from this type of abuse. In the United States, financial abuse against older persons represents up to 1.000 million dollars per year.

The absence of specific norms on the protection of the human rights of older persons contributes to the overload of the current system and the inefficacy of its protection mechanisms. A large number of delegations highlighted the need to elaborate a new set of universally applicable and legally binding norms to protect the elderly from violence, abandonment, and abuse. These new norms would provide an effective answer to the current challenge.

There was also a reference made to the issue of violence against older women, who suffer from multiple forms of violence and discrimination which are not recognized. It was noted that, in the special case of violence and abuse, there are instruments that protect specific groups of the population against this type of violations. Even so, there is no international legally binding instrument to specifically protect the elderly. Because of this, there is no option but to implement the current system until the creation of a new one.

Older persons must be recognized and empowered as active and specific right-holders, not as mere vulnerable persons, subject to protectionists and assistance actions. The existing international human rights legal framework is not specific and coherent enough to guarantee the effective promotion, protection, respect, and full enjoyment of the human rights by older persons. Only a universal, specific, and legally binding instrument will provide sufficient standards to ensure the full enjoyment of our rights during old age. It is something that, sooner or later, will affect all of us.



Current vision of Human Rights of Older persons around the world

ROSA KORNFELD-MATTE

In 2013, the Independent Expert of the Human Rights Council prepared the draft on the enjoyment of human rights in older persons, which shifted the paradigm from a perspective that mainly focused on economic and development aspects associated to ageing to a human-rights based approach that sees holder persons as holders of rights; they are no longer considered as gaining benefits because they have specific human rights that each State needs to guarantee.

In resolution 24/20 the Human Rights Council requested the Independent Expert, among other matters, to assess the consequences of the application of the Madrid International Plan of Action on Ageing. For this reason, a questionnaire was sent to the States and other interested parties to identify which measures they adopted regarding the international norms proposed by the Madrid Action Plan, such as national plans of action on in terms of laws, norms, policies and institutional programs focused on older persons. By June 2nd 2016, 103 answers had been submitted; 44 were from the States and the remaining ones from national institutions on human rights, non-government organizations and international organizations.

OBJECTIVES OF THE MANDATE OF INDEPENDENT EXPERT ON THE ENJOYMENT OF ALL HUMAN RIGHTS BY OLDER PERSONS

Promotion and Protection

- Old age and aging awareness.
- Strengthen the promotion and protection of rights of older persons.

Evaluation

- Evaluate implementation of international instruments.
- Evaluate best practices.
- Assess differences in the application of legislation.
- Evaluate existing gaps.

Madrid International Plan of Action on Ageing

- Assess its consequences on human rights.

The answers provided by most States evidenced that national plans of actions or specific laws on ageing had been adopted; some measures had a general approach and others were more specific, such as discrimination or the right to health. However, other States were still developing these plans. Some of them have added the issue of human rights of older persons



in other national plans of action, such as those related to human rights in general, development, social exclusion and reduction of poverty. In addition, an important number of States have included the rights of older persons at a constitutional level or in other laws and policies, focusing on discrimination by age and social protection.

We must highlight that the answers provided evidenced that most countries in the region have adopted a human-rights based approach to come up with national plans of action or policies regarding older persons.

In addition, many States declared that the Madrid Plan of Action had helped

raise awareness on the situation of older persons and to conduct official studies to understand their situation and needs. Some gaps were found, such as the lack of statistical studies on the population of older persons, which is key when making decisions on how to meet their needs.

The situation about the care of older persons is one of the issues most discussed by the States; some of them have passed laws and adopted specific policies to improve it, including regulations on the provision of quality services and the need to certify the competence of institutions that provide care services. Other States have adopted basic measures, such as bills of rights or minimum requirements that need to be met by the household or residential homes, and also human-rights based training programs for formal or informal caregivers. Some States support the role of informal caregivers by providing financial aid and services to replace the caregiver temporarily, as well as to provide information and counseling.

Public policies on the care of older persons need to be implemented by providing financial support to the people who take care of them, by fostering social and healthcare services such as day centers, measures to help families to take care of the vulnerable and dependent older persons, during the day, that live in their household.

Palliative care, such as the one provided to people with dementia, is poorly considered by legal frameworks, policies and programs. However, some countries have come up with strategies to help people with dementia.

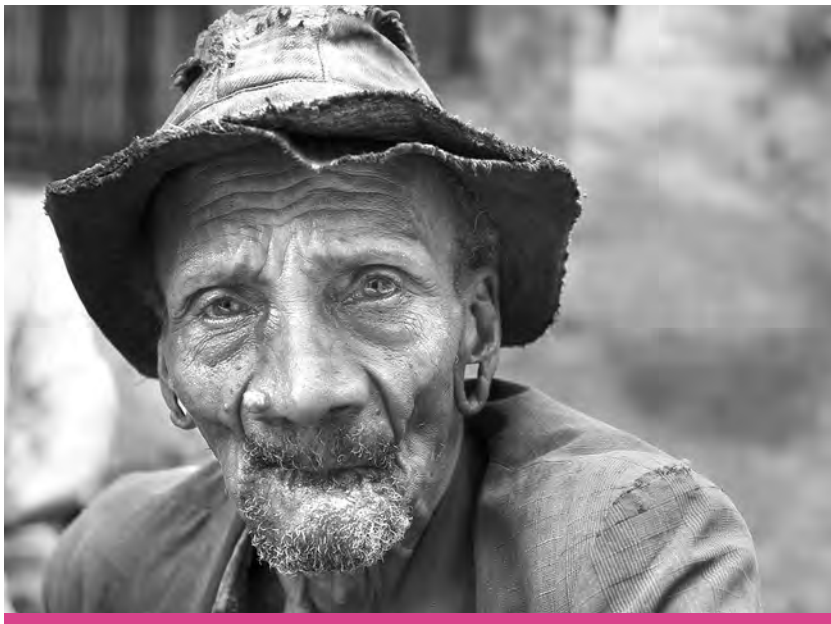
Mistreatment is considered to be one of the main issues; several States have launched programs and enacted laws to fight this, and others have developed campaigns to raise awareness about this problem. Many States have enacted laws to forbid discrimination by age and created programs for this purpose, although they focus on the right to work and social protection.

The programs to enhance autonomy in older persons focus on: people that suffer terminal or incurable diseases, informed consent in healthcare institutions, legal capacities, but particularly for the elderly with disabilities, and the freedom of users in social services.

Autonomy in older persons should be considered a priority; their preferences and interests should be respected in all aspects of their life. When someone is in a condition of cognitive or physical dependency, we must ensure that they are able to make their own choices.

Autonomy and empowerment in older persons are crucial tools to improve ageing. In some countries, artificial intelligence is being used to ensure their autonomy, particularly regarding healthcare. Staff availability is very scarce, so artificial intelligence could be used instead to, for example, deliver medicines to patients.

All older persons have the right to housing, so the States need to promote policies to solve this problem. Several States have created programs to provide houses that are fit for the needs of older persons. In Chile there is a program called “*Conjuntos de Viviendas Tuteladas*” (Supervised Housing Group) to help self-sufficient older persons that live in vulnerable conditions, that do not have their own house nor strong social and family networks; the purpose of this program is to provide houses with a commodatum contract and also psychosocial support to ensure their autonomy, sense of belonging and identity.



Another program also provides allowances to vulnerable families who need to expand their house to receive an older person. This allowance is also provided for people who own a house and need to expand it to receive a member of their family who will take care of them.

Several countries have drafted policies regarding the access to justice for older persons. In order to improve this issue, older persons need to be aware of their rights, obtain legal advice and the resources needed. Also, creating a new legislation or adapting the current ones for older persons to be explicitly included is very important.

In this respect, Chilean Act No. 20.427 included abuse against older persons in the national legislation by modifying the already existing legislation. That is, older persons are indicated as a group vulnerable to domestic violence, so they were moved from the category of relative in the ascending line, as established in the old legislation.

Poverty and insufficient income are important concerns for many older persons. Social transfer, particularly adequate pensions, are important to guarantee financial security and to reduce the risk of poverty, vulnerability and social exclusion. In order to ensure reasonable income to older persons and protect them against poverty, several countries have a universal basic pension system and provide disability allowances and other additional services to complement retirement pensions.

Important progress has been occurring in Chile regarding the financial security in old age. One of the benefits considered for older persons is the Basic Old Age Pension, available for all persons over 65 years old that do not have the right to any social security regime and that are within the 60% of the lowest-income population.

As a conclusion, the Madrid International Plan of Action on Ageing has improved the enjoyment of human rights of older persons. However, the application of this Plan of Action has been

unequal and the differences between the policies and the application still pose important difficulties.

Although the Plan of Action contains several references to human rights, it is not a human rights instrument *per se*; it tackles the matters related to ageing, mainly from the perspective of development. The Plan of Action was not designed to address protection weaknesses in a general manner, which means that guaranteeing the full enjoyment of the human rights of older persons is not enough.

On the other hand, the Open-Ended Working Group on Ageing of the UN will

submit to the General Assembly a proposal including the most important elements to consider in the creation of an international aimed at promoting and protecting the rights and dignity of older persons.

Undoubtedly, important progress regarding human rights of older persons; however, there is still so much to do. It is of the highest interest of the independent Expert to continue on this path and to continue having the support and cooperation of the member States, the United Nations organisms, the Open-Ended Working Group, the Academia, national Human Rights institutions, NGO's, scientific societies, associations of and for older persons and so many others that work to ensure that older persons, without any distinction, can exert and enjoy their rights without discrimination and in equal conditions as the other age groups.

Source:
Human Rights Council 33rd session. Subject 3 of agenda Promotion and protection of all human, civil, political, economic, social and cultural rights, including the right to development. A/HRC/33/44 General Assembly of the United Nations.



Human rights of older persons in the Inter-American Convention

Challenges for Chile and other countries in the region to develop the Rights of Older Persons

ISOLINA DABOVE

I shall share some of my reflections on the legal impact of the Inter-American Convention on Protecting the Human Rights of Older Persons. I will start by quoting the play “El Frac Rojo” (The red tailcoat) by Argentinian playwright Carlos Gorostiza, where the main character is an old man who can only communicate through music, so he goes through many mishaps, as he cannot speak. My thoughts are related to this topic, with the silence that older persons live in and how now they are starting to break it, as they no longer need other persons or music to communicate.

The 20th century left us an unprecedented opportunity: the possibility of being long-lived. In Latin America, the average life expectancy for women is around 79 years and 72 years for men. However, this has been possible thanks to the world development and the consolidation of the constitutional and democratic estate model of the 21st century. The current demographic group has created a new ever-growing social scenario worldwide. Thus, ageing has globally manifested in population, economy, culture and in the legal world.

NEW SOCIAL SCENARIOS

→ Geronto-Globalization

→ “Ageism” Practices

→ Legal Vulnerability

DISCRIMINATION

The Rights of Older Persons is the new legal specialty that tackles this problem transversally by studying the legal status of older persons (aged 60 and over) in national, regional and international law, identifying situations of vulnerability, discrimination or abuse arising from the prejudice of older persons. It also analyses the legal tools that allow restoring damaged autonomy, freedom, equality, participation or dignity, as the case may be. We currently have an Inter-American Convention and the possibility that legal experts may specialize in this topic, just like a physician specializes in geriatrics.

The current social scenario gave rise to this new legal specialization. According to the World Health Organization, between 2015 and 2050, the amount of persons aged 60 and over will grow from 900 million to 2000 million, which represents an increase from 12% to 22%. Also, the last stage of old age has increased in about 20 years; also, old women have less mortality compared to men. This is an unprecedented reality in the history of humankind, the globalization of gerontology, meaning multi-generation societies and families, where two aging generations coexist, or three or four generations (great-grandparents, grandparents, parents and children), and two generations that coincide: grandparents and grandchildren.

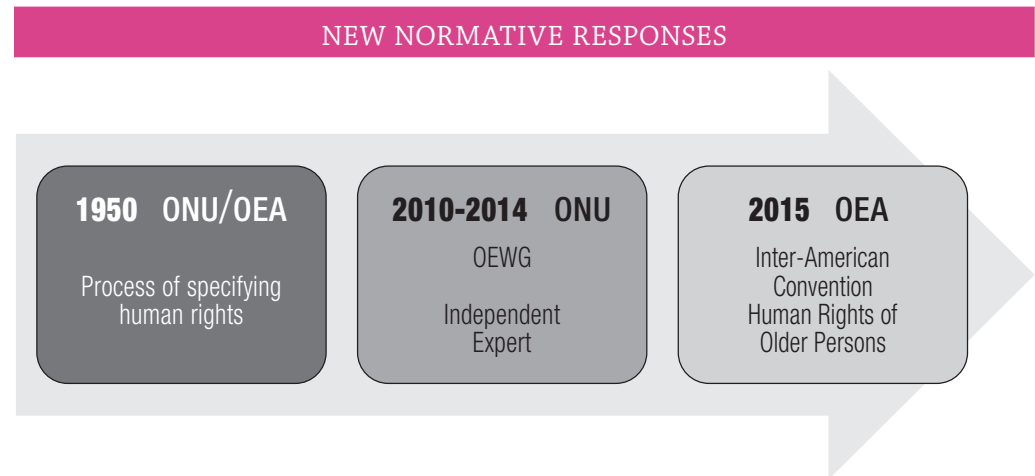
Chile is one of the most aging Latin American countries; however, the progress in education, information and technology resulted in better personal and community care and a more positive opinion of old age. In Chile, life expectancy upon birth is 82 years for women and 71 years for men so, according to the WHO, longevity increased 3 years between 2000 and 2012, whilst in Latin America it only increased 2 years. Because of this, gerontology started identifying different forms of longevity, clearly differentiating old age from and illness, normal old age (regarding frailty) and senility. For this reason, we now refer to old age understanding its versatility.

In economic terms, multigenerational aging is a process of progressive material dependency and inequality with respect to the rest of the population. Older persons face the end of their work life, and most of them receive pensions that do not entirely cover their needs. Multigenerational families struggle to distribute their resources; the youngest ones usually assume this responsibility due to their supplying role. Great grandparents and grandparents with low pensions, working sons and daughters that support their parents or grandparents; young grandchildren preparing to assume this responsibility as well, but often without sustainable state support in assistance terms.

Longevity is culturally perceived with ambivalence: it is something you wish for but also fear. The multiple discrimination practices put older persons in very vulnerable situations, belittling their position and making them weak subjects. Simone de Beauvoir, in her book *"The coming of age"*, reminded us that consumer society is guilty and criminal for treating older persons as outcasts. The ruling class imposes their statutes on older persons and most of the population is their accomplice.

Global and multigenerational ageing is complex and affects the community and especially, persons; the result of the demographic changes of the second half of the 20th Century, in which life expectancy increased and the simultaneous cohabitation of several generations appeared. But it also poses new legal challenges, such as the respect for old age's uniqueness and its important role for the legal world. The legal challenges posed by this gerontological revolution call for a strengthening of the rights of older persons.

These new justice vindications resulted in some achievements. More than 30 years ago, the law acknowledged the importance of the gerontological problem by means of an important document, which was the first International Plan of Action on Ageing of Vienna, approved by the United Nations General Assembly in 1982. However, as an autonomous specialty, the rights of older persons originated from the specification process of the human rights that started in the 50's.



Thus, the international community has issued documents aimed at acknowledging the rights of older persons, among which there are the Five Principles for Older Persons of 1991 and the Madrid International Plan of Action on Ageing of 2002.

In 2003, the First Regional Intergovernmental Conference on Ageing in Latin America and the Caribbean took place, which was the beginning of an institutional space to discuss the possibility of preparing an International Convention, mainly focused on the human rights of older persons. Chile, Argentina, Brazil, Uruguay and Costa Rica responded to this challenge with enthusiasm, and committed to boost the preparation of a Convention on the human rights of older persons in the United Nations. They also worked to identify the common values that would be the starting points to design the future Convention. Dignity, independence, freedom and autonomy of older persons stand out among said values. Equality and non-discrimination. Participation and social inclusion of older persons. Solidarity between generations.

In 2010, the United Nations General Assembly decided to set up the Open-Ended Working Group on Ageing, which led to the creation of the position "independent expert on the enjoyment of all human rights by older persons", which has been held by Rosa Kornfeld since 2014. She said that one important issue is the inclusive approach that should be adopted regarding the autonomy and care of older persons to prevent old age from being associated with illness and functional dependence. She highlighted the importance of joining forces against abuse and violence against older persons.

At the same time, the Organization of American States (OAS) developed an instrument for their region; on 15 June 2015 the Inter-American Convention on the Protection of Human Rights of Older Persons was approved. This document, binding for all ratifying countries, is a milestone in the evolution of the rights of older persons. Four ratifications have been made, Chile being the most recent, on 15 August 2017.

Thus, since 13 January 2017, the convention is deemed a valid legal instrument, fully enforced within the regional system, including Chile. The convention marks strategic purposes and sets goals and duties for the State to comply with them. Several definitions that are keywords for the rights of older persons are established as well.

In the ratification to the Convention, Chile detailed that the life course of a person *shall be understood as the continuity of the person's life, from the beginning of their existence until their last stage of life, which, affected by several factors, such as family, social, economic, environmental and/or cultural, make up their life, and the State has to develop this approach in its public policies, plans and programs, focused on old age. But it has also stated that the gender identity referred to in this Convention shall be understood in agreement with what is stipulated in their national legislation.*

The convention deals with the rights that are directly related and claimed by older persons. The convention discusses personality traits, especially the issue of deciding the place where older persons are going to live, very relevant regarding older persons, as well as the cognitive decline that affects their capacities. The following human rights are mentioned: autonomy, self-determination, freedom, property, the possibility of choosing advanced medical directives by themselves, participation, inclusion and how should families contribute to the integration to the community.

Occupation and work are considered as human rights here, as well as recreation and enjoyment of the environment, education, together with political rights; the rights to protection, health care, long-term housing, the role of caregivers, volunteers and the need to prepare special norms for catastrophes and weather emergencies are also mentioned.

The States are compelled to organize their legal systems so that older persons have access to them to carry out their legal procedures easily and to develop educational policies and programs about the sense of belonging and community integration of older persons; and also, to develop citizen awareness and empowerment based on the acknowledgement of their rights. Finally, it provides the possibility of submitting complaints to the Inter-American Commission on Human Rights. If the complaint does not succeed within the country, a recourse to the Inter-American Court may be filed.

In conclusion, the rights of older persons are aimed at being responsible about ageing and to provide the tools to create a society that welcomes people of all ages. In the words of Amartya Sen, in *The idea of justice: "What moves us, reasonably enough, is not the realization that the world falls short of being completely just – which few of us expect – but that there are clearly remediable injustices around us which we want to eliminate"*, so he suggests to deconstruct every small injustice, acknowledging the life quality and dignity of older persons.



Round Table

2

Health: a right

Luis Miguel Gutiérrez

Doctor in Medical Sciences, Medical specialist in Internal Medicine and Geriatrics. General Director of the National Institute of Geriatrics, Mexico.

Homero Gac

Geriatrician Pontificia Universidad Católica de Chile. President Society of Geriatrics and Gerontology of Chile.

Marcelo Barrientos

Doctor of Law, University of Salamanca, España. Professor of Civil Law, Pontificia Universidad Católica de Chile. Director Postgraduate School of Law, Pontificia Universidad Católica de Chile.

MODERATOR

Dr. Juana Silva

Geriatrician, Coordinator of Geriatric Care Model Hospital Santiago Oriente Dr. Luis Tisné Brouse, Chile.

Older Persons and the Access to Health Care Services

LUIS MIGUEL GUTIÉRREZ

The right to healthy aging is a very important issue. To begin, I hereby quote the last paragraph of the last essay written by Michel de Montaigne at the end of his days:

“...and when seated upon the most elevated throne in the world, we are but seated upon our breech. The fairest lives, in my opinion, are those which regularly accommodate themselves to the common and human model without miracle, without extravagance. But old age stands a little in need of a more gentle treatment. Let us recommend it to God, the protector of health and wisdom, but, withal, let it be gay and sociable. *“Grant it to me, Apollo, that I may enjoy my possessions in good health; let me be sound in mind; let me not lead a dishonorable old age, nor want the cittern.”*”

Montaigne acutely describes three key ideas about ageing. First, equality: *“and when seated upon the most elevated throne in the world, we are but seated upon our breech.”* Second, the need to acquire a new rights-based approach on ageing: *“Old age stands a little in need of a more gentle treatment.”* Finally, the most important issue, health: *“that I may enjoy my possessions in good health; let me be sound in mind”*.

My presentation is divided into three parts. First, five relevant issues on ageing, giving details about the situation in Mexico and general information on the rest of Latin America. Then, a reflection about the violation of the human rights of older persons, and finally a five-step action proposal.

In Mexico, the five relevant issues on aging are summarized in a document called “Facts and challenges for Healthy Ageing”. The first one is to ascertain the immediacy of demographic change and the growing needs of older persons; care services are an important concern.

The second issue is the increase of the burdens associated with diseases -particularly in terms of early mortality and disabilities-, which characterize this region. Chronic-degenerative diseases such as diabetes, atherosclerosis and heart disease, and most recently neurodegenerative diseases, specifically Alzheimer’s, have appeared. These disabling

pathologies remain and accumulate throughout the years causing multimorbidities that increase dependency and the need for care.

The third issue is dependency. In Mexico, nearly 5% of persons aged 60 and over are completely dependent and up to 30% suffer from some kind of disability, without necessarily being dependent. These proportions affect the health system. For example, the unpaid work that families provide to ill and dependent persons who live in their home; a complete out-of-pocket expense that is equivalent to 21% of the total Health GDP. Compared to other countries, we agree that the responsibility of providing care services should be a joint effort between the families and the State, but this is an exception because Mexicans usually delegate this responsibility and individual responsibility is the exception. They appear to be saying, "I should be taken care of", or at least that is what they think.



Over the years, the issue of ageing has shifted from being a problem of the future to a relevant issue of the present; The National Health System and the Social Support System, which do not usually cooperate with each other, must make a joint effort to tackle health and social needs. A National Care Services System that collaborates and works jointly should be developed, which is the fourth relevant issue: an almost inexistent coordination among the pertinent institutions.

We also face the difficulties posed by negative stereotypes that prevent older persons from fully enjoying their rights.

A proper inclusive environment should be enabled for them, but the main obstacles are not posed by physical issues, but rather by prejudices and stereotypes. Indistinctly talking about the impairment and the ideal wisdom that come with old age is an ambivalence, because people do not grow wiser with age; some wise persons do suffer the effects of ageing.

Finally, the most serious obstacle to overcome is probably the structural discrimination for reasons of age. We must adopt measures to come to terms with the fact that age does not matter, and that when our functional and intrinsic capacities are intact we must keep collaborating actively for own well-being but also for that of others, in spite of our age.

We have realized that older persons complain about being discriminated in several ways: apart from employment and economic discrimination, we are deeply concerned about discrimination within the health service. According to the National Discrimination Survey of Mexico, older persons are the fourth most vulnerable population group to suffer from discrimination.

Therefore, dependent older persons need to be taken care of in a joint effort of the State, Society and their families, but an appropriate regulatory framework needs to be established; we cannot expect their families to assume full responsibility for their care, they need institutional support and a national care service should be created for these purposes.

On the other hand, society mostly agrees with improving this situation. The national survey on ageing in Mexico showed nearly 80% of favorable opinions regarding the allocation of taxes for the well-being of older persons. This survey also indicated the main problems faced by older persons: discrimination, abandonment, and sometimes mistreatment, while diseases and health conditions begin to emerge as a relevant concern.

Serious healthcare quality-related problems were seen as well. One fourth of hospital admissions could have been avoided if proper primary health care services had been provided. Furthermore, being admitted to hospital often worsens the functional impairment of the person given the hostile environment of the hospital.

We must therefore reflect on the violation of rights of older persons, particularly in cases of dependency. The current risk is longevity instead of an early death, because it is difficult for older persons to find their place in society and value their ageing. For this reason, we must reassess the current organization of society by shifting the paradigm of autonomy, which is also important, to giving intrinsic value to their ageing. The concept of ageing needs to shift in order to improve the enjoyment of the associated human rights. Nowadays society assumes that being old means being dependent, but that is wrong; older persons do not lose their autonomy nor the capacity of making their own decisions, which are in turn mutually exclusive. Our goal should be to see older persons not as in need of protection, but instead as humans with their own rights, in which age does not play an important role.

Discrimination does not only involve age, but from the stereotypes at the workplace that end up being one of the causes of mistreatment and negligence.

Not enough care is given to older persons and the infrastructure available to meet their needs is poor. Despite disabilities, dependency and vulnerability may affect people of all ages, and these are continuously associated with older persons. Nowadays, informal caregivers have an excessive workload because families struggle to provide it properly, and an adequate public policy framework has not been developed yet. A paradigm shift on the concept of our existence and age should be created; a sensitive, educated, empowered, inclusive and prudent protective approach should be taken.

Mexico has shown substantial improvements: The General Law on the Rights of Older Persons, the creation of the National Geriatric Institute and the development of micro pensions programs for the population over 65 years old.

However, public policies still need to deal with ageing transversally to make a paradigm shift; older persons should not be seen as in need of protection but as people who have their own rights, specifically regarding inclusion and fighting against discrimination.

The World report on Ageing and Health published by the WHO in September 2015 showed some improvements in this regard. The objectives for Sustainable Development indicate that the right to health embraces a range of socioeconomic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.

We are aware that early ageing is characteristic among the poorest population, even in post-industrial societies. A rights-based approach can help address the legal, social and structural barriers to good health for older persons, and clarify the legal obligations of state and non-state actors.

How should we tackle this? First, by considering the goals of sustainable development, then the strategies used by the World Health Organization on ageing and then by fostering the Inter-American Convention on the protection of the rights of older persons.

Evidently, the WHO's strategies and plan of action call the health system to reach these goals, to create long-term-care systems, to ensure a proper environment for older persons and to improve follow-up actions and the understanding of their needs by developing indicators and raising awareness on this issue. A specific approach is to be taken depending on each individual's intrinsic capacity and the risk of decline in cases of frailty and dependency.

The convention includes all of this, but the Mexican progress has been delayed due to the refusal from the Treasury Department to being financially responsible for the National Care System. However, this problem has to be tackled with a gradual approach; no country would be able to solve this issue globally and immediately.

There is a need to update laws, contribute to development, strengthen the institutionalization of care, create comprehensive public policies to build a National Care System, and opening dialogue spaces for older persons to express themselves about the need of adopting an appropriate, human, thorough and comprehensive approach.



The person with dementia: a rights-holder



HOMERO GAC

This topic relates to the person living with cognitive impairment and the importance of providing them with the tools to exercise their rights.

As we all know, former president Ronald Reagan was diagnosed with Alzheimer's in 1994. Long before this disease develops (5 to 10 years), a preclinical phase occurs, wherein our capabilities to be fully aware of our decision-making become altered. There are anatomical and functional changes, as well as brain changes. Consequently, we must acknowledge that, at the accelerated rate population is presently ageing, the number of people with cognitive impairment will increase greatly. During the debate with Walter Mondale in 1984, Ronald Reagan's son noticed the early signs of what his father was going through; let us remember that in 1983 the then President Reagan had made the decision of deploying cruise missiles in West Germany to counter the Soviet SS20 missiles; just think of how difficult it is to make decisions in this new scenario of the ageing population.

Nonetheless, cultural changes are as significant as physical changes since ageing is affecting the entire world, especially in our region where changes take place at a fast pace, so older persons are expected to change a lot as well. Hence, there are more possibilities for taking action and decision-making. For example, older persons are likely to have a say in the elections since they are the ones who vote the most; at some point we will find that one out of four Chileans is an older person.

This brings about enormous challenges as regards to economics, pensions and people's rights. In 2000 there were 7 young people for each retired older person, today there are 5; in 2050 there will be 2 or 3.

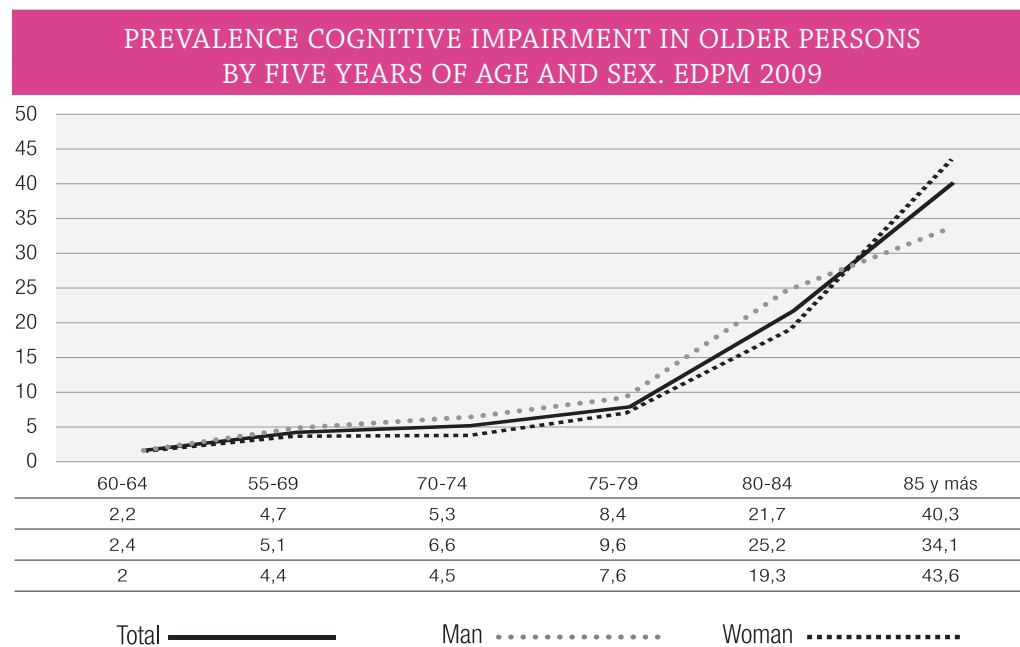
Our surveys indicate that fear of illnesses, disabilities and dependency are the three main issues for older persons, followed by loneliness and poverty, in that order.

In the Older Persons Quality of Life Survey, cognitive decline prevails, which increases with age, even up to 50% among the nonagenarian. Hence self-determining our lives in advance and hopefully our will as well, is important and also to allow a person with cognitive decline to make decisions under supervision.

Given their mental decline, some of my patients may not be able to lead a big business, make

important economic decisions or run a country, but they know whom they wish to leave their assets to: their children or an institution. They also know how they want to be treated when they are admitted to hospital. According to our legislation, if older persons are interdicted they lose all of their rights. This legislation proves to be inadequate in view of the times that we live in and the fact that population is ageing.

Cognitive decline has different phases: from normal to minimal levels, then mild and finally severe, in which the person cannot self-determine their life and becomes completely dependent. And we are all ageing.



Education on ageing, the ageing process, retirement, closure stages, and the psychology of the older person should be implemented as public policies in schools.

The book “Cómo vivir bien 100 años” (How to live well for 100 years) by Centro de Políticas Públicas (Center for Public Policies) of Universidad Católica discusses these issues. Some attempts, such as the creation of an AUGE¹ for the older person, the minimum rights of older persons that should be included in AUGE for pathologies, have been proposed. An older person should not spend 50% of their income on medicines. A public policy to safeguard older persons should be implemented. From the legislation standpoint I think we are behind in these matters.

It goes without saying that this matter is an investment, not an expense. People are going to live better lives. A person who breaks their hip and walks again spends in average a tenth of the expenses incurred by the person who cannot walk again. There are lots of things to do with well thought public policies and even with a tight budget that may help us do important things.

1.: AUGE, acronym for Acceso Universal y Garantías Explicitas en Salud, Plan for Universal Access and Explicit Guarantees in Health.



The person with dementia: a rights-holder

MARCELO BARRIENTOS

The following are some of the conclusions drawn from a joint medicine and legal investigation on the progressive ageing of the population, conducted with Homero Gac M.D. and his team.

The cognitive condition of older persons is discussed in our current civil legislation, specifically the Civil Code (hereinafter CC), which was enacted based on the epidemiological situation of the 19th Century, when life expectancy was 40 years old. This law interdicts people with severe mental disorders, which deepens the problems of consistency with the modern legislation of the 21st Century. For example, the CC poses serious difficulties to exercise the laws that regulate healthcare, discrimination and the inclusion of persons with disabilities or mental impairment.

Thinking of standards for the treatment of older persons when creating a national disabilities registry is very complicated. Furthermore, the law is fragmented and difficult to explain, thus access to justice is a very complicated situation for any citizen. We should remember that the huge human rights movement is a wake-up call for the State to safe keep citizen's rights. Thus, the Chilean State is still behind on older person's issues.

In civil law, a person with severe cognitive decline is classified as having dementia, which is an exceptional situation of an all or nothing approach. Administration of assets is lost by way of a temporary interdiction decree; this situation is equivalent to a civil death for the administration of individual property. Even from the terminology perspective, the individual who attempts to administrate the property of the person who is cognitive impaired has to sue them; hence, in a lawsuit the person who is to be declared interdicted is the "defendant".

Dementia is irreversible and, in most cases, progressive. Thus we consider an aim to have a legislative change to extend the autonomy, capacity and self-determination of older persons by promoting their essential rights arising from their human nature, not from the State's, which must only recognize these human rights of older persons and protect them efficiently.

Throughout the last 40 years, medical studies have addressed the process of cognitive decline and have classified it in different phases where the decision-making capacity changes over time. In this regard, the law should be changed to improve the participation of older persons in different phases of cognitive decline. The State is to blame for not creating civil laws with prompt and effective ways to regulate and manage the patrimony of older persons, because they are not considered a part of the population that requires specific protection measures.

Law in other countries considers the different phases of cognitive decline and allows older persons to receive support from someone they trust throughout the decision-making process. The Mental Capacity Act, enacted in the UK, provides indefinite powers of attorney that enter in force when the adults manifest the disability. These laws allow older persons with gradual cognitive decline to preserve the rights related to their own decision-making, commitment and will.

Chile should urgently adopt a general and gradual principle of protection to distinguish the patrimonial aspects of the acts of personal will disposition. Increased longevity not only implies longer chronic and degenerative diseases, but also increased disability and functional and cognitive limitations.

Attempts have been made to amend the civil law, but they seem to be insufficient and in some cases even confusing. The Inter-American Convention being analyzed today considers that older persons are part of the vulnerable population that has been partly neglected and isolated by the most important public policies. Albeit the Courts have applied the right of parents to receive food support from their adult children, the same regarding the old-age pension, there are no rules available to tackle the vulnerability of older persons. This Convention also provides a definition for the last stage of life, as a social construct, and its protection. In line with the terms therein, the law established that, for all legal purposes, an older person is a person who has turned 60 years old, meaning that older persons are to be treated with special conditions, but this is not mandatory for the State.

Regarding ageing, norms have been established by the State but based on non-objective grounds. For instance, the age criterion is chosen based on the decision of the WHO's members, and they in turn decided this because it is functional; they verify the percentage of the population that complies with said requirement. Nonetheless, there is a limitation in the law and the Pact of San Jose Costa Rica because the protection of older persons by the State does not legally start with the pension system, but at the age of 60. The Inter-American Convention sets forth an even higher limit of 65 years old.

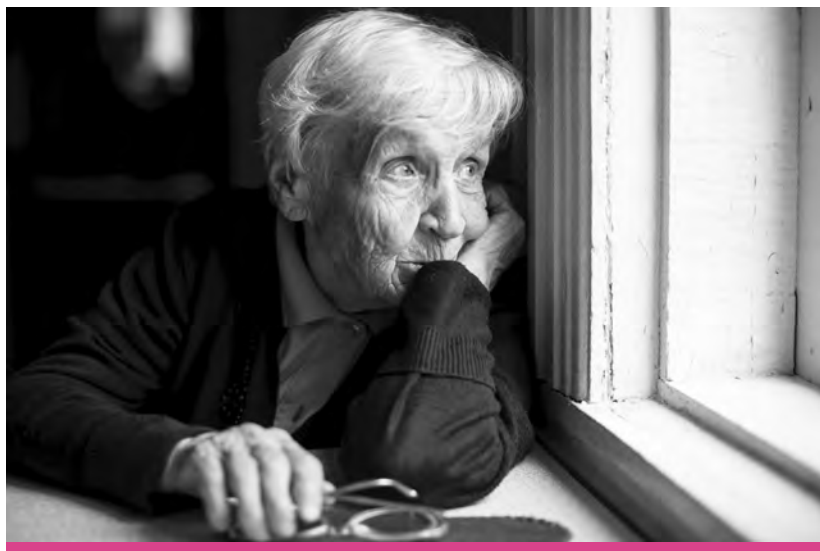
1.: Servicio Nacional del Adulto Mayor.

In Chile, disabilities in older persons are an obstacle for work, even if they meet the age requirement. Thus, the National Service for Senior Citizens¹, in charge of enhancing and promoting the labor insertion of older persons, would make no sense. This is a legislative incoherence because work cannot be promoted without considering the specific and inherent conditions of the person who has retired, in accordance with the legal design of the pensions of the country.

For this reason, disability is a physical-mental condition that poses economic and social effects on the person and the people around them, which also entails responsibilities for the State. Albeit CEPAL questions the role of the State in these issues, the law distinguishes degrees of disability in terms of production capacity. The law includes a subclass for the definition of severe disability in order to complement the pension. Thus, someone who requires assistance from other persons to perform the basic actions of their life is considered a severely disabled older person, which agrees with the WHO definition.

Caregivers are legally defined as the people who provide support in daily life basic activities for persons with disabilities on a permanent basis, whether they are or not related by blood and whether they receive payment or not. Consequently, the family is still the agent in charge of protecting and taking care of their members that are old and with disabilities, but no formal regulations have been established on this matter.

The Chilean law's economic approach on disability is rather based on productivity, instead of the broader needs of the disabled person or the related limitations. Furthermore, albeit the definition of severe disability entails dependency, it does not consider the changes in the economic and social conditions of the caregivers involved. Based on the processed cases we have studied, older persons' abuse mainly takes place in family environments. It is worth noting that a frequent practice in Chile is the unauthorized appropriation of the property of the older person by relatives or caregivers through different mechanisms, such as, powers or attorney for the administration of property, simulated sales, and use of force to obtain consent for transfers, etc.



Hence, there is a contradiction between these State policies, the social constraint to retire and the need of social integration and care in the fragile stage of life that is old age. Older persons do not only have to seem active, but also make themselves useful and be productive.

The French Civil Code included economic violence in their 2016 Reform to prevent people from abusing older persons' state of dependency and other similar issues, whereas the law in Chile does not even have a clear definition for dementia. A ruling of the Court of Appeal of Santiago in 2008 determined that there is no scientific-

technical definition for dementia, but it has to be understood as a broad and diverse concept, as a mental disease, without further details.

Finally, I shall describe a situation that proves how weak State policies are in regards to safeguarding older persons from cognitive decline. Notaries, -covered by the Civil Code- require persons over 60 or 65 years old to submit a certificate from their treating physician, (general or specialist physician) to authorize them to draft their will. The reason for this is that in accordance with article 1016 of the Civil Code, the notary is required to state in the will that the person is in full use of their mental faculties, but this simple notarized statement poses more questions than answers. The notary needs this medical certificate to protect herself/himself, for example, from any actions brought by relatives that are not mentioned in the will or to avoid future legal actions against the will. However, this action is not meant to protect older persons, thus confirming that the Chilean law is taking no measures to safeguard them from cognitive decline. We believe that a diagnostic test should be taken to confirm these mental or cognitive faculties. There is an urgent need to include in the law exams to find out whether the person has a severe cognitive decline or if they are free to express their will, especially when drafting a will.

Considering the aforementioned, much work remains to be done to adapt the Chilean legislation to the Inter-American Convention that we are discussing today in this forum.

End of
Presentation

Round Table

3

The right to autonomy and independence

● Verónica Montes de Oca

Sociologist, Universidad Autónoma de México. PhD in Social Sciences with specialization in population studies. Centre for demographic studies and urban development. Colegio de México, A. C.

● Ángela Arenas

Lawyer, PhD in Bioethics, Pontifical Atheneum Regina Apostolorum and PhD in Philosophy of Law, Tor Vergata, Rome.

● Consuelo Moreno

Lawyer, Pontificia Universidad Católica de Chile. Director of Incidence , Fundación Oportunidad Mayor, Chile.

MODERATOR

● M. Soledad Herrera

Sociologist, Pontificia Universidad Católica de Chile. Director Institute of Sociology , Pontificia Universidad Católica de Chile.

The right to autonomy and independence in older persons

VERÓNICA MONTES DE OCA

Ageing, autonomy and independence are very powerful concepts, and I want to share some of my reflections from the last 20 years regarding this matter, though it may seem insufficient.

The first reflection relates to the Second World Assembly on Ageing of 2002, the progress achieved so far and the researchers (young and not so young) involved in the discussion about old age and ageing. It took so many years to understand the difference between ageing and old age, between the process and the stage. But then the construct “older persons” was created, which is the result of the discussions about the ageing person, old person, elderly or senescent, concluding that they are all persons. This concept is multidisciplinary and goes beyond gerontology.

The second reflection is about the term “gerontology” in Latin America and the Caribbean. Whilst geriatricians concentrate in 30% of people with disabilities, health problems or dependency, gerontologists focus on the remaining 70% to ensure their autonomy and life quality. We should consider the rights of ageing, that all the population has the right to grow older, and that is why older persons should have access to much more social justice.

The demographic trends in the last 20-25 years also evidence changes in households and families; the condition of older women, indigenous and Afro-descendants, intergeneration relationships, the painful inequality in the region, and, above all, the poverty and limited access to justice for older persons. These matters are of paramount importance in the current discussion about human rights.

In Mexico, only 32% of the older population has a pension; the rest has to continue working or live in dependency conditions. Ageing has its own epidemiology and morbidity; we have been able to extend life, but not in good health, and the healthcare system is not supported by the State, as it should be.

My country is quite family-oriented, as in Chile. We hold the family, especially women, responsible for tasks that should be handled by the State. For this reason, statistics and the direct involvement with households and families have evidenced situations of violence, negligence and abuse.

Despite many public policies have a welfare assistance approach, I think that some situations in my country require immediate action; social policies need more than a welfare approach. In the last 15 - 20 years, we have managed to establish public policies adopting a rights-based approach, which is more universal and challenging in terms of designing policies. But this is not enough, it is also necessary to explore our minds and our attitude. In Mexico, although the Federal Law to Protect the Rights of Older Persons mentions rights, a welfare approach prevails completely, which means we have not been able to shift the approach successfully.

Autonomy, independence and dignity are the most important rights to ensure that activity, health and satisfaction are part of the ageing process of the whole population.

Autonomy is the human capacity to govern oneself, to make our own decisions. With autonomy, older persons are in charge of their reality, but we need to have different options of this reality and, above all, develop our own decision-making capacities. In this respect, education is of paramount importance. The current older persons did not have much access to education in the past, so we need to counterbalance this situation and its consequences to distinguish between work and employment, the different social security conditions and, especially, health conditions and how to claim the right to receive decent medical attention. This makes up the physical and social surroundings, i.e. how to decide what kind of relationship I want with my family, partner, friends and neighbors. Education is key to choose wisely.

We should stop thinking of and on behalf of older persons and start thinking with them, based on social participation. They should not be seen as subjects of study, but as participants of our research and actions, as actor of the civil society. The Montevideo Consensus is a clear precedent of the Inter-American Convention on Protecting the Human Rights of Older Persons, as well as the Declaración de Yparacaí [Yparacaí Declaration] and the Carta de Asunción.

CHALLENGES FACING THE AUTONOMY

Evidence has shown that you to achieve the **Autonomy** is necessary that people have with **Opportunities** that allow the **capacity development**.

Education during the entire course of life to reduce the backwardness of the past.

Employment decent and well-paid to provide resources during adulthood to old age.

Universal health services to prevent and care for life.

Appropriate physical and social environments (families, friends, neighbors, coworkers) among others.



We have to delve into civil society's organizations, the professional associations that are involved in this matter, and, basically, reflect on the role of universities. Ageing is a subject mainly dealt with by international agencies, and universities are not discussing it properly. Conducting further research on this issue would generate academic and

scientific sustainability. We are training new generations that are convinced that a shift is necessary, but we also have to do our best to broaden the scope of this issue. We have to continue working with national and sub-national governments, with municipalities and with provinces. This is very important and difficult endeavor.

In social sciences, we work with social representations, which is why it is necessary to broaden the scope of this issue. Language and definitions transform and that is why we are not able to talk about the right to independence and autonomy; we are aware of how these representations restrict the exercise of autonomy. This relates to discrimination and cumulative inequality, which in sociology is called intersectionality.

I do not know which one of these is the worst subject of discrimination: age, gender or race. But I do know that when combined older persons suffer more and the power of institutionalism and public policies is lessened. For example, when a judge discriminates women or older persons. We have to transform the behavior and thought of judges and officers; we have to question physicians and nurses of health institutions. For this reason, our work should be based on empowerment and permanent education; we also have to work with the institutions and their employees, because these perceptions on ageing determine the handling, support, services and care.

Social perceptions need to change; we must break our prejudices and stereotypes, as well as promote meetings, seminars and conferences in the entire region. We have to continue this debate, and universities play a very important role. Empowerment in old age arises in social relationships, in collective learning on interactions, in future development. Out last conferences at the UNAM (Mexico) were intergenerational, with young and older volunteers. It is very important that people relate, remember, discuss, debate, come to agreements and foster participatory development communication.

No matter the stage of our lives, we should bear in mind all the possibilities that humans have, even the most fragile ones. Fostering the growth of human beings: that is our task as gerontologists and specialists in older persons.

As a conclusion, I would like to make some proposals, such as the development of capacities in terms of education and to make the State assume its responsibility in these matters.

We must overcome isolation, get to know other problems, empathize with others and defeat the individualism of many public policies. The participation of the media and universities is of paramount importance. There is so much to be done yet, not only in health and pension matters; we first need to understand that we have the capacity to change this situation with information and awareness about which are our goals on ageing.



End of
Presentation

The Right to Autonomy and Independence from the perspective of bioethics

ÁNGELA ARENAS

This is an interesting issue given it deals with aspects of health law and clinical decision making at the same time.

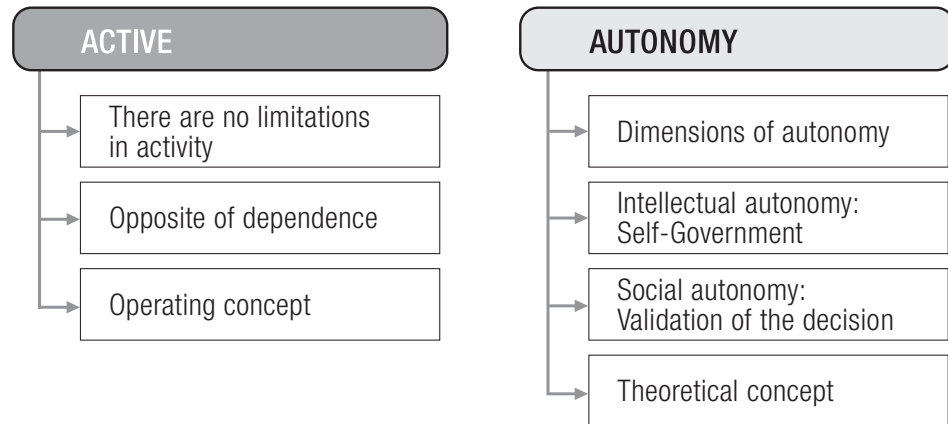
From a philosophical approach, ageing is conceived as the expression of biology in a certain environment. This concept has been influenced by the Greeks to our days. Cicero addressed ageing in terms of rejuvenation, as a physiological evolution, as opposed to Terence who considers that old age is a synonym of disease. This explains why the concept of ageing is still seen in both ways.

But, what about autonomy? This is one of the main moral principles of bioethics.

What happens if we connect autonomy with law? First, autonomy turns into a polysemic, multidisciplinary and polycasual term. Therefore, regulating legal-related aspects of autonomy is difficult because this term does not have a comprehensive definition.

Autonomy is defined in relation to others and it acquires a specific meaning when associated with each discipline, in this case, health law. However, this concept may be considered as negative, as autonomy indicates a possible vulnerability, that is, its conceptualization is twofold. On the other hand, we must make a difference between self-reliance and dependency; the former is an operational concept without limits imposed to daily-life activities, while autonomy entails the possibility of self-regulation. This is a hard aspect for the law because a person necessarily involves both aspects.

Autonomy and self-reliance cannot be considered separately, because they are both part of a person. Furthermore, in legal terms, the concept of autonomy requires social validation: we have to recognize other people's otherness giving rise to peer and ontological value inherent to dignity.



Other difficulties also arise from the legal regulations, given that this group of the population is very heterogeneous, as opposed to other age groups such as children, who need to satisfy homogeneous needs: affection, education, shelter, and housing. As our own personal biographical identities develop in time, old persons begin to have “different” needs which is a complication in law given that its aim is to treat everyone the same, to standardize. A pending challenge in the scope of law, which is universal and institutional, is meeting the different needs (including the legal ones) of all people.

In the Inter-American Convention on Protecting the Human Rights of Old Persons (2015) independence and autonomy were recognized as rights for the first time. This Convention also recognizes the right of older persons to make decisions, to determine their life plans, to lead an autonomous and independent life in keeping with their traditions and beliefs on an equal basis.

For this reason, new approaches should be adopted. The biomedical paradigm was the first one adopted by medicine, but was then shifted to the paradigm of integration and finally to that of inclusion. The biomedical model –quite paternalistic– evolved into integration models --not necessarily inclusive- but that focus on social structure and in how diversity is accepted.

The Convention also mentions that autonomy should consider dignity, a comprehensive care system, considerate treatment and safe regulations; said system is crucial to foster ethical and legal reflections.

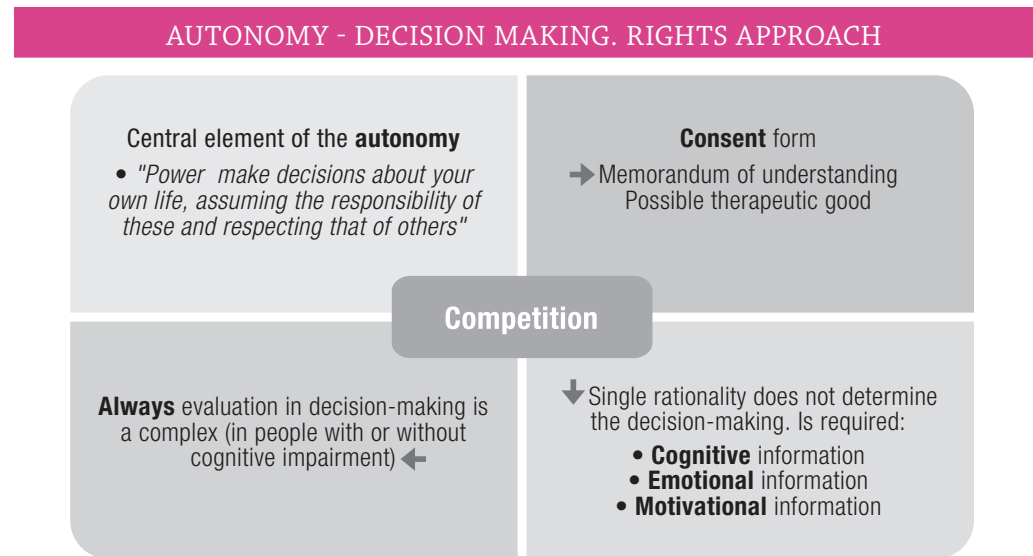
According to the Convention: “Older persons have the inalienable right to express their free and informed consent on health matters. Denial of that right constitutes a form of violation of the human rights of older persons.” This means that, the right to autonomy is addressed from the perspective of health decision-making.

In Chile, Act No. 20.584 -on the rights and duties of people in regard of healthcare services- makes a general description of informed consent and, in particular, the informed consent of people with mental impairment, without considering the informed consent of self-reliant and autonomous older persons.

What is the situation of autonomy in health decision-making matters from the perspective of rights? According to UNESCO’s Universal Declaration on Bioethics and Human Rights, 2005, “The autonomy of persons to make decisions, while taking responsibility for those decisions and respecting the autonomy of others”. Thus, as autonomy is related to others, responsibility is a crucial element to bear in mind.

Autonomy, then, gives rise to consent. Legally speaking, consent is a voluntary acquiescence, meaning the concurrence of two autonomies. We must then focus on the best therapeutic intervention available without considering decisions out of wish-based ethics or wish-fulfilling medicine, as well as arbitrary preferences when undergoing certain medical treatments.

Rationality alone is insufficient to determine our decision-making. From the perspective of gerontology, decision-making is based on cognitive, emotional and motivational factors. The communication between healthcare services and patients is a difficult and tiresome process, as proven by neuroscience and experimental psychology.



Capacity or competence of patients in clinical decision-making are usually seen as clear concepts, but the problem is they are not; on the contrary, determining if a patient is competent or not is very difficult. Competence is crucial to understand, remember, and handle information, but also to have the freedom to choose. No clear limit separates competence from incompetence; no efficient nor validated tests are available to provide automatic solutions.

Therefore, what is to be done in the absence of these factors? The legislation on the rights of patients in Chile or abroad are to be considered as general rule. The criterion used, then, is that the capacity to consent begins when a person is 14 years old, without variations. This means that if a person consents to a "medical treatment" (could be any) he/she is able to consent to everything else. However, as stated above, cognitive, emotional and motivational information is needed, for which reason these decisions will be based on different elements depending on the situation.

Other factors to consider are that competence varies depending on the situation and on the cognitive decline (which should be assessed) and that the capacity of a person is directly proportional to the associated risks of every decision.

We must bear in mind that assessing is always a very specific endeavor. No matter how absurd a decision may appear, this is not enough to declare incompetence. Sometimes a decision may not seem logic but it is indeed feasible; we then face the scenario of needing to be open to those decisions because diversity and autonomy are also part of it. The decision-making process is therefore assessed instead of the decision itself.

However, autonomy still needs to be recognized, so in some cases advance medical directives are a possibility. The involvement in one's own decisions is a positive influence for health and helps relieve the stress of families by dealing with them in advance. Advance medical directives allow old persons –who are capable of making their own choices or not- to relieve their autonomy and may support the decision-making process, even for the healthcare service team. Other legal systems have defined this planning as the process in which the person and their immediate social living environment receive adequate, full and pertinent information to accept and/or decline certain the actions needed for a proper healthcare plan based on the prospect and evolution of the disease; this planning can be revised at any time.

Treatments usually involve different stages. The first stage of dementia is characterized by an early cognitive decline that still allows the person to make certain decisions and keep a conversation. During the second stage, decisions are a joint effort of the person and their social living environment. During the third stage, the autonomy manifested during the previous stages is respected and used in the advance medical directives.

Advance medical directives can be legally binding and based on the clinical background. Some laws consider the clinical background of users of the health system to respect their will; they recognize the meaning of biographical identity.

Some countries have will-related assistance models. The Convention on the Rights of Persons with Disabilities (2006) states that special measures shall be taken to protect the rights and interests of people that cannot exercise their autonomy; we should focus on this aspect too. Other countries refer to people with diminished autonomy or that do not have autonomy instead of people with disabilities or mental impairment or that have no legal capacities; they seem to have overcome these practices.

What are the foundations to provide a legal capacity considering the competence of being able to make health-related decisions? First, decision-making should be a joint effort. Second, support systems should be provided when the person is no longer capable of making his/her own decisions. Finally, the appropriate therapeutic measures to be taken in accordance with the complexity of each decision.



Older Person's autonomy and right to work

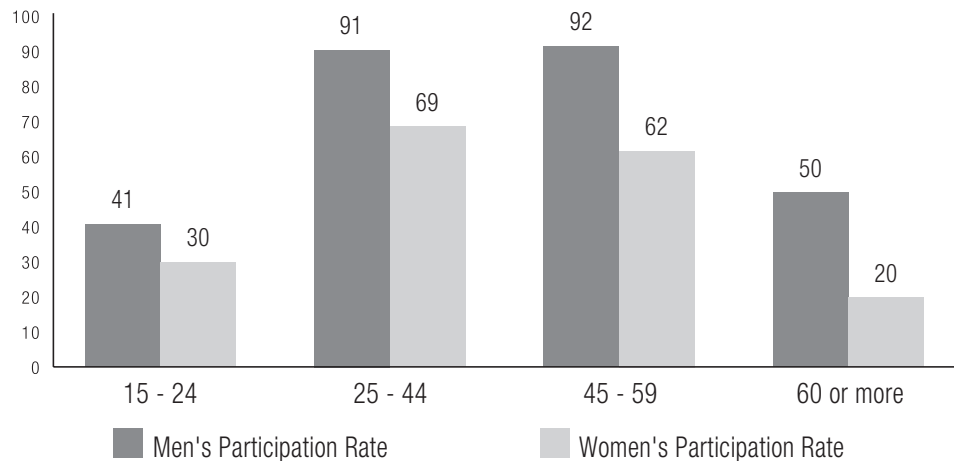
CONSUELO MORENO

We will discuss autonomy and independence on the basis of older persons as actors of development and change. The national context regarding the right to work of older persons and the related obstacles and challenges shall be dealt with as well.

Almost 18% of Chileans are older persons, out of which 86% are self-reliant and 6.6% live in poverty, which increases to 21% in case of multidimensional poverty. 29.7% of them work and 75% are heads of households.

Older persons' workforce, according to sex and age, is clearly very low, especially that of women. They have had less employment opportunities, less years of education and today they mainly take care of their grandchildren or parents.

LABOR PARTICIPATION ACCORDING TO SEX AND AGE



Source:
Public Policy Center. Pontificia
Universidad Católica de Chile. 2016.

According to the quality of life survey of the Universidad Católica, older persons mainly work for financial reasons. However, when they are asked: would you continue working if you did not need to? Almost 70% says: "Yes, I would. I like working, not only for the money, but because it gives me a sense of purpose, it keeps me active in society, I relate to others, I continue to learn (education)".

When asked: Do you like your current job? Almost 80% replied they do. Most of them are self-employed, so they manage their own time. However, please note that this situation still needs to be researched further.

Based on the average income of employees, persons 65 and over earn less. Chile ratified the Inter-American Convention on Human Rights, which enshrines four important points: older persons have the right to a dignified and decent work, to equal opportunity and treatment on the same terms as other workers.

Experience and knowledge should be enough for an employer. Some companies do not believe that older persons have the same conditions and needs as anybody else. For this reason, the guarantees, benefits and salary provided to older persons when performing the same job are not equal; our country is seriously violating the convention.

What are the current obstacles and challenges faced by our country? First, the negative perception of old age: we have to change this so that companies start hiring older persons. Also, adequate search and recruitment processes, which are currently only fit for young persons or persons under 40 or 50; almost no companies recruit and train persons over 60.

Entrepreneurship should also be fostered; funds to encourage this are available but without providing the conditions for persons over 60. Older persons are also behind in terms of digital literacy, but this is their responsibility as they have to find the courage to learn.

In Chile we also have a large obstacle: any person with the *Pensión Básica Solidaria* (Solidary Basic Pension) may lose it if they have a job. Formal employment is incompatible with solidary pensions, so they work illegally in the black market in unhealthy and unsafe conditions. This restriction has to be eliminated as soon as possible.

Furthermore, the lack of training is one of the worst obstacles. The state service that provides training in Chile is SENCE (Servicio Nacional de Capacitación - National Training Center), but the limit is 65 years old. The Programa de Certificación de Competencias (Competence Certification Program) provides certification for older persons who have gained enough experience through work, but the age limit is also 65 years old. Older persons do not receive certification for their skills.

The Chilean law establishes that the minimum wage for persons over 65 is 25% less than the minimum wage for the rest of the population over 18. The reason for this is to discourage the hiring of older persons, but this discrimination cannot continue, especially in light of the Inter-American Convention.

I hope that flexible working hours and conditions such as working at home are developed. Our norms regarding work flexibility are just emerging. If there is fear about working at home, then adequate regulations should be created. Finally, other countries provide examples that mainly benefit caretakers; they could work from home with their computer or in the mornings.



End of
Presentation

Round Table

4

Social inclusion for a better ageing process

● **Silvia Perel-Levin**

Chair of the NGO Committee on Ageing at the United Nations (UN) in Geneva. Representing the International Longevity Centre - Global Alliance for the Rights of Older People (GAROP).

● **Bridget Sleaf**

Senior Rights Policy Adviser, HelpAge International.

● **Alejandro Reyes**

Representative CORV Network Latin America and the Caribbean.

● **Evelyn Magdaleno**

Director planning Municipality El Bosque, Santiago, Chile.

MODERATOR

● *Silvia Perel-Levin*

Social organizations of older persons and the impact in the promotion and defense of Human Rights



SILVIA PEREL-LEVIN

The NGOs Committee on Ageing, in Geneva, are interested in the rights of older persons. These not only cover ageing matters, but also human rights throughout lifetime, such as the women and LGBT communities.

As NGOs we interact with almost all the 50 member governments and all the Governments represented in the Human Rights Council in Geneva that meet several times a year. Chile and Mexico are candidates to become members next year. We want to raise awareness in governments, the UN and their specialized agencies, such as WHO, ILO or UNHCR so that they include human right-policies for older persons to ensure they are included in all the programs without excuse.

The number of older refugees and migrants is increasing, and they are the most affected group. When they leave their countries, or if they stay there when their children leave, they are the ones who most suffer the impacts of political or natural crisis. For us this is very important and for this reason we are working for older persons to be included in the Global Refugees Deal dealt by the UN.

These situations may appear unrelated to the situation in Chile. For this reason, my intention is to relate what is happening in the countries to what is happening in the main headquarters of the UN: Geneva, New York or Vienna. On one hand, the impact and the awareness of civil society and governments demanding that the matter is dealt with in the UN, and, on the other, that discussions have effect on national and local public policies, such as those regarding women, persons with disabilities, socio-cultural rights, etc.

The organizations of civil society should be aware of what is going on worldwide to know what the other governments are doing, but also to interact with the human rights treaties

committees and their regular revision. Chile, as any other country, submits a report every four years. Next year this report will be subject to examination, so this is a good opportunity to discuss the policies regarding the importance of older persons so they are not forgotten.



I have two questions: when we talk about the participation of older persons, do we actually mean older persons or everybody who is aging? Also, how can we make governments fulfil the promise of promoting the participation of older persons in politics? How can we foster actual participation? Which training do we need to help older persons so that their rights are respected?

Finally, in view of the lack of coordination between the UN and the OAS and the Madrid Plan on ageing, would it not be good that they work together to achieve the regulation so urgently needed? One of the responsibilities of the NGOs in Geneva and New York is to make sure that they are aware of what they are doing in terms of older persons' issues. In short, the situation of older persons in the countries is represented globally because they have representation in the UN.

An interdisciplinary perspective should be adopted instead of the usual multidisciplinary approach; the ministry's programs on ageing are not enough; they also have to prioritize their interaction. As a civil society we have to remind the countries of the agreements in this matter; we have to participate and demand to be included in all the processes. Investing in ageing matters will benefit today's older persons, and everybody. I would like to highlight that, a leader of a young persons' forum addressed the ministers in a meeting of the European Region and Central Asia Region in Lisbon, stating that he was in favor of an older persons' convention, as he understood that, by protecting today's older persons' rights, he is protecting his own future.



Aging and networks: HelpAge, experience for the social inclusion of the older people



BRIDGET SLEAP

In this presentation I'm going to look at one of the social inclusion activities of HelpAge International global network members in Vietnam and use this as an example to draw out some of the consequences of operating in a normative vacuum in relation to the rights of older people, in particular the right to long term care and support. I will conclude by making some suggestions on how we might address the normative elements of this right.

Inter-generational self-help clubs are sustainable, self-managed, multifunctional and community-based and community-led organisations. They aim to enhance equitable and inclusive local level development and to improve the well-being of disadvantaged older people, their families and communities. Set up initially in a joint project between HelpAge International, The Vietnam Women Union, The Vietnam Association of the Elderly and The Center for Aging Supporting Community Development, the clubs are now being rolled across the country through a model based on the combined approaches of self-help, participation of generations and capacity building.

Each club has fifty to seventy members of whom seventy percent are over the age of fifty five, seventy percent are women and seventy percent have very low incomes. They meet once a month and are self-managed by members of the club. The board is responsible for financial management and monthly reports. Funds for the club are generated from the interest on micro-loans, membership fees, local fundraising and from small businesses or social enterprises run by the club. The clubs provides support for the many issues older people-older people face. In relation to health, members participate in group exercises to promote healthy and active living. They receive a health check (up to twice a year) and club members work as volunteers to visit and help older people inside their houses. Information sessions are given on personal self-care, non-community diseases and home-care. On the social side, members get

involved in music and dance. To improve income security, members have access to micro-loans. Training and information sessions are given on laws and policies. There is training and preparation for disasters or emergencies. These clubs provide their members with enormous benefits, and members say they feel happier. One older woman said: *“I have new friends. I’m not alone anymore”*. Members also say that they are healthier or have better access to health care services. One woman said: *“During three years with the club I’ve already had eight health check-ups”*. They feel empowered: *“I was so glad when I was voted onto the board. I’m happy people trust me and acknowledge my values”*. Their incomes are more secure. An old man who took out a micro-loan said: *“Within a year I was able to repay a loan and have some profits from the sale of pigeons”*. The club also creates sharing among the community.

These self-help clubs as a model are popular. The number of clubs across the country increased from a hundred to sixty-seven in 2007, to over one thousand two hundred in 2017. The model is so successful that last year the government of Vietnam itself agreed to replicate three thousand two hundred more clubs nationwide. As a civil society organization, we are not obligated under international human rights law to protect and promote the rights of older people, but we have a duty to ensure our activities and work are in line with human rights standards. The government of Vietnam has human rights obligations under international law and since it has decided to replicate this model nationwide, we need to ask whether this model is in line with human rights standards.

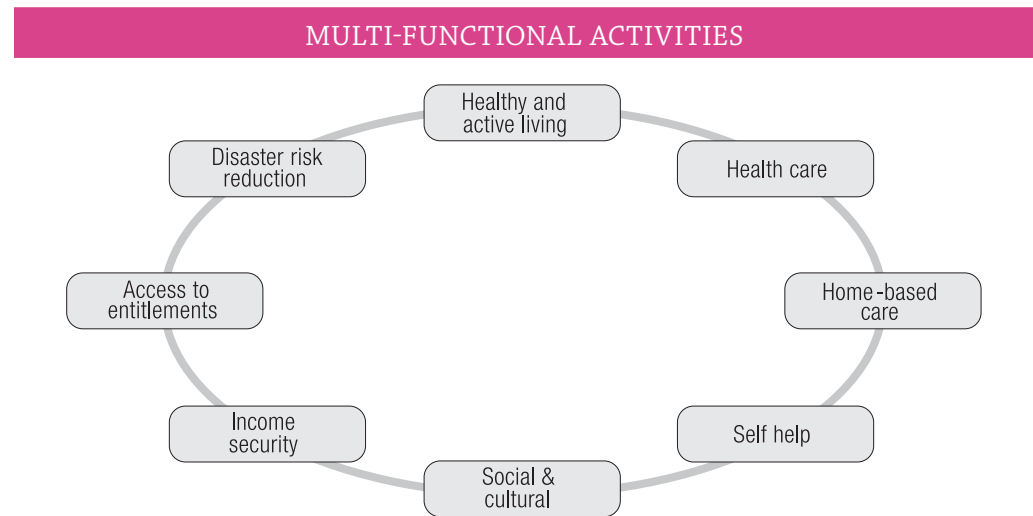
Many rights are at stake in the activities of these self-help clubs: the right to health, to social security, to development, to participate in social, political, economic and cultural life and to information, amongst others. But given that the focus area of the 9th Open-ended Working Group on Ageing in 2018 will be on the right to long term care and support, I’ll talk about this right in more detail.



The long-term care system in Vietnam is under-developed. As elsewhere, family life is changing, and the care and support older people may require needs to be provided by other means than just family members alone. There are some government-run residential long-term care facilities but these are limited. One of the activities of the club is home-based care through home visits by volunteers. Volunteers help older people with daily activities and personal hygiene as well as provide friendship. The volunteers are usually older people themselves, are unpaid, work on a voluntary basis and may visit the older person two or three times a week.

As older people with chronic long-term clinic diseases needed specialised support, a pilot project has been run in ten clubs to recruit paid care assistants who are retired doctors, nurses or health workers. They take a training course and are paid around nine US dollars a month. They receive a home care kit and visit at least three older people three times a week each and help with personal hygiene, measure blood pressure and weight, do physio exercises and oversee taking of medication. This model of home based care is an improvement on the

previous situation where there wasn't support available, but it raises a number of questions about human rights.



Firstly, is the care and support available to older people who require it guaranteed by law? Secondly, is care guaranteed when a volunteer cannot provide it? Is the care and support available to everyone who needs it without discrimination or only available where clubs exist? We need to consider whether the caring support provided is adequate and appropriate. The spectrum of care and support that can be required is very wide, from minimal to intense levels of support. The current club model doesn't cover that full spectrum. We also need to look at how quality and standards of care are monitored and regulated since the state has an obligation to ensure all service providers, be they government or non-state actors, meet human rights standards. We must look at to what extent those who require care and support are able to exercise their autonomy and choose what type of care they receive, where and from whom. And what if something goes wrong? What access to redress do the recipients of the care and support have? Is there a complaints mechanism? Who is accountable? The volunteer? The club board? The state?

Finally, we need to think about the implications of building a system of home-based care based on the unpaid worker volunteers the majority of whom are older people themselves. To what extent will this exacerbate income inequality, particularly if the volunteers are older women? And what does it say about the value placed on care provision as a job of work? Is the system sustainable and is it ethical?

In the absence of clear normative standards on the right to long term care and support of older people I suspect that these rights-based questions were not asked when the model for the clubs was being developed. And until we have explicit, international norms on the right to long-term care and support, they are unlikely to be asked at all.

Which brings me to the concluding part of my presentation: What the normative elements of the right to long-term care and support, which will be discussed at the 9th Open-ended Working Group on Ageing, should be?

We could start thinking about this by looking at definitions of what long term care is and then look at the type of support and services older people should have access to, and where the

services should be available. And then what steps must be taken to ensure older people give their free, prior and informed consent to all aspects of there are and support. We should look at how to ensure older people are not subjected to restrictive practices that deprive them of their liberty, such as physical, chemical or technological restraints. We should look at what steps must be taken to ensure quality of care and that older people have access to redress when their rights are violated. Finally, we should look at the obligations of States to ensure sustainable financing for long term care services.

CAPACITY BUILDING: PUBLICATION & TRAINING MATERIALS



Livelihood

Self-care

Non-communicable disease

Homecare

The 9th Open-ended Working Group on Ageing is also looking at palliative care, which is something that self-help clubs don't provide. Many of the questions on long term care could also apply to the right palliative care. For example, how is palliative care defined? What type of supporting services should older people have access to? Where should palliative care be available? How older people can exercise their autonomy and give their consent to all aspects of palliative care? What steps states must take to ensure the quality of palliative care? And what remedies, sanctions, and enforcement mechanisms should be available to older people when their rights are denied them?

To conclude, there not doubt that the inter-generational self-help clubs bring significant benefits to older people. However, these clubs and every other care and support program around the world are currently operating in a normative vacuum. International human rights standards are urgently required, so that long-term care and support services are provided in such a way that promotes and protects the rights of all older people.



Initiatives for important participatory ageing

ALEJANDRO REYES

We are now living in a different era, we can feel it in our skin and in our daily lives and, particularly in our relationships with older person's organizations and citizen organizations in general. Since 2010 the so-called "society citizenization", that we have never seen before, has been slowly beginning to influence not only social and physical aspects, but also social organization and digital networks. The former Argentinian Chancellor Dante Caputo announced in the 90's that Latin American citizens would go from being voters to citizens exerting their social, cultural, civil and politics rights. Our society already took this step in this decade; we can firmly assert that the exercise of citizenship is installed in the leader's consciences and in the internal dynamics of the organizations of the society in the continent.

Likewise, citizen's participation was internationally agreed by the United Nations. It is also a new way of measuring the quality of the relationships of the countries and of the responsible parties for their institutions with the organizations representing their societies. We could also refer to the second decade of the 21st century as the decade of the emerging civil society in the day-to-day public agenda. In organized civil society older persons are in a space of growing visibility. In this regard, the Montevideo Consensus of 2013, includes a chapter on the older persons' situation in the continent, wherein their incorporation and equal participation in the policies design and application, in the plans and programs related was agreed. A group of countries, such as those subscribing the Montevideo Consensus, that not only deal with the economic scope but also with establishing clear guidelines regarding the older persons is new. New voices that confirm and strengthen the human rights paradigm are revealed. It is worth highlighting that, together with these new voices, the ECLAC Executive Secretary, Alicia Barcena, in 2016, at the World Economic Forum on Latin America, in Medellín, Colombia, asserts that the present development model is not sustainable. She adds that equality and sustainability require that the communication between the State, the private sector and the citizens shifts from the purely economic and productive-extractive growth model to that one of integral and inclusive sustainable development.

Inclusion and sustainability should be dealt with from solid grounds, that is, from the local territories and spaces.

Thus here we are in 2017, with clear guidelines that strengthen the citizenization of the social, cultural, political and institutional life where older persons progressively integrate as active actors and where is no longer necessary to ask whether the rights approach is applied, since it was already assimilated in the consciousness of thousands of leaders and in the feeling of



the organizations, pervading the public systems through different ways. In Chile, the rights approach appears like a new consciousness and as a requirement of the reality, as an inquiry and a guideline at all levels in the construction of public policies.

2017 has brought a new energy, light, and source of inspiration because we have celebrated 15 years of The Madrid International Plan of Action on Ageing, 2002, stating that *as persons grow old they must enjoy a full life with health and security and they can continue to participate in the economic, social, cultural and political life of their societies*. At present we, and every institution, every organization,

every citizen, face an ethical challenge to deepen the commitment of The Madrid International Plan so that inclusion, the leading role, and the empowerment of the older persons be recognized and become a true right now. Given inclusion and sustainability are important aspects for the present and the future, it is time to guarantee a dignified life and promote the well-being for everybody at all ages.

We are aware of the importance of the Inter-American Convention on Protecting the Human Rights of Older Persons adopted by the OAS in 2015; especially regarding its emphasis in enjoying a full, independent, autonomous, healthy, secure, integral life with the participation in all the scopes of society as growing old. These definitions were updated in The Madrid International Plan.

The Convention delves into the capacity of older persons to actively participate in the present but also in the future of society; especially considering that exclusion and discrimination exist even in the management public and private systems. Chapter IV asserts: *“The State Parties undertake to encourage the broadest participation by civil society and other social actors, especially older persons”*, and clearly adds, *“in the drafting, implementation, and oversight of public policies and law to implement this Convention”*. Providing this information to older persons is a step into recognizing that they are integral persons.

Likewise, the Convention updates and delves into the guidelines of The Madrid International Plan by defining that citizen participation is a human right. In this respect, article eight clearly states the channels of participation of older persons *“the State Parties shall ensure for older persons full and effective enjoyment of their right to vote. To that end, they shall adopt the following pertinent measures: a) ensure that electoral procedures, facilities, and materials are appropriate, accessible, and easy to understand and use; b) protect the right of older persons to cast their votes in secret and without discrimination in elections and public and public referendums”*.

Consequently, now, October 2017, we have reached to two well established definitions: a wider experience for the citizens in exercising rights and, on the other hand, the confirmation, reassurance and deepening into the new participative ageing paradigms. Nonetheless, we need to consider that ageing is seen in different ways, as stated by The Montevideo Consensus: *“considering that older persons, by virtue of their age and vulnerability,*

continue to be subjected to discrimination, abuse and ill-treatment, which ultimately impairs the enjoyment and exercise of their rights”.

In Chile, society, politics, economy and culture manifest this contrast. Albeit by way of act 20.500, of 2011, on citizen participation in the public management, citizen organizations are invited to become involved in the public programs activities, our country has not developed an institutional structure for the organizations and leaders to effectively become involved in the decision-making process. Act 20.500 requires that every commune of the country establishes a Commune Council of Civil Society Organizations¹. There are more than three hundred communes in Chile, but there are only one hundred forty-five COSOCs, which reveals the institutional and structural deficit to adopt a regulation of a human scale development. Older persons participate in most of these councils, which is a very important situation since it reveals a cultural-civic content and inspiration of the older persons to participate in all the aspects of society.

1.: Consejo comunal de organizaciones de la sociedad civil, COSOC.



In the Meeting of Civil Society on Ageing held in July 2017 in Ypacarai, Paraguay, 300 leaders of 18 countries and 200 organizations reflected on older person's issues, such as how ageing develops, and how international agreements are implemented. We, the attendees to Ypacarai, confirm that in Latin America and Caribbean lives in contradiction. On one hand the foregoing is recognized, but on the other said recognition is obstructed upon the decision making results. Consequently, in this continental meeting of the civil society, held in Asunción before the Fourth Conference of governments on older persons takes place, we assumed 13 commitments out of which 2 assert that we will continue to work as civil social organizations committed to strengthen the social organizations by enhancing the active participation and the need to strengthen as social and political actors to allow the citizen control of public programs affecting ageing.

Every day I see, imagine and sense that every social leader who goes out to the street takes with them their entire generation and also the generation of those to come. Hence the organizations and the organized mobilization of

today's older persons are good news since they open ways so that social participation has an effect which entails a new management modality of the entire public agenda.

2. : Uniones Comunales de Clubes de Adultos Mayores, UCAM.

There are more than 300 Older Persons Community Clubs². In some rural communes there are 10 to 15 clubs, and in urban communes, more than 100 clubs. Pudahuel, for instance, started creating their Community Clubs in 1992; more than two decades of experience in older persons' clubs in Chile.

3.: Consejos Regionales de Mayores.

On the other hand, there are Regional Councils for Older Persons³, created on the initiative of the National Service for Older Persons⁴, SENAMA, which, to date, are run all over the country. Likewise, by applying Act 20.500, in the Commune Council of Civil Society Organizations, the older persons have become actively involved in the different scopes of the citizen organizations, such as health councils, neighborhood organizations, cultural organizations and other organizations of the civil society at a commune level. We are undergoing a spring-like decade in terms of older person's citizenship participation.

4.: Servicio Nacional del Adulto Mayor, SENAMA

The initiatives to strengthen this growing process of older person's inclusion are evident; to do so it is necessary to promote the work each intermediate organization, such as the UCAM, the

Regional Councils and the integration in the COSOC, carries out.

Likewise, citizenship participation mechanisms have been identified in Chile as the aim of public management. These mechanisms, which the public structure has not yet read or assumed in its actual consequences, but that are installed in Chile's public politics will and drive, consist in public hearings, citizens consultations, referendums called upon by popular initiative, by the initiative of the law, filing of claims against the authorities management of programs or illicit conducts; all of them as citizens participation actions with consequences, which we have to support so that are effectively implemented from the organizations of older persons.

In the case of Chile, if we calculate, adding up all the clubs, all the pensioners and retirees, the intermediate provincial or regional networks, etc., there might be around one million organized older persons. There will soon be three million older persons in our country, which accounts for 20% of the total population.

If the agreements of the Inter-American Convention of 2015 and The Madrid International Plan of 2002 were applied in Chile, decent pensions, timely health care and participative ageing would not be a problem. Nonetheless, we still have no integral law to protect the older person's rights. The governments must enforce the agreements adopted internationally.



The guidelines and agreements shall only be applied if they are included in the national legislations, in the local ordinances, in the institutional regulations, etc., which is also a process that has to be required by the organized civil society to obtain a better quality of life and ageing in dignity. In this path, also favorable horizons are envisaged with the initiatives and mechanisms of the citizen's participation starting with the new regulations of the associations and citizen participation in the public management of Act 20500.

Finally, it is worth remembering the renowned Church father, Tertullian, when asserting "*I am human, I consider nothing human alien to me*". Regarding society, older persons' sensitivity is obviously comprehensive. In my experience in local and communal work, organized older persons are the ones who increasingly insist on the improvement of physical space, streets, urban space, the change of street lights, and improvement of pavement; since they are the most affected by these aspects and they are the ones who have developed larger inclusion. In this aspect, not only immediate attention

matters are posed, such as healthcare assistance in health centers or those regarding their personal situation, but also issues affecting the entire community and the entire neighborhood. Older persons act in an organized manner in public matters by opening new inclusion and sustainability channels for the immediacy of the present.

How can we ensure that our states, our governments become more coherent, less bureaucratic and implement the international agreements in favor of participative ageing? How can we ensure that the public management proposals prepared by older person's organizations bear an influence? To understand what is happening in the day-to-day relationships of the older

person's citizen organizations with the State institutions we need to return to the training issue at the public institutions level. Since we often evidence that there is still no preparation for ageing as a normal stage in life and this process is feared. This may account for the lack of support from the responsible of the institutions, from the authorities to the human resources in charge of said institutions. When an older person is scolded for asking for priority attention because s/he has been waiting for hours, or when they have to go in a long general public queue for payment, this means that no personal reflection of the life process of has been made. That is also a pending issue. Training regarding the rights must be for everybody and, especially, for those who hold public roles. Ageing is a challenge and an opportunity and is happening to all of us here and now.



Social inclusion of older persons from the local point of view

EVELYN MAGDALENO

To put things in context, let me say that I do not like talking about older persons if we do not understand how being old has changed in time. Today's older persons are very different from those of 10 years ago, and they will be different from those 10 years ahead. Today we are living a moment when the pyramid has turned upside down, and we are facing accelerated ageing. Chile is the most ageing country in the region, so we should reflect on the characteristics of older persons we are currently working with: they have less education, older women are more vulnerable than men; also, they are older persons who take care of other relatives; they own their houses, many of them are in the public health system, because they are at risk of being expelled from the private system due to their age and pathologies, etc.

When we talk about gerontology in 10 years, this situation will be completely different, I hope without the gender gap of today. Women are poorer, they have less education, they are more submissive due to our country's history, although they are more empowered now.

First, it is necessary to explain the concepts "inclusion" and "integration", because they are used indistinctively on TV and on political debates.

Inclusion is seen as a process of addressing and responding to the diversity of needs of all learners through increasing participation in learning, cultures and communities, and reducing exclusion within and from education. Also, in work and in all social, cultural and community processes. This is the definition of inclusion provided by the UNESCO.

On the other hand, integration is destining specific services for a vulnerable population group.

In the case of older persons, the fight for inclusion is new, because it is related to the ageing processes, with the increase of life expectancy, unlike the case of disabled persons, as this has been a long-standing process that has gone through exclusion, segregation, integration and finally inclusion. Therefore, it is important to be aware that inclusion involves situations for everybody.

For example, special schools for disabled children. They have the right to education, but

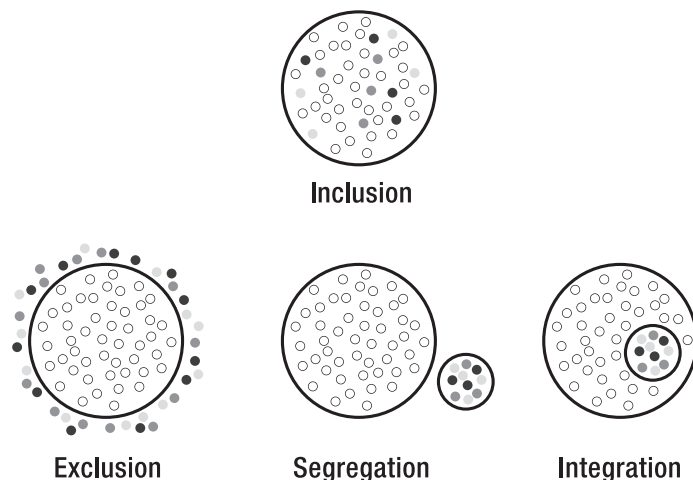
they study in different schools, and we have to change that. So it is necessary to talk about inclusion of older persons. First, because balance is broken in old age, as there are changes in the family roles, divorce rate is higher (they only became widows/widowers before), society has a different view of the ageing process. Also, they are excluded due to their physical or mental decline. The idea that old things are useless is installed in the collective imagination, even in advertising. Some of them lose their social role, because when they no longer participate due to illnesses or physical problems they go from being active to need assistance.

It is necessary to also appraise identity and self-esteem for women and for men. Ageing is difficult, especially due to cultural stereotypes. Ageing is difficult due to prejudice; self-esteem is also damaged due to deteriorating processes as our self-image changes negatively, which affects inclusion.

Older persons should be acknowledged for their legacy, but this does not happen anymore. Although there are some government programs, such as Tesoros vivos (living treasures), which acknowledges the legacy of some older persons, but it is not enough, because we should talk about community, gastronomic, generational legacies.

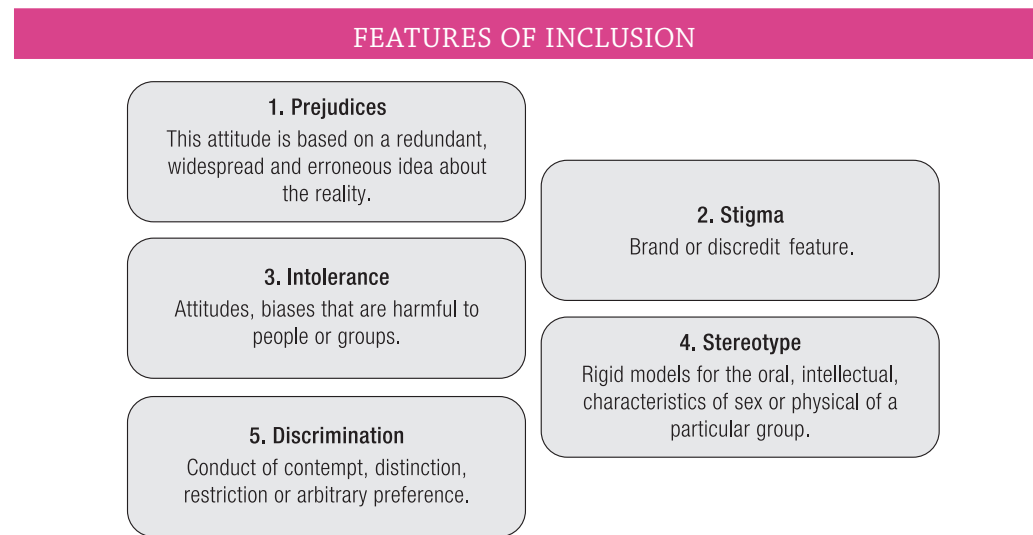
Let us remember the phrase “*A country that does not know its history is doomed to repeat it*”. It is important to know history and the evolution of society to become aware of the evolution of older persons. French writer Simone de Beauvoir perfectly explained this inclusion process: “*There is only one solution if old age is not to be an absurd parody of our former life, and that is to go on pursuing ends that give our existence a meaning -devotion to individuals, to groups or to causes, social, political, intellectual or creative work. (...) One’s life has value so long as one attributes value to the life of others, by means of love friendship, indignation, compassion*”. This serves to generate teaching-learning instances to keep ourselves active in society and to avoid depression and other conditions that lead to exclusion.

THE CHALLENGES IS IT TO MOVE TOWARD INCLUSIVE SYSTEMS



Exclusion is not exclusive of some people, but it exists in a prejudice context: “*I think that all old persons are dependent*”. This is part of the collective imagination, so there are more prejudices when hiring an older person, when talking to them; these prejudices are part of a social view that generates exclusion, blots, intolerance: “*I am not going with grandpa, because he walks too slowly; I walk faster and he delays me*”. There are daily situations that generate

exclusion and discrimination in many cases; there have been attempts to legally pursue this through the Ley Zamudio, which incorporates sanctions to discrimination due to age. Also, older persons are discriminated in financial terms, denying bank loans to them. There are also daily discrimination situations, such as in the treatment of grandchildren they take care of; these situations are caused by their own families. Older persons feel more excluded than included during their ageing process. In Survey Quality of Life during Old Age by the Universidad Católica, the majority responded they are afraid of being left alone; most of them prefer staying at home than doing something new; 20% feel excluded; 35% say they long for company and 29% feel abused in public services. What is interesting is that 44% of them participate in a social organization. Therefore, this survey shows that many exclusion situations are unnoticed.



The diagnosis may be clear, but, what are the solutions? First, when building community spaces for older persons, how do we build easily accessible infrastructure, how do we make safe restrooms in community centers, how do we design inclusive spaces, how can I place a ping pong table, for example, on a square and a chess table next to it. This leads to the coexistence of multiple generations, so the space has to be designed aimed at inclusion. Raising awareness or educating people present here is not enough. Education starts at school, early childhood, focusing on rights, on the good use of language. We need to empower people, as people who do not know their rights cannot enforce them, so the role of public institutions is key. Ageing generations have to be empowered to fulfil their needs, so that they demand respect for their rights to public and private work, and this is possible through education.

Let me tell you what we do in El Bosque, a commune with 120,000 inhabitants, with 109 older persons' organizations. Participation is intense, it has a communal and institutional development plan with inclusion as central concept. It has a gerontological center that is part of a comprehensive program to deal with older persons' issues. Program *Vínculo* ("Link") which consists of psycho-social aid, as well as a service to develop autonomy from a gender perspective, which teaches basic house chores, especially to older men so that they remain autonomous. When we ask older persons what they like, what they want to do, they answer travelling; everyone wants to join the picnics, so we bought adapted buses and a piece of land and are currently building a community center with a reception hall, barbecue area, fruit trees. The amount of money we save is enormous, so now we can provide older persons with a better quality of life.

Also, an outpatient health program, one of the main needs, including primary ophthalmological and ear, nose and throat unit, as they are two necessary specialties for older persons, which are difficult to arrange in secondary health attention.

Centro de Atención Diurna Allhuén is in the commune of El Bosque and it is the second center dedicated to the attention of persons with dementia in our country; the first one is in Peñalolén. It is a day care, specialist in dementia.

We would like to make a formal acknowledgement to organizations that are part of the COSOC (Consejos Comunales de Organizaciones de la Sociedad Civil – Community Councils of Civil Society Organizations), that participate in local development committees, that participate in everything.

It is necessary to educate about ageing, to use language properly, to show that an older person is able of doing so much more than we think. This is a very necessary empowerment mission in the 109 organizations in our commune. This is not only about health, but a transversal management. Finally, political willingness is of paramount importance, as ageing issues do not only relate to pensions, and if the authorities do not realize this, we are not going to make any further progress, as much as we submit our demands.

Most of the countries have abuse prevention programs, so this shows that the subject has become visible for society. It is thought that development issues are dealt with by community development directorate, but this is not true, so it is important to make the issue transversal; we have done it in gender matters, with good results.

Finally, how can governments keep the promises they made to older persons by reducing bureaucracy? The issue of older persons is becoming an issue, as there is concern about what is happening in nursing homes, where their funding comes from, who controls them. Today, older persons have to demonstrate that their problems do not only relate to pensions, but to how they are formally acknowledged in the future constitutional modification, highlighting the important role of older persons in the development of our country.



Round Table

5

Regional visions of human rights of older persons

● **Manny Kandjii**

Programme Manager: Family Welfare Programme, Ministry of Health & Social Services, Namibia

● **Helen Mouton**

Programme Manager: Social Welfare Information Services, Ministry of Health & Social Services, Namibia

● **Nena Georgantzi**

Human Rights Officer AGE Platform Europe and PhD fellow National University of Ireland Galway.

● **Sandra Huenchuan**

ECLAC Specialist on Aging, United Nations. Chile.

MODERATOR

● **Tania Mora**

Head of Legal Unit and Human Rights, National Service of Older Persons. SENAMA, Chile.

A look at the African context

MANNY KANDJII & HELEN MOUTON

Manny Kandjii: We are going to talk about programmes for older persons in Namibia, as well as policy implementations. My name is Manny Kandjii, the programme manager responsible for Family Welfare, and with me is Helen Mouton, the programme manager responsible for social welfare information services, Ministry of Health and Social Services in Namibia. First we will talk about the general information on Namibia, the legal policy framework, the situation of the elderly, as well as projects and opportunities for the future.



The map shows the African continent and highlighted is Namibia. Namibia is situated in south-western Africa and it covers $\pm 824,000\text{m}^2$, while the population is 2,310,534 (at a growth rate of 1,5%) and a population density of 2.8 persons per m^2 . The life expectancy is sixty-five years old, which is projected to increase due to the health improvement of inhabitants. Namibia is bordered by the Atlantic Ocean in the west, Angola and Zambia in the north, Botswana at east and South Africa in south and east. The name 'Namibia' comes from the Namib Desert, the oldest desert in the world. Namibia's independence was in March 1990. Namibia is member of the UN, The South African Development Community, The African Union and The Commonwealth of Nations. Namibia is divided into fourteen (14) regions, with Windhoek as the capital city.

Helen Mouton: That was just to give you an idea about Namibia. Now I'm going to talk about our legal and policy framework.

The situation of older persons in Namibia is reflected on in various National documents, such as the Constitution of Namibia and the Namibia Vision 2030, National Development Plans, National Health Policy Framework (2010-2020) the SWAPO Manifesto 2014, the Harambee Prosperity Plan (2016-2020), and Government Strategic Plans.

The Namibian Constitution, Article 95, our promotes health care to elderly. It also ensures that every citizen has a right to fair and reasonable access to public facilities and services in

accordance with the law that every citizen should have the right to access to public services. It further ensures that senior citizens are entitled to and do receive a regular pension adequate for the maintenance of a decent standard of living and the enjoyment of social and cultural opportunities. It also ensures the access to a regular and adequate pension to live. Our vision 2030 further is that elderly citizens will live in safe environments.



Our Vision 2030 (2004:53 ensures that elderly citizens are acknowledged and respected for their past contributions to the development of our country and in their old age they will be well cared for and remain happy senior citizens in a safe and loving environment.

The National Health Policy Framework (2010-2020) further concerted efforts should be placed on the special social needs of the ageing population, with particular emphasis on older persons in rural areas.

The SWAPO Manifesto 2014 puts emphasis on Social Justice: a. Payment of Basic State Grants to the elderly and people living with disabilities; b. Payment of subventions to war veterans; c. Provision of subsidised housing to the elderly in several towns at a very low rental fee.

The Harambee Prosperity Plan 2016-2020 specifically highlights the administration of Targeted Social Safety Nets.

The Namibia National Housing Policy, which was approved in 1991 and reviewed in 2009 makes provision for social housing, in which older persons are prioritized.

With regard to International instruments/obligations regarding older persons:

- Namibia participated in the development of the WHO Global Strategy and Action Plan on Ageing and Health 2016-2020, with the aim to domesticate its goals, strategies and activities.
- Namibia adopted the **Madrid International Plan of Action on Ageing**, 2002 and reports periodically on its implementation. Namibia adopted the AU Policy Framework and Plan of Action on Ageing in Africa , 2002, which serves as a guide in the formulation of national policies.
- Namibia was an active partner of the Expert group meeting on the review of the **Madrid International Plan of Action on Ageing in Africa** that will take place on 9-10 October 2017 in Addis Ababa

Namibian National Pensions' Act, 1992: Namibia is one of the few countries of the African continent which has an old age pension scheme as an important social safety net for older persons. Funeral Benefit is provided in kind to all beneficiaries of the Old Age Grant and Disability Grant at the time of death (N\$ 1200) - unified after independence.

The Ministry of Health and Social Services is mandated to administer the ***Aged Persons Act, 1967 (Act 81 of 1967)*** which provides for the registration of private homes for the aged, their protection, welfare and interest of older persons. ***Subsidies*** are provided according to mentioned Act.

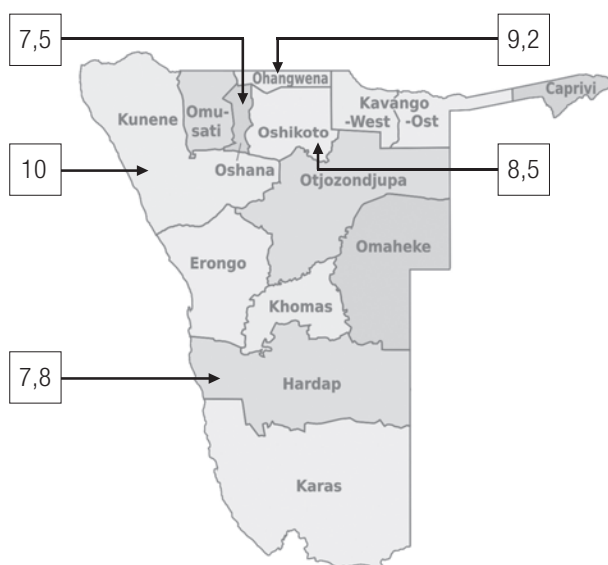
Homes for the older persons can also be registered as welfare organisations in terms of the ***National Welfare Act, 1976 (Act 79 of 1965)*** as amended to enable to do fundraising and approach donors.

Frail care facilities are licensed and regulated by MoHSS in terms of the ***Hospitals and Health Facilities Act, 1994 (Act 36 of 1994)***.

Regulations of 2010 attached to this Act stated that a person who is receiving a basic state pension under the National Pensions Act, 1992 (Act 10 of 1992), must receive free medical treatment.

We will now talk more about the situation of older persons in Namibia. Our information is based on a Study on the Status and Living Conditions of Older Persons, 2004, Ministry of Health & Social Services. Unfortunately, due to financial concerns, we couldn't conduct more recent studies. The 2004 study indicated that 95% of our elderly feel safe in their homes. We need strategies and interventions for the 5% that do not feel safe. It also indicated that 90% of elderly have access to modern health facilities. It is significant that more than 80% of those health facilities are government hospitals and clinics. 12,3% of elderly are employed and 50% of those who are employed, are self-employed. 33% of older persons heard of social welfare services, with 27% who approached a social worker in their life. Almost 33% of elderly experienced feelings of social isolation and 20% reported incidents of physical, sexual and emotional violence. Almost 80% of them indicated that pension is the main source of income, they indicated that both government old age pension and retirement pension are preferred. Namibia conducts our population and housing census every ten years, our last was in 2011. It indicated that 7.1% of our population are older than 60 year (40% male and 60% female and 23 & live in urban areas.

REGIONS WITH HIGHEST POPULATION OF OLDER PERSONS



Manny Kanjii: I will continue with activities and projects. The Ministry of Health and Social Services is responsible to conduct *inspections* at registered homes for older persons to monitor their operations and ensure that they uphold the minimum standards. Investigations are conducted when complaints are received.

Health services: annual cataract campaign, outreaches, homes visits (preferential and free treatment).

Several **welfare organisations**, as an extension of social workers' work, render services to older persons in the community, especially at grassroots level. Assistance, e.g. eye glasses, hearing aids, wheelchairs, financial assistance for medical services (where private services are needed).

Local Authorities: home-based care services to older persons in the communities, vegetable community gardens, monthly food parcels, income generating projects.

Financial Institutions (e.g. NAMPOST) – special rates and funeral coverage with low installments.

Ministry of Education, Arts & Culture: Promote adult learning – older persons involved (promote education for all)- also through radio, esp to reach older persons in rural areas.

Churches: projects to promote services, integration, healthy living of older persons
The state provides an accommodation option to older persons, known as Housing Units for Independent Low-Income Older Persons (**HUILOPs**) which exist in 5 regions (total of 7 facilities). These units are exclusively meant for older persons who are still physically self-reliant, but lacks the financial capacity to afford mainstream accommodation or cannot, for valid reasons stay with their children or families. It is managed in term of Procedural Guideline on the Management of HUILOP (currently under revision). Representation of older persons on different Committees for HUILOP.



We have 600 elderly that can be accommodated in these units, they are in five (5) different regions, in Khomas Region where we have two of them, and Erongo Region we have two of these units, Karas Region we have one, and Kunene Region, we have one, and Omaheke Region also one.


We have the commemoration our International Day. This Friday we are organizing a big event: The International Day of Older Persons. Our elderly are involved in the organizing committee. We will have different performances by the older persons, and exhibitions by stakeholders.

Helen Mouton: As you can see there is a lot to be done in our country. We do not see this as a challenge, but as an opportunity to us to do more. We want to ask elderly what they prefer in terms of care and that is why we started with a needs assessment on the continuum of care for older persons. There is a big need for a study on the status and living conditions of older persons in Namibia. Funding currently hampers this activity.

There is further a need for a National Policy on Older Persons and a revised legislation on the rights, protection and care of older persons. We are planning to establish a Coordinating Body on Older Persons to conduct interventions with and for older persons.

We still need to do a lot in terms of the collection of data and services of older persons.

For the next financial year we want to develop a toolkit on the prevention of elder abuse – to be implemented by community-based organizations and older persons two plans on the prevention of elderly abuse, and that will be done by the community based organization and the elderly. We would like to establish links with international organizations and to establish link with international organizations to strengthen services to older persons like yours, in order to learn more and to improve our services to older persons in Namibia.



End of
Presentation

A look at the European context

NENA GEORGANTZI

I have the privilege to represent here AGE Platform Europe, the largest European network of organisations of and for older people. AGE gathers about 130 member associations across different European countries, covering mainly European Union member states. Through our members we represent more than 40 million senior citizens across the EU. We believe that older women and men should be able to speak out on their own behalf and we readily identify with the slogan of disability movement: *nothing about us without us*. Our role as an organization is to act as an intermediary between the national and local level and what is being discussed at the European level. Through our work we ensure that EU initiatives reflect the reality of older persons on the ground. This is particularly important because, European policies and statistics do not always reflect the lived experiences of older people. In fact, sometimes older people's risk of poverty is undermined because surveys and studies do not take into account that while most older people receive pensions, these are unresponsive to the cost of living, such as rises in the price of food, fuel and clothing and to unexpected expenditure such as medical care. In some EU countries severely hit by austerity many older persons are forced to make a choice between food, fuel and medicine due to cutbacks in public expenditure and the introduction of additional charges (e.g. property tax). This is where the added value of AGE's work lies: in rendering visible the realities of older people and holding EU bodies accountable based on their commitment, to protect and promote the rights of older persons on an equal basis with everyone else.

The aim of this presentation is to provide a critical perspective about the policies and laws at a European level, how they work and what the impact of not introducing a human rights approach is. Obviously, I cannot -during this short presentation- give justice to the wide array of actions taken by the EU, but I will concentrate on some key activities, highlighting important achievements but also gaps.

In discussing the European framework a distinction must be made between the European Union (EU) and the Council of Europe (CoE), which are two separate regional intergovernmental organisations. The EU Charter of Fundamental Rights includes a specific provision on the rights of the elderly (article 25), which recognizes the right to lead a life of dignity and independence and to participate in social and cultural life. The Revised European Social Charter of the CoE includes a similar provision on the right of elderly persons to social protection (article 23). In addition in 2014, the Council of Europe adopted a recommendation on the promotion of the rights of older persons. This is a not binding instrument, but it's important because is the first

and only European instrument focusing specifically on the rights of this group. Unlike other groups at risk of discrimination, the European Union has not to this day adopted a single policy or legal action, specifically targeting the rights of older persons. On the other hand, the EU agenda includes several references and strategies about the rights of women, people with disabilities, children, LGBTIQ people. The only reference to older persons is a commitment to respect the rights of older persons at international level and in relation with third countries. When it comes to internal EU action however, we still lack any targeted strategy to promote the rights of older people, there is no specific administrative service dealing with this issue and older people's rights are constantly and systematically deprioritised in EU action. This means that the logic of human rights, which is supposedly universal and applicable to all, has only played a marginal role across the European region.



Nevertheless, there exist some positive development, in particular the adoption in 2000 of a directive which covers – among other grounds- age discrimination in employment. This instrument has been transposed in all members of the European Union and according to caselaw of the European Court of Justice, prohibition of age discrimination is a general principle of the EU law. At the same time, however age discrimination is the only form of inequality that is widely accepted as normal, legitimate, and justifiable. It is the only ground of discrimination, for which EU law stipulates that

direct discrimination can be objectively justified. In fact the EU directive leaves a wide room for exceptions to the rule of age equality. For example, in a recent judgment, the European court concluded that it is legitimate to force older workers to retire in order to prevent disputes concerning employees' fitness to work beyond a certain age (Joined Cases C-159/10 and C-160/10, Gerhard Fuchs and Peter Kohler v Land Hessen). So whereas under EU law it is illegitimate to force people to retire on the basis of a disability, it is permissible to do so based on perceptions about ability or disability to work beyond a certain age.

It is not so long ago that distinctions on the basis of one's sex were also considered as 'objectively justified'. In the 1970s Irish women had to give up their jobs in civil service once they got married. But whereas it is unthinkable in western societies today to deprive women from their fundamental right to work, we still force people to retire once they hit a certain age. Importantly, EU law has been instrumental in challenging gender-based stereotypes and breaking down the barriers to the equal participation of women, thanks to the adoption of several gender equality laws and policies. However, the EU has not taken the same proactive stand when it comes to discrimination on the basis of age. The most important gap in EU law is that it does not cover age discrimination beyond employment, including access to goods and services. Due to age limits, older people today are excluded from accessing credit and

insurance, regardless of their income or state of health. As a result, they cannot travel, rent a car, volunteer, participate in training, adapt their houses or access health treatment. In some countries if you develop a disabling condition before the age of 60 or 65 you have access to a relatively good support system, but beyond that age you may not have access to rehabilitation, to a mobility allowance, or care outside a nursing home. So today across Europe discrimination against older people seems to be more acceptable.

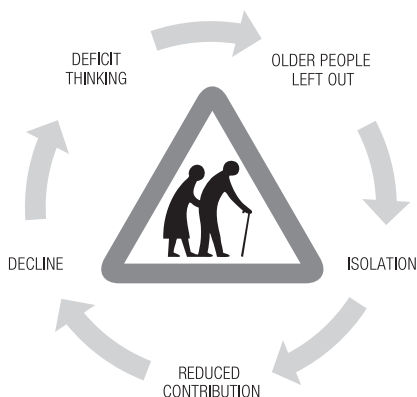
This is happening because we lack a rights-based approach to ageing, which entails gaps and inconsistencies in applying the universal rights that everyone should enjoy. For example, unlike disability rights (see article 33 of the CRPD) there is no international obligation to set up national bodies to monitor and promote age equality. Within the EU, many states have set up so-called equality bodies to combat discrimination and promote equality. But in most cases, these only address age discrimination in employment. In addition, we still look at old age through as a problem and a stage of unmet needs that imposes a burden on society. An illustrative example of this prejudiced approach is the EU's 2015 Ageing Report, which presents a mere macroeconomic analysis of the costs of ageing and consistently uses old age as a proxy for declining abilities and increasing needs. By contrast, the 2015 Youth Report presents a comprehensive account of the situation of young people, how the economic crisis influenced them, and what actions the EU should take to address them. Thus, ageing is considered at the macro level and in relation to the financial implications it brings, without considering aspects of individual ageing and older person's rights. On the other hand, youth benefits from a comprehensive approach that reflects on societal barriers to their active inclusion, as well as EU initiatives to promote it.

In addition, EU policies tend to focus on senior employment and silver economy by promoting active ageing policies. On the one hand, active ageing initiatives can help disentangle old age from the stigma of inevitable decline, burden, and worthlessness and thus may have a strong anti-ageist effect. On the other hand, by overstressing older people's economic contribution and individual responsibility, they fail to reflect the diverse experiences and wishes of older people and the societal disadvantages that they may face, such as poverty, social isolation, loneliness, role loss, discrimination, and abuse. We need a holistic approach to ageing, which includes all the good and bad things associated with old age, just like with all other parts of life. Our societies tend not to make a distinction between active and inactive childhood, motherhood, or adulthood. However, active ageing is seen as the standard that older people need to achieve in order to benefit from state protection as full citizens. As long as active ageing agendas dictate what older people should and should not be doing, they may be perceived as patronizing but also as excluding those who deviate from the norm. This is why active ageing strategies need to be accompanied by a rights-based political agenda outlining public responsibility to respect the autonomy of older people and support them in their diverse roles and expectations of old age.

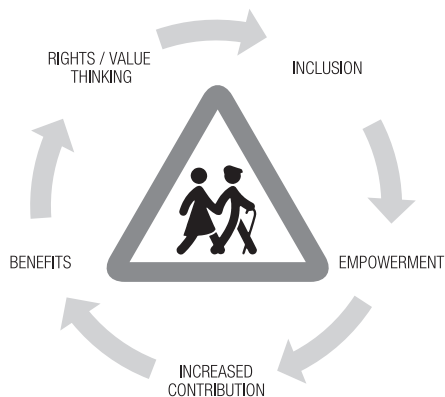
In terms of process, older people are not consistently involved in EU policymaking and research. While EU research in the field of ageing is relatively developed, one still comes across age limits in data collection and/or the use of age categories that are too broad, such as "the 65+ population". For example the Fundamental Rights Agency (FRA), an EU advisory body, excluded women above the age of 70 in a recent study on violence against women and failed to include older people in the sample of a project on the rights of people with disabilities.

In sum, EU action on old age is characterized by an *à la carte* approach, which does not encompass the full spectrum of rights of older persons and entails protection gaps. The current approach on ageing includes ageist biases and builds on a paradigm that thinks of older people in terms of needs and deficits. Based on this thinking older people are systematically left out of policy decisions, they are excluded and socially isolated. As long as they cannot contribute they withdraw from society and their health declines. This leads to a vicious circle. As a result, across Europe, whereas the rates of sexism and racism decrease, indicators of ageism are increasing. We urgently need to reframe older people's issues from a perspective of rights that will lead to a *virtuous* circle, which focuses on inclusion, empowerment, increased opportunities for participation and benefits for older people and society as a whole.

THE VICIOUS CIRCLE OF AGEISM



REFRAMING: FOCUS ON OLDER PEOPLE'S RIGHTS



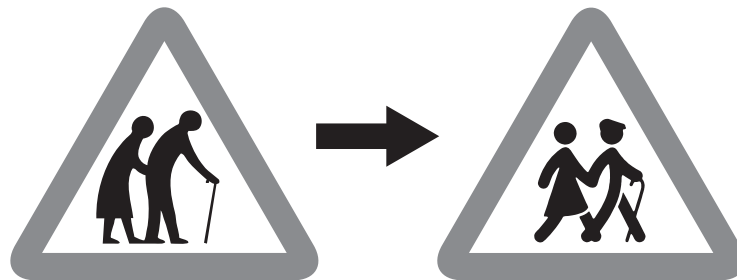
One of the first steps towards a rights-based approach to old age is to develop tools and guides that enable older people and decision-makers to know and understand older people's rights. To contribute to this aim, together with our members and other European partners, we have developed the European Charter on the rights and responsibilities of older people in need of a long-term care and assistance. This text has been translated into many languages and has been used as a reference document for many European countries when they make reforms in this field. We have also published an online handbook explaining how the EU, the CoE and the UN address older people's rights and what can older people's organisations do to promote their rights within these organisations.

In discussing and applying the rights of older people, a clarification must be made. We are not talking about new or different rights, nor are we trying to create a special scheme of protection that is disconnected from everybody else's human rights. What we are interested in is explaining how the universal rights that we all supposedly enjoy can become *equally effective* in the context of older age and how we can fight ageist biases that exist in our laws, policies and practices. Human rights offer us the theoretical and normative language to achieve this objective. This is not a project that concerns only today's older generation. It is a shared initiative that concerns everyone as we will all one day become old. It's about revisiting the universal principles of human rights and seeing in which ways they are failing older people.

The disability convention (CRPD) is very interesting in that regard. It reframed how societies see people with disabilities: from people with deficits to people with rights. People with disabilities are no longer passive, but they are supported to realize their full potential. We have shifted to a new paradigm that is centred around the full inclusion and participation of people with disabilities. And this not just in theory. The CRPD is a great example of how an international instrument can change people's lives quickly. For instance, the EU has adopted a disability strategy in order to put the CRPD into effect. National and European caselaw refers to the disability convention and several laws are being reformed to comply with the standards of supported decision-making and the need for reasonable accommodation, among others. Hence, UN conventions can have a real impact on the ground.

WHY HUMAN RIGHTS APPROACH TO OLDER AGE?

- ▶ From people with needs to **people with rights**
- ▶ From deficits to **value**
- ▶ From charity to **obligations**
- ▶ From bargaining to **accountability**



We need the same kind of paradigm shift and binding commitment for older persons. A new convention will help us ensure that rights do not diminish when we age, that older people are valued for their contributions, that states live up to their commitments to respect human rights in all ages and that citizens can hold their governments accountable when they fail to do so. That does not mean that we will not require policy action at domestic level. A convention cannot work unless it is followed by policy measures. But a convention will provide an adequate framework and will clarify concrete state obligations to move forward in a direction that shows equal respect for rights regardless of age.

End of
Presentation

Analysis of the Latin American context

SANDRA HUENCHUAN

Let me begin by presenting you a diagnosis made together with our region's countries since 2003; our conclusion is that there is a deep gap between formal and real equality in old age. This is shown by inequality regarding older persons' enjoyment of human rights, even though protection and constitutional acknowledgement acts for these rights in several countries in the region have been applied.

Older persons are more vulnerable to violations of their human rights, especially with violence, involuntary disappearance, displacement, humanitarian emergencies, natural disasters, etc. They are usually invisible in comparison with other groups, this is why they are more vulnerable in this regard.

Internationally, the States of each country are responsible for the protection of the human rights of older persons; however, civil society and international organisms can also contribute to its promotion and enforcement.

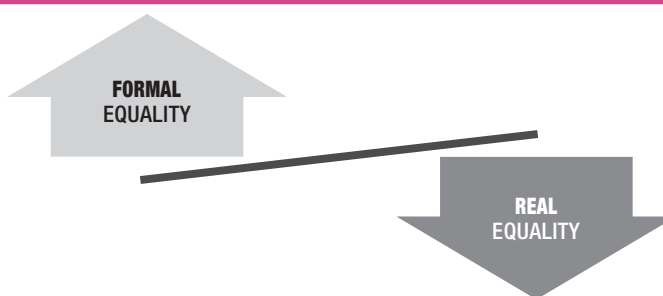
During the second period of examination and assessment of The Madrid International Plan of Action on Ageing of 2012, Latin America and the Caribbean adopted the San José Charter on Human Rights of Older Persons. The work of the United Nations and the Organization of American States was based on said charter/plan. Thus, the countries in the region committed to arrange an international convention on Human Rights of Older Persons. This initiative was based on the Brasilia Declaration of 2007. The difference is that, in 2012, a Working Group of the Human Rights of Older Persons of the Organization of American States (OAS) was working in an Inter-American convention project on the protection of Human Rights of Older Persons.

The commitments of the San José Chart had important effects in the world and in the region. In 2012, El Salvador explicitly fostered the creation of a legally binding instrument in the United Nations, which was broadly supported by other countries in and outside the region. This allowed that the terms of reference of the open-ended Working Group on ageing of the UN added new commitments.

In 2013, on the initiative of Brazil and other countries, the United Nations Human Rights Council appointed Ms. Rosa Kornfeld as Independent Expert on the enjoyment of Human Rights of Older Persons, with the purpose of conducting a thorough study on Human Rights of Older Persons worldwide and recommending policies responses and international instruments.

In 2015, the Inter-American Convention on the protection of Human Rights of Older Persons was approved. This is the first binding instrument in the world; it has a regional scope and, so far, it has been ratified by Costa Rica, Uruguay, Plurinational State of Bolivia, Chile and Argentina.

DIAGNOSIS ON THE SITUATION OF THE RIGHTS OF THE OLDER PERSONS



As you can see, important progress has been made since 2007. The OAS already has a regional binding instrument, which is a special procedure on the protection of Human Rights of Older Persons at the United National Human Rights Council and an open-ended Working Group on Ageing, which holds annual meetings in the United Nations Headquarters in New York. These international achievements affect the domestic scope.

Older persons' organizations are becoming more active and working relentlessly to strengthen their rights. For example, in Costa Rica, a large number of older persons was trained to learn about the Inter-American Convention, already ratified by said country, and to promote the actions to facilitate its enforcement.

In Mexico, older persons' organizations are also beginning to participate actively, and they are waiting for the ratification of the Inter-American Convention. The same is happening in Belize, Colombia, Chile, Argentina and Uruguay, among others. The creation of the Inter-American Convention on the Protection of Human Rights of Older Persons has become an end but also a means. An end for the protection of older persons' rights and a means for older persons' organizations to become empowered in terms of their rights.

The fact that older persons deal with persistent problems on a daily basis, and that each States is obliged to help them overcome those problems has to be acknowledged. For example, long term care, social security, discrimination, abuse, access to justice, access to public spaces, among others, which are situations related to the lack of action by these States to protect older persons. Also, while people in the region are ageing, other matters, such as palliative care, access to loans, trafficking in human beings, etc., also arise. This was dealt with in the Fourth Regional Intergovernmental Conference on Ageing and the Rights of Older Persons carried out in Asunción, Paraguay, in June 2017.

Latin America and the Caribbean still face issues from a perspective that limits older persons to live with dignity. For example, palliative care has to be managed more seriously. The same happens in case of disasters. The earthquake in Mexico D.C. in September 2017 has made the situation of some population groups visible, but what is really happening with older persons is not yet fully known.

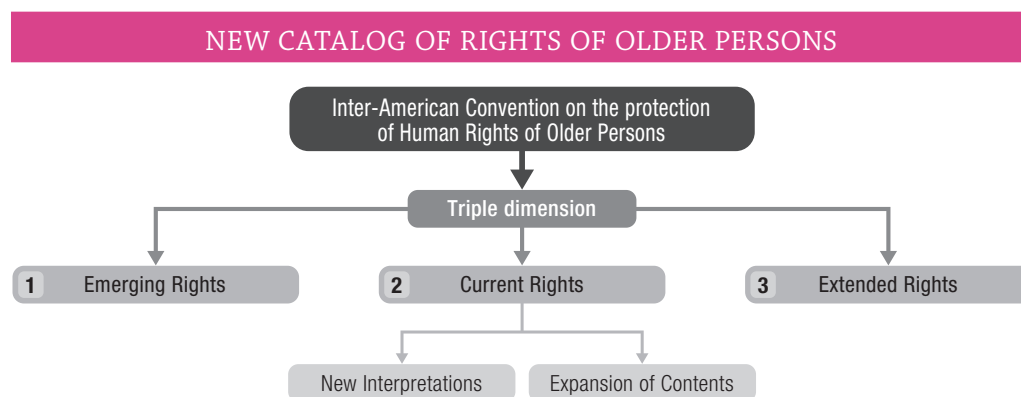
Thanks to the Inter-American Convention, we have a new catalogue of older persons' rights in the region. It identifies three categories of rights, from emerging to extended rights. Emerging rights include the right to life and dignity in old age, to independence and long-term care. There are new interpretations of human rights regarding equality and non-discrimination on age grounds, free and informed consent, safety and life without violence. Extended rights include accessibility and personal mobility, risk situations and humanitarian emergencies.

Throughout these years, it has been evident that in the region there is no contradiction between the Madrid International Plan of Action on Ageing and its regional follow-up, and the creation of new binding instruments on human rights.

On the contrary, the international follow-up of the Madrid International Action Plan on Ageing in the region has coexisted with the adoption and subsequent ratification of the Inter-American Convention on the Protection of Human Rights of Older Persons.

Human right mechanisms clearly need to be improved, so the Independent Expert can help the treaties' committees to incorporate older persons in their general remarks and their recommendations to the States.

As a conclusion, although we must admit that there are problems related to the protection and exercise of human rights of older persons in the region and worldwide, we should also acknowledge the international and regional progress in the matter.



One of the most important results in the region in the last 10 years is that older persons and their organizations have become more visible and important in the national and local scope. These organizations still need to make efforts to participate in the global discussions of the United Nations aimed at preparing a legally binding instrument. It is time to face that challenge.

Older Persons' organizations should participate in the reflections about their situation, they should have a say; provide inputs to better understand and interpret their situation, which will help establishing the obligations of the States in this respect.

The Inter-American Convention on the Protection of the Human Rights of Older Persons can provide an important support to understand said rights, to conceptualize them and to identify obligations. However, reality will not change if older persons do not actively participate in the measures aimed at promoting, protecting and ensuring their human rights.



Round Table

6

Human rights, ageing and well-being

● **Mercè Pérez-Salanova**

PhD in Psychology, Universidad Autónoma de Barcelona, España. Researcher in Social Gerontology.

● **Ricardo Iacub**

Doctor of Psychology and specialist in Gerontology. Associate Professor Faculty of Psychology, University of Buenos Aires. Argentina.

● **Rubén Valenzuela**

Sociologist Universidad de Chile. Director of the National Service of Older Persons, SENAMA, Chile.

MODERATOR

● **Marcelo Córdova**

Benefits Manager, Caja Los Andes.

Older Persons as actors engaged in the advancement of Human Rights

MERCÈ PÉREZ SALANOVA

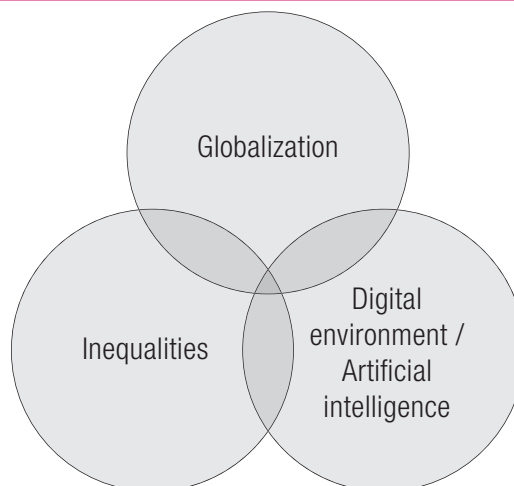
In order to study the position of older persons as active participants it is necessary to consider the contexts where persons grow old. We have to consider their characteristics and how this affects the actions of older persons in the development of Human Rights.

Older persons live in historical, social, cultural, economic and political contexts, that is, they are not in a cloud. I hereby deal with some characteristics of the current contexts related to ageing; below I pose several questions on positive images on ageing and their connection with the areas where older persons participate. I will finish by including some interesting contributions by Chris Phillipson on longevity and the solidarity bonds that motivate us to think about the advancement of Human Rights.

Observation of the current contexts

The current situation of older persons reveals cases of austerity, crisis and recession. These situations do not only occur in Spain or Europe. When we analyze them, we notice that our societies have experienced significant changes, leading to a change in era, in all life's scopes. As a result, we live in transition contexts that force us to find new ways to investigate and analyze what is going on around us and to understand how it affects us, especially how it affects older persons and advance old aged persons. We need new approaches to ground useful frameworks to understand this transition and to reflect on the present and the future. Viewing older persons as active participants can be addressed from four perspectives.

The first element is the revival of stories where ageing is seen as an unbearable social burden. May be it is because we are used to hear that by means of explicit or implicit messages, but we do not fully catch its mean character: something that is not sustainable cannot last. Older persons hear that living longer is a threat. The matter is that the increase of life expectancy should stop being an expression of democratization of old age and of social development. This coexists with actions that defend longevity as a window of opportunities to generate different economic activities.



Let us see the second aspect. The extension of social protection systems or the maturity of their structures clearly differs among countries. It is necessary to add another important element that is happening in Europe and affecting our daily lives: the retraction of collective responsibilities and the focus changed towards private responsibilities.

The third element is the devaluation of public services. This characteristic is consistent with the aforementioned retraction of collective responsibilities and is linked to the reduction of social protection. Adults and older persons have witnessed how public services have been discredited, with arguments and praises to private services comparing them with the deficiencies and ineffectiveness of public services. The devaluation that contributes to vulnerability and more inequality arises from ideas such as higher quality, deference attention or the possibility to choose.

In the fourth point I will refer to the relation between generations. One of the characteristics of this change of times is that the relationship of older persons with other age groups is confrontational when faced to have access to resources. I will stop here by sharing the results of a research work carried out in different cities and territories of Spain¹.

In our research we have evidenced that the aforementioned confrontation in the access to resources is based on a speech tirelessly repeated in the most critical period of the economic crisis. What are the main contents of this speech? It stated that older persons had a better economic condition, as their poverty levels had dropped in comparison with other age groups. Thus, they were presented as a privileged group. The fact that the drop on poverty levels was relative was omitted from the news. The news or interviews did not explain that the poverty among older persons was low due to the increase of new homes in poverty conditions and the deterioration of many homes that previously lived in said conditions. Also, the report incorporated the more stable incomes situation of older persons compared with adults and young persons. Also, nothing was said about the intense flow of help from older persons towards their children and grandchildren; it was only mentioned as an anecdote, dodging its main characteristic: the family financial cushion. In view of the insufficient public protection, many older persons, with medium and low income, were actively contributing to that family solidary financial cushion. Said contributions were diverse: some were direct economic contribution, payment of bills or buying food or other products; in other cases, taking their

1.: Edades en transición. Envejecer en el siglo XXI (2016) S. Ezquerro, M. Pérez Salanova Pla, J. Subirats (eds). Ed. Ariel: Barcelona

evicted children's families in or feeding them every day of the week. It is worth noting that part of said contributions; although unemployment has reduced, the labor uncertainty has caused some households to suffer an income reduction below poverty levels.

For this reason, persons from different generations must come together to defend social and political rights.

We can connect the four elements with other contexts, such as globalization or living in a highly digitized society. Some conditions that affect our daily lives also our human rights; older persons have to be able to continue participating in increasingly more complex societies. As an example of said complexity, let us think of older persons and their relationship with AI. How many questions do we have regarding human beings and robots, a machine operating with algorithms? What if said robot has characteristics that make it look human? In this basic outline we have to place the increasing inequality of the first decades of this century.

Interdisciplinary measures need to be taken immediately to improve our understanding and the way we face the complex, multiple, current and future challenges.

I finish this section by posing the importance of safety. Let us think for a moment, how do people feel when faced with uncertainty and a lack of protection? In times when social protection is limited and work uncertainty begins to affect our lives, how do older persons feel when they need help?

A view on ageing and inclusion-exclusion conditions for participation

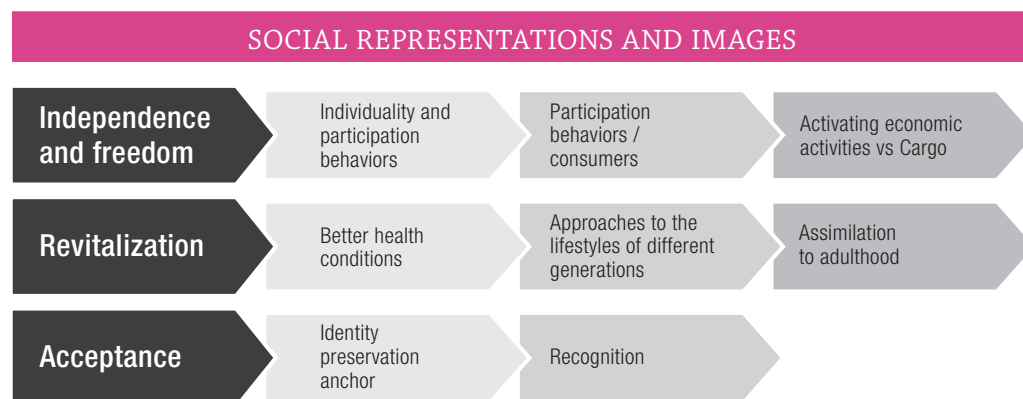
We live in an environment full of images about ageing. Positive attributes have now been incorporated to the image of an older person, which gives us some suggestive clues.

Independence and freedom, associated to the high value given to individuality, are projected in scenarios where older persons have a particularly active participation in the consumption of goods and services. An independent life, being free to choose, is presented in different images, which stimulate them to become consumers, whilst in very few occasions they stimulate them to become committed citizens. That is, acknowledgement is given to only some positions. Also, this kind of positive image of old age contradicts the idea that old age equals an economic burden, because older persons are shown as consumers that actively participate in economic life. In said scenario, poverty and the incidence of social inequality are left behind.

A second positive image is also shown, through images of revitalization of old age. Some authors call it "re-invigoration" of old age. How is this revitalization of old age built? In this scenario, data –usually numbers– are used to transmit positive and desirable contents, as in the case of better health conditions or better life conditions or reduction of illiteracy. Also, similarities between life styles of persons from different generations are shown. As a result, old age, "that old age" appears as the prolongation of the late adulthood. Another component becomes ingrained in that scenario: the anti-ageing industry, which feeds fantasies of control on ageing, which is unbalanced between genders.

Thus, these positive images, on one way or another, pave the way for the acceptance of old age, although it is limited to a certain idea of it.

It is important to remember a usual situation: many old persons do not want to be defined as such, and they avoid being considered as such, which frequently happens in the early stages of old age. Men and women who reject becoming part of said group say that, when being identified or “classified” as older persons, they feel demeaned. That is one of the reasons, for example, to reject participating in older persons’ activities. It is very interesting to relate this scenario with images of acceptance of old age. These images allow to preserve the identity of older persons; they are a way to avoid the vision of older persons as a burden, but it does not provide any arguments to critically question it.



Seeing these positive images of old age makes us wonder, are these images causing a greater tolerance/intolerance to old age? This is not a trivial question, because a greater intolerance to old age makes us foresee that it will be more difficult for older persons to place themselves as active participants.

Acceptance of ageing based on said positive images causes tolerance to an idea that opposes limitation, decline or frailty; said conditions disappear in those positive images and move towards subsequent stages of ageing. Therefore, those who “now” experience frailty, live with reduced functional autonomy or with limited competencies, are beyond from what is accepted in old age. The importance of these factors is stressed in the awareness of self-care, prevention or the adoption of healthy habits, considering the impacts on disability, whether its delay or increase. In turn, awareness does not question or mention how said acceptable old age construction affects the way persons face the perspective of advanced old age. The aforementioned alert us on the importance of boosting awareness and actions that lead to the acknowledgement of diversity and of realizing that homogeneous perspectives and interventions create exclusion. This is why it is important to see what happens with said ageing images in relation with participation of older persons.

Again, it is useful to make daily observations. When we do it, we see that older persons are mainly considered active participants when they have no functional limitations or a low dependency. Thus, a restrictive conception of participation becomes evident.

If we reflect on the restrictive conception of participation, we see the impact of the positive images mentioned above. This impact becomes evident when bringing functional autonomy to the analysis of participation, and we wonder, are persons with functional dependency considered as participants? Participation is usually proposed for the initial stages of old age, and disregard the situations of frailty, which means that many older persons are excluded. Another perspective to study a participation proposal is to analyze the positions. So we

wonder, do older persons have a place as users-clients or as citizens with rights? If we apply both perspectives, we see whether a participation proposal is more or less inclusive or more or less empowering.

Participation instances are another focus of interest for our reflection. It is easy to think that acknowledging these instances by means of a regulation is enough. This comfortable approach disregards a matter that is not usually included in the normative description: the dynamics of interactions among persons. This puts barrier for the possibility that different singularities participate. In turn, when we open the working plan and we think of the dynamics, context appears, with its social, cultural, economic and politic characteristics, as well as the diversity of participants, multiplicity of persons, groups and organizations. Reconsidering the dynamics allows us to rethink the administrative definition of participation, which is necessary to build “living” participation environments, open to evolution and to grow in terms of acknowledgement of plurality.

Professionals intervene in said scenario, as they configure quite favorable conditions for plural participation and for quite inclusive environments. The reflection on the professional intervention poses several questions. For example, what is your experience with empowered older persons? Have you worked with older persons in frailty situations? What do you consider when the participation project is developed in a socially and economically depressed area? These are questions that lead to reflect on the training and also on the involvement of the professionals in the development of Human Rights.

As a conclusion and in order to improve reflection, I mention some of the points framed by Chris Phillipson in a particularly interesting text about this matter².

The approach of Human Rights can help societies as ours, which live in a deregulation, privatization and discrimination, where globalization of care and insecurity of care takers, workers or relatives converge. This approach may substantiate new ways of solidarity and new alternatives of social actions. We need to build collective protections by means of the State to achieve social cohesion in this century. This requires new ideas of Well-being with definitions that incorporate the logic of stripping of the market value of some services in our daily lives, as care which, in turn, promote “protected social spaces” for aspects of our lives that require trust as fundamental base: spaces aimed at common well-being. In our XXI Century societies we need to rethink the meaning of old age, and especially advanced old age, and to move forward towards an approach where dignity in daily lives is the main focus.

2.: The political economy of longevity: developing new forms of solidarity for later life. The Sociological Quarterly 56 (2015) 80–100

End of Presentation

Empowerment in Old Age

RICARDO IACUB

I will discuss the empowerment in ageing beyond conceptual definitions and into valuable reflections and practices in the field of gerontologists.

The European perspective skillfully addressed by Mercè is different from ours. We find inspiration in the situation of this continent but we are still gaining ground, but this does not mean that we have accomplished our goal. Gerontologists promote and build social practices from a human-rights perspective on ageing, but a great part of Western Civilization approaches this issue with rejection, as if ageing was considered a growing deformity that needs to be removed.

The fact that we coexist with this is very important. For this reason, we need to define empowerment considering where it comes from: specific demands of certain groups, as opposed to the situation of great revolutions,

Black Power and Feminism really posed a new approach to social transformation, where revolutions did not include all people or solely focused on financial issues, but on the claim for free-will rights and the recognition of situations that were denied to people of certain groups or conditions; for the sake of greater equality, not only in terms of money but also symbolically. However, it is difficult to accept that this happens in our field of study. As opposed to discrimination of black people or the LGBT community that seems more evident, discrimination against older persons has common and particular characteristics. No one would verbally insult older persons, and the accounts are filled with mercy, care and compassion, but also of rejection, denial of their free will and animosity.

I cannot help but question the purposes of empowerment in older persons: are we really looking for the self-determination and inclusion of older persons and do we think of them in those terms?

Therefore, this is a critical reflection on what gerontologists wish people to recognize and value, and how we can achieve this, so I will mention examples to discuss troublesome situations and reflect about the position of older persons and gerontologists.

I have noticed certain situations that repeat over time, such as the progressive disappearance of older persons from politics and positions of authority. I find this very surprising, because participation of this group, in terms of recognition and human rights, decreases. If this keeps happening, we will have to apply a quota law like that of women (laughter).

I think we built contexts that were new, original, entertaining, with trips and enjoyment but that, in turn, distanced them from certain public realities. Retirement and thinking about the older persons as retired persons (including all that represents retiring from society) could explain this.

I'm not against retirement, on the contrary, I believe it's a very important human-right landmark generated by XIX century's socialism. This ideal –built by intellectuals like Paul Lafarque, trade unionists and socialists of that time– was based on the lack of work possibilities for older persons during the industrial revolution. The possibility of reaching a moment in life when you no longer need to work was described by Guillemard (1986) as an attempt of socialism in old age. This vital change can be conceived as a non-capitalist lifestyle in which personal value does not depend on how much we produce.

However, retirement had unexpected consequences. Apart from the problems of not having a job, which was described as social death (especially in cases of low pensions), a shift in meanings and social practices associated to this group also took place. One of these consequences was building a group that can be easily identified publicly, which caused progressive differences in practices (retirement centers, universities for older persons, retirement houses) and the way they were understood. This caused an “inclusion in exclusion”, meaning specific spaces where older persons find growth and protection but isolated from other age groups. Gerontology was in fact mainly created by retirement and the associated models for old age, causing a very specific differentiation, something that had happened only a few times in the western world.



I reflect about this issue because I believe that understanding how we define a population group and build our own is very important, particularly now when gerontologists are well positioned in society to exercise our duty of rebuilding these life-style models with thorough analysis and open minds to propose valid changes.

Fortunately, this discussion has gone beyond the field of gerontology. They ask for our advice because we are experts in a specific age group; national and international public institutions and the media are interested in our counsel, and we have a say in important public

policies. For this reason, we have a great responsibility, and we need to ask ourselves: where are we going? This doesn't mean going back and undoing all progress, but viewing all situations in context to consider new possibilities.

Freud used to say that there is inherent cultural discontent in every social ideal. But, what does this mean? All ideals, even the most positive ones, generate discontent because we are leading the world in one direction and it clashes with other possibilities and desires. For this

reason, I think that we must clearly bear in mind what society is causing, such as age politics (Iacub, 2002, 2003, 2011, 2016, 2017), and what are in turn causing as well.

Regarding the position of power of certain groups and how this affects individual and collective identities, empowerment appears as the result of this process of building this specific consciousness.

We must bear in mind that this concept arose thanks to the specific demands of certain groups, such as forbidding the increase of prices in British supermarkets or discrimination against a group of the population. Black power and feminism supported their movements by building arguments based on psychoanalysis, social psychology and liberation theology (Simon, 1994; Cornwall & Brock 2005; Calves, 2009).

Paulo Freire (1974) built these concepts using the term “dominated consciousness”, against which he proposed a methodology to make people aware of the situation and provide the tools to make decisions and raise “political consciousness” to shift the position of the oppressed from being “understanding” to having “transforming actions”.

Based on the abovementioned, I wonder how gerontologists communicate with other groups that claim empowerment, such as the LGBT community, disabled persons, women, indigenous people, and why should we do it. The reason is we have many things in common: we are minorities trying to fight for the right to live without discrimination, and this should be seen as a global contribution for learning new strategies to defend ourselves, among other things.

The older persons should be closely related to the group of people with disabilities; the discrimination suffered by both groups is very similar. For example, both groups should definitely join to claim for better urban accessibility, among other common needs. I suffer from presbyopia, a degree of disability, but does this mean that the people who have a more severe degree should not be considered? Is this the meaning of empowerment?



I wish to mention that the feminist movement taught me about empowerment and that my current political and communicational methods are inspired by the LGBT community. I usually say we should create the “Older Persons Pride Day”, because these instances are a great opportunity to fight the humiliation of being old, or having been black (the black people movement originated this) or part of the LGBT community, who are now using this as well.

We should find common motivations because we are in very similar positions; we don't have exactly the same problems, but we do have things in common to fight for.

The community-based gerontology approach, which is the one I have adopted, focuses on power and inclusion positions within the community, causing politics to have more importance than science because the former is key for older persons to claim their human rights or to learn how to claim them together. This political struggle, however, needs to be backed up by research to find viable ways to achieve change.

The discussion about human rights entails the notion of changing the arguments regarding distribution of power. For this reason, someday the struggles of gerontology, feminism, the LGBT community may no longer be needed. Probably, upon finding solutions, studies about ageing will have a very specific approach.

Changes and unbalance of power, as well as losing a sense of belonging, are issues that we need to address in terms of the political dynamics of our culture.

I'm sincerely worried about something that I haven't mentioned in a while: the poor participation of older persons in politics, and I relate this to the early retirement of employees. In my country, the ideal intendant¹ is a 30-40 year old man, which –not surprisingly– replicates the ideal age of the manager of a company, who apparently retire early from said position (managers being fired at 50 is a very common practice). We should keep in mind these concerns, because they contradict our purposes; they are just as contradicting as “anti-age” products and all the cheap philosophy behind them. The current issue is not only about being 60 or over; in order to create age-related politics, we must acknowledge that age is manipulated in all life stages (Iacub, 2002, 2003, 2011, 2016, 2017).

What should we do? How can we fight these problems? How do we deal with anti-age approaches, excessive use of residential homes and low pensions in Latin America? Are gerontologists joining efforts to discuss these issues?

Our political movement reached a critical point during the declaration of the convention, but in reality, society has not been widely exposed to these political issues; experts only discuss among themselves.

In Argentina, we were able to bring down some advertisement that was clearly discriminating older persons; people were so used to those ideas that they thought they were normal. This advertisement would not have been made about other discriminated groups.

We complained, and this seemed to be the main weapon of gerontology, but we didn't do anything. The solution came with a complaint by email sent to create a discussion and address the people responsible. We were able to stop them, and thus we realized how much strength we actually had. We then met with the Advertisement Chamber and explained that they were enforcing control measures that needed to stop; they were disrespecting older persons and unbalancing equality in terms of age.

We must keep this discussion alive and question another factor. We claim that older persons need to be in charge of the politics of gerontology, but I assure you that most of them are not “politically conscious”, as Freire described it. I asked some older persons what they thought about discriminating advertisement, and they thought it was funny. What does this mean then? That the gerontology movement, just as the movement of feminism and LGBT, did not occur because the people being discriminated –women, Jews, old persons- said something, but by

1.: The Regional Government of Chile is headed by the Intendant, appointed by the President of the Republic.

building a reflective consciousness about the needs and opportunities facilitated by certain socio-historical moment.

When I think about myself as an individual, part of me is an old man, and since I am a gerontologist I also identify with the work-related aspect of old age. When I wonder what older persons want I think that the solutions provided for older persons were not discussed with older persons. Is this a problem? Sometimes it is, sometimes it isn't. If I think about old age from the perspective of philosophy alone, I will probably be wrong, but if I am aware of the fact that old age is experienced in different realities, I probably won't. My patients, during psychotherapy, are aware of their pain but not about psychotherapy with older persons. We need to reflect upon these illogical situations; assuming that we own the truth for being old is no necessarily true. The first feminist movements were not limited to women; they were political leftist groups that had the idea of a society without class, gender or ethnical differences. Women indeed claimed their rights after, with a consistent approach based on specific needs and with a different level of activism; this involves building a political consciousness that sometimes is lacking. We owe this to ourselves, old people and gerontologists, so I think that rewriting a few pages of the Gerontologist Manual would not be a bad idea.

We must ask ourselves once again: Where are we going? Foucault talked about a sense of strategy to delve into the knowledge and values of this community to enable us understand the violence against certain groups, the changes in reality that can create new meanings and the issues in common.

This is what I mean by strategy; as no changes occur in order to avoid events from happening, but they occur under very specific political struggles that arise in given moments and opportunities.

Therefore, what can we do to help older persons? We must do it; we must overcome the situations in which they suffer violence. We have solved some issues, and I believe we have done it in the correct way, but somehow these measures have not remained in time, as they should have. However, if we look back in history, we will know if changes took place or not, that is why we must see ourselves as a political gerontology movement, and we don't because we don't see ourselves as political individuals; we should replace the community of professionals with a community of politicians.

A Politician, in my opinion, is not someone who belongs to a political party, but a person that wishes to modify things, an agent of change. This person can be old, a professional or a public employee. Honestly, our strength lies in the possibility of this movement of becoming an open agent of transformation to include people who are not experts on the characteristics of the brain of older persons.

As a last example, and forgive my digression, I'm very worried about the neurophysiological movement, but not about the scientific knowledge involved, because I'm interested in this, I teach about this subject in the faculty, I'm worried about the attempts to claim the truth about the functioning of the brain; this is reductionist behavior. Why is this critical in old age? Why am I addressing this issue from the perspective of defending older persons? Because the social representation of an old person is shifting towards and individual who has brain

damage. Neuropsychology has brought back to life the assumption that old age is a disease that causes the person to lose autonomy, particularly by considering old age almost a synonym of Alzheimer's. I think it's very important to analyze social representations from the perspective of Moscovici, who talks about new meanings.

Many of these examples could be considered as cultural violence. Fillmore and Lakoff's theoretical cognitive framework are needed to analyze the explicit and implicit mechanisms regarding old age, because we still have a lot to learn. The culture influence of advertisement and some medicine trends I mentioned before, as well as our power to change the meaning of concepts is something that we need to analyze from the perspective of implicit violence and its consequences. We usually believe that the prejudices and myths about ageing are written and easily recognizable. However, every society is constantly creating positive and negative beliefs about every group; our job is to eliminate them and act.

Norwegian sociologist Johan Galtung (1995) determined three types of violence. His works about peace changed the made the concept of violence to be perceived from a more dynamic and open perspective. He described visible and more hidden ways in which violence is manifested; people usually do not even notice it.

Cultural violence is defined by any aspect of a culture that can legitimize violence in all its forms and it's usually less visible because the associated criteria and behavior of this type of violence are socially accepted.

Structural violence occurs when institutions harm older persons by preventing them from partially or totally meeting their biological, psychic and social needs. This includes their involvement in the economy, politics, justice, health, accessibility, education, among others. In case the violence is visible, we still have trouble finding the direct responsible entities or in direct negative intentions, whether in excessively long trials (considering the reduced life expectancy of an old person) or the poor availability of spaces with proper access.

Finally, direct violence is the most visible type of violence; it is manifested by way of aggressions, such as physical (hitting, pushing, and so on), psychological (insults, critics, extortions, derisions, mockeries, etc.), economic (appropriation of the parent's house, collecting and spending the pensions without consent), financial (direct response television, credit loans from mutual companies, etc.), sexual (rape), or the loss of freedom in retirement homes. Measures to tackle direct violence have been taken, but gerontologists need to focus on the less visible manifestations of violence.

Cultural violence can be seen in many ways, and some of them need to be further questioned –even those that have been clearly defined in gerontology. The idea that old age equals poor health has been widely criticized; however, our discourse still shows that old age relates to poor health, which is not true. Good health in older persons is very critical, so we need to analyze it in depth. We usually say that health is the most important thing in life, despite people do not act accordingly. I believe it is, but I don't think that it is the most important thing in life; life and the wish to live are, but you can't live well without good health. The hygiene obsession of the XIX century and beginning of the XX century brought several benefits in many ways, but it became so demanding that led to focusing only on the diseases of old persons, which caused a kind of hypochondria in the population.

I will now show an example of cultural and structural violence that I have seen in my current job in banks, hospitals, municipalities and other big institutions that do not meet the needs of older persons. Banks have serious troubles when attending older persons: employees are not aware of older persons' cognitive decline and new technologies that are not friendly for older users are introduced (such as ATM machines). For this reason, older persons become more dependent from others, causing them great distress.

Cultural violence against older persons is therefore manifested in the treatment given by the medical staff (not by geriatricians) in healthcare institutions. When an old person goes to the doctor in the companionship of a younger one, the doctor will address the younger

person assuming that the older one is no longer capable to understand, but we must not make these assumptions because it is a manifestation of violence. Older persons struggle more in big hospitals compared to younger people not because they have a problem, but because the institution does.



Institutions that relate with older persons should be able to understand their particular needs, such as bearing in mind the consequences of the changes in the working memory, providing more chairs to rest while waiting for their turn, and creating accessible spaces. This change in reality also serves to empower the personal growth of older persons to increase their autonomy, but also to allow

society to adapt. Society must become flexible in order to allow change and the inclusion of new demands, so we need to be more conscious and responsible.

We need to realize that this violence manifests in cultural, communicational and physical barriers. The purpose of gerontologists should not focus on people in residence homes or recreation centers; the scope of gerontology needs to change, because older persons spend more time in banks rather than in these institutions. I can assure you: municipalities, hospitals and banks are the places where older persons actually spend their time and that is where our focus should be placed on.

I trust we will be able to make these changes, maybe because we know what we need to overcome. Personal empowerment must give rise to collective empowerment. I strongly believe that residential homes and university programs for older persons are a great achievement, so we cannot disregard them. My first book praises residential homes for their contribution to change, but I cannot assume that everyone lives in this type of institutions; at least in Argentina, only 20% of the older population lives in residential homes.

Considering that this is a very subjective matter, we need to build the identity of who are the people of this minority group together, but what does that mean? A group of self-conscious individuals. Some old persons do not want to assume that they are old, which is a great problem that confirms we still have a long way to go. People should build a historical memory; retired persons depend on the State more than any other group, and this is a key

characteristic of their identity as a minority. This is essential to build a conscience, a memory, in order to overcome their shared difficulties such as health, pensions, and so on.

An open approach and local measures should be adopted. Gerontologists should have an open mind, which means sharing with feminists, the LGBT community and other similar groups to start perceiving reality outside the geriatric ward around the corner. An open approach means building a country where older persons do not think that their age prevents them from keeping up with society. Local measures, however, refer to the ability to adapt these issues to our own reality in order to provide viable solutions.

For this reason, we need to come up with strategies to create spaces for human development and instances to build the road towards a satisfactory life.

The Pope said: *"please, do not oppose yourself to the older persons: let them speak, listen to them (...) older persons have the wisdom of the past, do not close their mouths".* But this is what I would have preferred instead: *"Do not oppose yourself to us. Let us speak, listen to us."*

If Bergoglio had not been elected Pope he would be spending his life in a retirement home after becoming a bishop. He would probably be struggling with pulmonary issues, -which he has- with health problems, and he would probably have become a hypochondriac in a place receiving drugs and treatment to cure some illnesses that usually have no recovery. This is what usually happens in geriatric residences. Bergoglio is 80 years old and is one of the leaders of the world because he was allowed to exploit his personal growth beyond his body. This should be a reference for everyone.



End of
Presentation

Social participation of older persons

RUBÉN VALENZUELA

We face the challenge of introducing ourselves as a State institution because we must account for the actions taken in the past years. Participation and empowerment have been proposed to understand and allow “a minority that is aware of their rights” to improve their conditions. Organizations of older persons have a dominant paternalistic aspects in terms of delegation of functions. The law fosters participation entities such as commune unions for older persons; nonetheless, commune authorities do not have a speech of their own, which complicates the resolution of problems affecting older persons.

Our society questions public services, and underrates them because of their inefficiency. This inefficiency is the result of poor resources allocated to face the different requirements of our society, creating generational conflicts. Older persons attempt to imitate the way young people demonstrate their discontent, such as protests- However, older persons must become aware of their own specific problems to avoid merely repeating slogans. As a public institution we can provide the required tools for the organization of older person groups, but it is up to them to determine their own priorities.

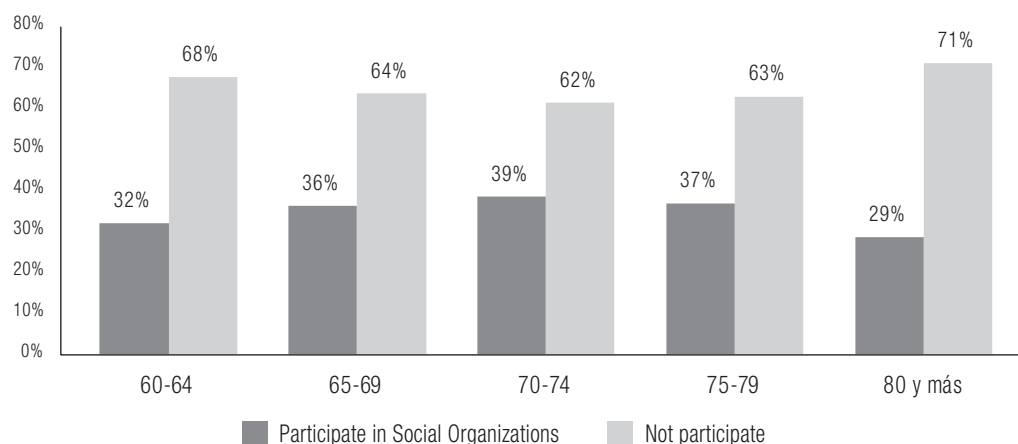
I first mentioned participation and empowerment because they are key aspects in old age; we must be aware of our own needs to deal with them. These are some of the things we have done in 15 years. First, it is worth mentioning the work of SENAMA¹, since it helps us foster integration and social participation of older persons. According to the 2015 CASEN Survey, 85.6% of older persons in Chile are self-reliant, whereas 14.4% are dependent.

SENAMA has developed programs both for dependent and self-reliant older persons. Care programs face the challenge of being able to cover the growing demand. The programs we have developed are aimed at making a cultural shift to protect older persons from mistreatment. Spaces for intergenerational encounters should be established to stop the struggle for resources. Our country is ageing at a fast pace and we will soon have the oldest population in the region; consequently, we need to think about improving the existent programs.

During an encounter of older person organizations in the Commune of La Florida, many had the chance to give their opinion about their problems and realize how important they are in society. According to the CASEN Survey, older persons is the group with the highest participation in society. As a matter of fact, 29% of persons who are 80 and over participate in different social organizations, whereas only 24% of persons between 15 and 59 years old participate in any social organization.

1.: SENAMA, *Servicio Nacional del Adulto Mayor*, National Service for Older Persons.

PARTICIPATION IN SOCIAL ORGANIZATIONS



Source:
Own elaboration. National Socio
Economic Characterization Survey,
2015, Chile.

The Older Persons National Fund has been of great help to foster self-managed programs where organizations participate and apply for contests. Approximately 8,000 organizations participated in 2015, and this number increases every year. In this last period, we have also supported discussions to create regional federations. Besides being organized in communes, people need organizations to understand their problems as a whole. We have already formed 13 regional federations –of the 15 regions in the country- to create meeting spaces for older persons. We have not influenced their discourse, because that is their own responsibility.

When the Service began, discrimination, stereotypes and intolerance issues were discussed. One of the biggest problems is addressing older persons in third person, without acknowledging we are part of them. This is why we began to foster participation so that older persons recognize their organizational importance.

The pension reform project and the Pension Fund Scheme issue have involved older persons in the discussions of our country, although we have not determined an action plan yet.

According to the 2015 CASEN Survey, in Chile 20.9% of the persons living alone are over 74 years old, while 38.6% of older persons living alone are 80 or over. Society should take care of older persons. Other studies regarding the participation of older persons in the media show that, in 2015, 63.5% of the news had a positive view on ageing. Negative publicity with stereotypes about old age is decreasing, while a positive outlook of older persons giving their opinion and organizing in groups is increasing.

Enough has been discussed about the Inter American Convention, but the most important issue is that we must create meeting spaces among organizations in order to improve all the conditions for older persons to work out their problems on their own.

Finally, I believe that the issue of care regarding older persons should no longer be discussed only among minorities; it should be part of the public agenda. In a period of presidential elections, this discussion should be raised and addressed by the candidates. Participation and care instances should be improved, by adopting a structural approach and stop having a partial view of these programs.

The participation programs of the Service have contributed to improve organizations, but additional efforts need to be taken to increase their permanence in time. The participation program only reaches the leaders of these organizations and meetings are held just once a year. Our contributions are minimal given this restrictive budget.



As a Service, we are aware of the importance of fostering an active ageing; nonetheless, older persons must be in charge of making their own demands to provide them with the appropriate tools to find solutions. Universities and institutions must go far beyond a specific request to discuss the care and protection issues of older persons in depth.

Also, the Service for Older Persons does not meet the needs of our reality. When it was created, 15 years ago, they used to coordinate and prepare public policies. With the growing population of older persons the requirements also grow on a daily basis, so creating new meeting spaces to discuss the path to follow is essential.

We still face many challenges, but these discussion instances are an opportunity to visualize our future as an institution; we are the ones who put academic discussions and public policies into action. If we are not able to assume this challenge, we will not be doing as much as we can to foster public policies for older persons and their inclusion.

End of
Presentation

Round Table

7

Social and economic security in older persons

● **Ignacio Madero-Cabib**

Sociologist, PhD in Social Sciences from the LIVES Research Centre, Université de Lausanne, Switzerland.

● **María Teresa Abusleme**

Sociologist, Master in Politics and Government. Specialist in Educational and Social Psychogerontology. Ministry of Health, Chile.

MODERATOR

● **María José Zaldívar**

General Manager Research Corporation, study and development of Social Security (CIEDESS), Chile.

Understanding the relationship between working experience and pensions in Chile*

IGNACIO MADERO-CABIB

*Results of this conference presentation are part of a scientific article that has been submitted to the journal World Development.

Ignacio Madero-Cabib, Assistant Professor of Sociology, Universidad de Chile.

Principal Investigator FONDECYT, Postdoctoral Project N°3160522. Pontificia Universidad Católica de Chile.

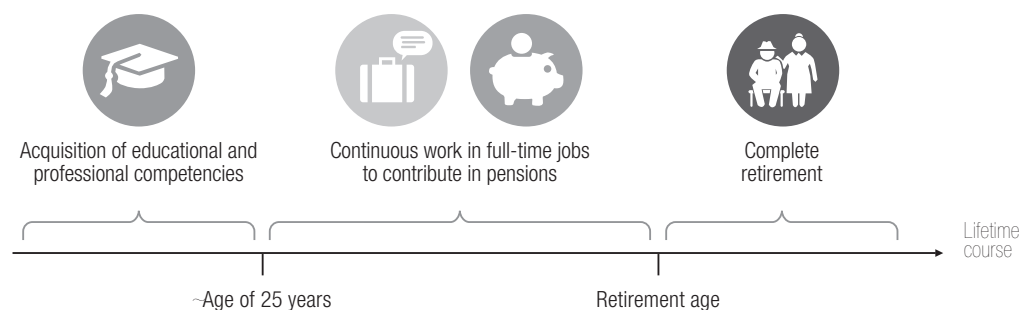
I will show the results of a scientific article written in my PhD research, financed by the *Fondo Nacional de Desarrollo Científico y Tecnológico de Chile* (FONDECYT, National Scientific and Technological Development Fund).

I shall begin by mentioning the motivations behind this research.

First, the pension system in Chile (based on individual capitalization and implemented in 1982) is currently being widely questioned; one of the complaints against this system is that retired persons receive very low pensions. People who defend this model claim that this problem is the sole responsibility of each worker for having had *employment gaps*, that is, long gaps during which they did not contribute to their pension funds.

These *employment gaps* directly impact the *replacement rate*, which is the worker's pension with respect to his/her income of the past year of work, 5 years or even 10 years; it depends on each country. In Chile, the politicians responsible for this new individual capitalization system estimated that the replacement rate at the end of the worker's employment history would amount to 70% of the last income. The newspapers then (as evidenced in press clippings) even claimed that the replacement rate would amount to 100% of the last income.

However, these estimates were mainly based on assuming that most people would have a *conventional employment pattern*. The following figure clearly illustrates this:



This model is based on the assumption that we receive education and training (technical or professional training) until we are around 25, and then we begin our employment history, understood as the active period of our life course. After turning 25, people were expected to work continuously, without interruptions, in full time Jobs (45 hours a week) and contributing regularly to their pension funds. After reaching retirement age, people were supposed to stop their employment activities and retire completely.

Today, after 35 years, the pensions system has begun to give pensions to the first generation who –almost exclusively- contributed under the individual capitalization system. For this reason, we are now able to make a longitudinal and retrospective study to determine if the employment history of these persons fits the *conventional employment pattern*.

Official cross-sectional data reveals that, since 1980, a growing number of people have not worked under the *conventional employment pattern*. For example, there are many informal workers without contracts, part-time workers, self-employed persons with low pension contributions; this means that they only contributed to their pensions for a few months. These conditions have directly affected the average national replacement rate; the OCDE (Organization for Economic Co-operation and Development) shows that on 2015 Chile had an average replacement rate of 38% in men and 33% in women, which is significantly lower than the estimated 70%.

However, this official data has important weaknesses; these figures have provided an overview of the labor market conditions for the last decades and its impact in replacement rates, but they have gathered transversal information (and not longitudinal information) and included aggregate data of workers under the current individual capitalization system but also of those that were part of the previous pension system. This is an obstacle when attempting to assess the *conventional employment pattern* of people who were under the new system at the beginning of their employment history (who evidently contributed to their pension mostly under this new system).

The purpose of this research was to analyze the employment history of persons aged between 30 and 60 (active period) -who were 30 at the beginning of the 80's-, because their active employment cycle was simultaneous to the birth and development of the individual capitalization system. The employment conditions of the subjects were analyzed on a monthly basis based on 4 key factors associated with the conventional employment pattern:

- 1) If they had a job or not.
- 2) If they worked full or part time.
- 3) If they were employees or self-employed.
- 4) If they contributed to a pension fund or not.

The data gathered from the employment history modules of the *Encuesta de Protección Social* (EPS) [Social Protection Survey] allowed reconstructing the employment history of 3,782 persons that were monitored for 30 years. The start date of their work ranged between 1980 and 1985, while the end date ranged between 2010 and 2015.

The specific variables used to analyze their history combine the 4 factors mentioned above, which resulted into 9 employment status (showed in the following slide). As you can see, the first status (in red) referred to employees, with a full-time job, and who contributed to their pension funds; below, full-time employees that did not contribute to the pension fund (in pink). Next to them, full-time self-employed workers that contributed to the fund; below, those that did not contribute (in light brown). Next to them, part-time employees that contributed to the fund (in blue); below, those who didn't

(light blue). Next, self-employed part-time workers that contributed to the fund (in green); below, those who didn't (light green). Finally, individuals that are not part of the labor market (in grey).

Each person could belong only to one of these categories per each month of the research. For example, in certain month, a person could be working full-time and contributing to the fund, outside the labor market, or a self-employed person without contributing to the fund.

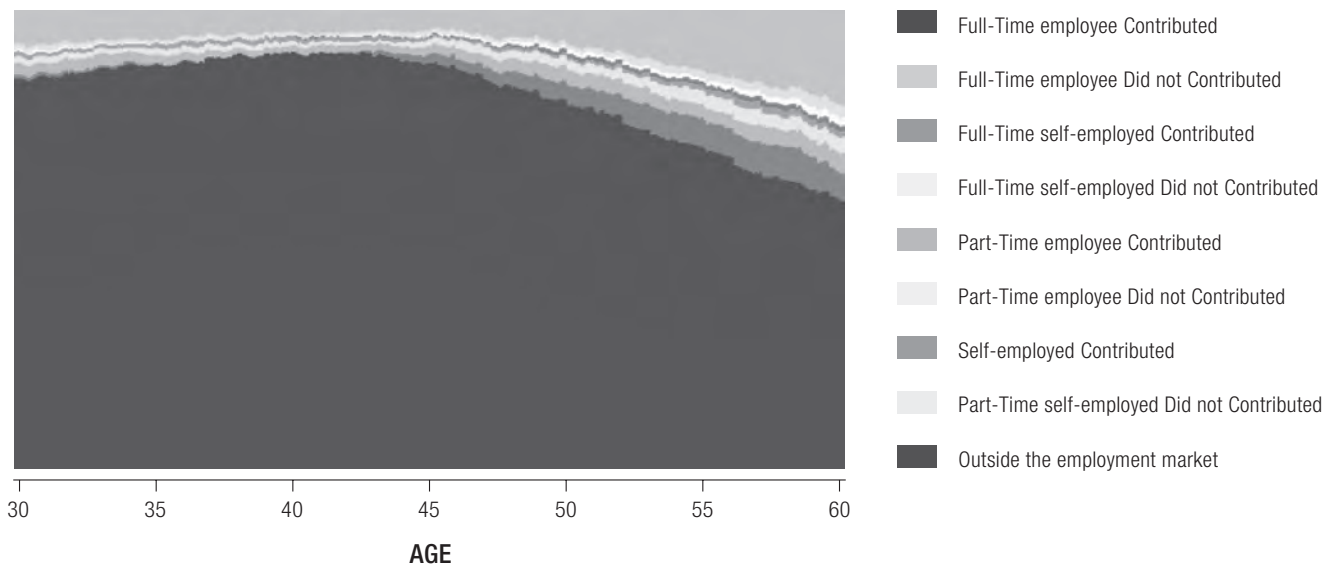
I used a longitudinal statistical method called sequence analysis to reconstruct the employment history of the subjects; this technique allows analyzing the whole history of a person's life, and then they are classified into different work clusters or types. For example, if two persons worked as full-time employees and contributed to their funds since they were 30 until they were 40 but then became self-employed in a full-time job without contributing to their funds and remained doing this until they turned 60, are classified in the same employment history type. I specifically used a statistical software called "R".

These are the results of the average silhouette index, which basically allows choosing the most appropriate number of types of employment. In other words, the index shows the multiplicity of employment histories of people between 30 and 60 in Chile. As seen here, there are seven groups that summarize the employment history of the workers during those decades.

These are the 7 types of employment histories of people between 30 and 60. The right side of this slide shows the 9 employment status mentioned before, each with a different color. The left side of the slide shows the names and proportion of the 7 types of employment history that are also shown in the center. The "X" axis shows the time period of the study (30 to 60 years old).

The first three types correspond to the employment history of more than 85% of the analyzed sample. The first one (called *conventional employment pattern*) groups full-time employees who contributed to their pension. The red remains over time, which means that the people represented by the color had a full-time job during their active-life period and contributed to their retirement pensions; the previously mentioned *conventional employment pattern*. In spite this is the largest group, it amounts to 44% of the whole sample.

1. Conventional employment pattern (44,0%)



The second type is *outside the employment market* which represents 31.4% of the sample. As opposed to the first group, these people were constantly outside the employment market or entered and left quickly.

The third type represents full-time self-employed persons that did not contribute to their pensions, and they represent 11.2% of the sample. It is worth mentioning that a large number of people that began their employment in the conventional employment cycle shifted to self-employment over time. As you can observe, this happened around the time they turned 45.

The fourth last types represent the employment patterns with the lowest representation in the Chilean employment market -none of them reached 5%. They are, for example, part-time or self-employed people who contributed to their pensions.

As seen in the following slide, when analyzing the percentages of the different sociodemographic characteristics of each employment type (particularly the three main types), women classify mainly in the second type (*outside the employment market*). Regarding education, people with higher education training mainly belong to the first type (*conventional employment pattern*). Persons with 3 or more children belong to the second type (*outside the employment market*). Finally, the marital status of the people of all types of employment histories did not differ much, they were actually quite similar.

These results reflect several issues. As we know, the pension system of individual capitalization in Chile almost exclusively depends on our participation in the employment market. The involved experts and politicians assumed that people would have a *conventional employment pattern* when this new system was introduced in the early '80s, meaning that pensions would approximately amount to 70% of their last income.

However, the results show that people who almost completely contributed to their pension funds under the new pension system did not belong to the group of the *conventional employment pattern*; 44% worked under said cycle, and the remaining population were outside the employment market or their working conditions were not fit for said model.

The results of this study explain why this system is being questioned; pensions almost exclusively depend on the employment history of each person, but usually work opportunities are flexible, poor or unstable. This research evidences the need to come up with public policies that ensure dignity in old age, especially for persons under these employment histories. Measures should be taken to ensure the wellbeing of older persons in spite of their formal employment history. I hope this scientific article provided further understanding on the relationship between employment histories and pensions.

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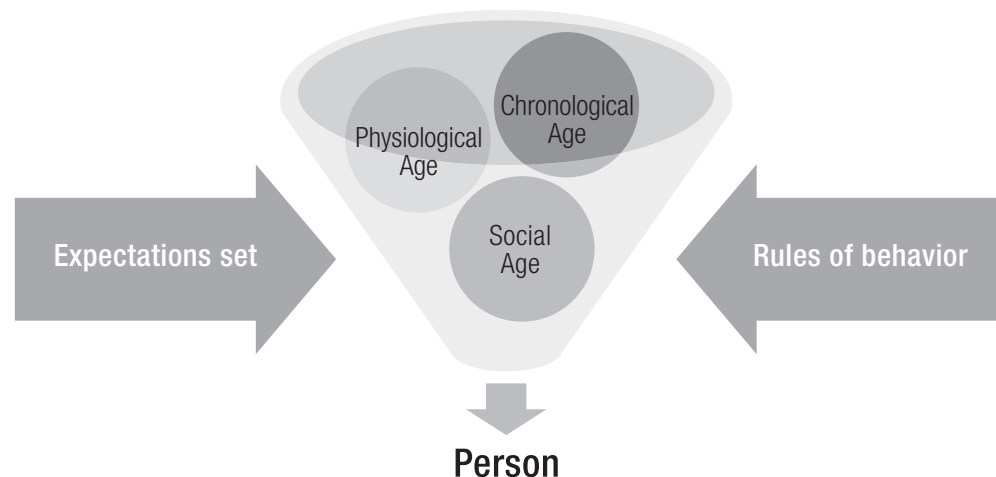
Employability of older persons

MARÍA TERESA ABUSLEME

Old age is a social construct. This means there is a group of expectations and norms of behavior. When we speak about old age, or age, we are not only speaking about numbers, but about many situations that make persons be much more than how old they are. When speaking about public policies on labor or life issues, it is important to consider how we promote preparation for old age and how we implement public policies. I will mention two studies.

The first is a study called *Fuerza mayor* (Older force) (2009), where persons over 60 were asked how they looked at themselves; 79% said “we have to make the most of young age, because after that it is difficult”. Then, three out of five said “I feel people underestimate my capacities because of my age”. Half of them said “for me, ageing means becoming dependent”. One out of four feels useless, like a nuisance for the family. 67% shows a negative sensation regarding being older persons, which agrees with the general comments on this matter.

AGE AS A SOCIAL CONVENTION



The second study is survey *Inclusión-Exclusión de las personas mayores* (Inclusion-exclusion of older persons), carried out by the Universidad de Chile, specifically by its main researcher, Ms. Daniela Thumala, which shows the perceptions and views on old age and ageing in populations of ≥ 18 years old. Regarding this study, the situation does not have any important variations:

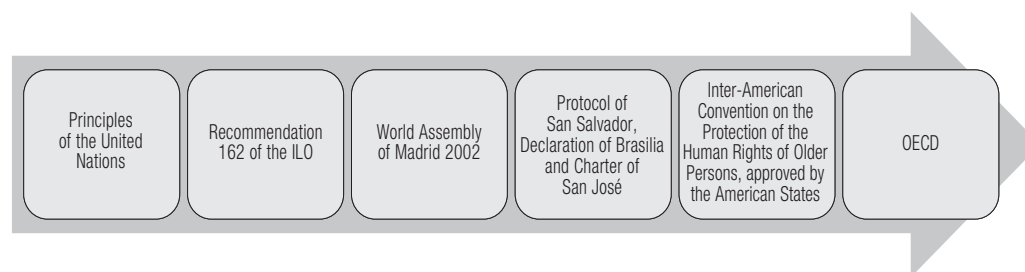
76% of the persons say that the country is not prepared for ageing and when asked about their own ageing, 68% say they are not prepared. 73% say that older population cannot fend for themselves. This percentage is brutal. Also, 54% of the population is willing to pay taxes, which is positive for the country, but the negative side appears when we ask about who is responsible for the well-being of older persons, 38% says public policies, 45% mentions the family and 4% says older persons.

From a systemic point of view, this shows that older persons see themselves as others do, which creates a vicious circle. This leads a large percentage of older persons to prefer staying home instead of participating in activities; they do not value their contribution, although they make a large contribution in our society.

It is important to refute some myths: “Chile is an aged country”. It is an aged country today, not tomorrow or the day after tomorrow. This stands out because when we hear experts in the news or during political campaigns, we understand we are ageing, but the truth is that we are already an aged country. There is a nuance, though: our old age is young. More than 70% of older persons are between 60 and 74 years old, so our adult population is currently more active. In this respect, we have to consider that women live longer and in worse conditions, which is complex from a labor perspective, because we reach retirement age with more contribution gaps in our social security funds.

Thus, regarding health, in Chile there is a life expectancy equivalent to the one of a developed country. Our older population suffer from chronic diseases, but they are under control. Let us remember that only 1 out of 5 persons is dependent to some extent and needs help to perform daily activities. However, we noted some discrimination: 85% of older persons contribute to Fonasa (*Fondo Nacional de Salud* - National Health Fund) because the system increases the payment for the private system and they have to move to the public system. Among those who need care, family provides it.

RIGHTS AND WORK FOR OLDER PEOPLE



Another important point is that older persons are heads of the households. Today, there is one older person every three homes. We cannot speak about their dependency if they contribute in economic terms. They continue working, and we believe that many of them do it informally. Work is a fundamental aspect for persons so it deserves further analysis. Many older persons want to continue working, because it gives them activity, routine, validity and social status.

Work has been dealt with in documents in conventions on rights of older persons. We have the United Nations’ principles, the recommendations of the International Labor Organization, the different protocols arisen from the international assemblies and the Inter-American Convention on the Protection of Human Rights of Older Persons, ratified by Chile on 15 August 2017.

Some advances have been implemented: independence, dignity, autonomy, the possibility of choosing when to retire, a much more solidary society, flexible retirement, among others. However, much has been written, but there have not been any important transformations. This is why we wonder: How are rights transformed and implemented? Currently, 30% of older persons continue working, especially men. Women are just incorporating to the labor market, mainly because of their generation. The largest concentration of working persons is between 60 and 69 years old. Many of them work informally. The law does not contribute much, because if someone has a solidary pension or minimum wage, they lose it or is reduced.

The main motivation for older persons to work is indeed of a pecuniary nature, because we know the issue of pensions and, although I will not refer to that matter, it makes many older persons continue working, although it is not the only one. This brings forward the issue of retirement, in agreement with what the OECD has stated, although older persons want to continue working and they like what they do.

Another important aspect is that older persons work for less in comparison with general population, and they also work for low-rated jobs given the existing discrimination.


In conclusion, we are a country with *advanced ageing*, as named by the UN since 2007. Although there is more concern about the norms and the exercise of rights of older persons, this has not led to the application of said rights, so they are not being respected.

It is important to consider that work is a tool for human development that has been promoted by the UN and by the International Labor Organization, as well as in several documents about rights. Work and health are becoming more important, because when working we can prevent some diseases. It is necessary to strengthen training and education, especially in technology, in older persons who want to continue working. We have to promote equality conditions, as they do not exist. We have to have friendly cities, where older persons do not have problems to go out, where they can walk easily, where urban transportation is sufficient, where they do not exclude themselves.

It is important to establish shared responsibilities; when speaking to older persons in some companies, they tend not to empower themselves in what is happening to them and to their surroundings and this means some transformations have to occur.

We have to experience an awareness-related social change and how we see ageing. As long as said change does not occur, while we see persons as objects of protection and not as subjects of rights, no public policy will work. We have to train not only older persons, but the young persons who will work with them so that there are more inclusion and inter-generational processes.

I want to finish by stating that there are *as many types of ageing as older persons*. There is not only one type of old age, and old age is not equivalent to disease. We tend to categorize older persons under certain standards. We have to change said views and think of the autonomy of older persons. Our society must generate the means for older persons to actually choose what they want to do after becoming 60.



End of
Presentation

Special
presentation

Human rights instrument: from the proposal to application

International convention on the rights of persons with disabilities

● **María Soledad Cisternas**

Special Envoy on Disability and Accessibility, United Nations. Former President of the Committee on the Rights of Persons with Disabilities of United Nations.

International Convention on the Rights of Persons with Disabilities

MARÍA SOLEDAD CISTERNAS

I am glad to be a United Nations Disability and Accessibility Special Correspondent and share with you everything about the generation and creation of the United Nations Convention on the Rights of Persons with Disabilities. I will summarize this process and compare it with the International Convention on the Human Rights of Older Persons.

In 1983 the Decade of the Persons with Disabilities was declared; its importance is that persons with disabilities were seen from a charity, medical and assistance perspective, so their

disabilities prevailed. At the end of said decade the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities were enacted, which transformed the charitable vision into a human rights model.



In 2001, the World Conference against Racism, Xenophobia and related Intolerance, led by the State of Mexico, suggested that specific actions to boost that an International Convention on Disability should be created.

Mexico continues leading, supported by Chile and other countries in the region, to objectify

the resolution. In 2002 a Committee in charge of preparing a wide and comprehensive Convention project to promote and protect the rights of persons with disabilities was created.

Before the Committee was constituted, in 2001, Mexico prepared a draft of the international convention and called different experts, where I participated. It was an incredible strategy that provided a draft to work on the following year.

The International Convention was prepared between 2002 and 2006, but its approval was difficult, believe it or not. One of the most relevant ones was financing, because, as in the case of older persons, developed countries did not want to invest more money. They did not

agree with the creation of an international instrument either, because they would be the first ones forced to cooperate in economic terms.

There were also juridical issues: autonomy of will, the freedom to make decisions and independence of persons, because there are some persons with disabilities that cannot express their will. Based on this, developed countries questioned the importance of a Convention. Religious voices opposed this too, because the convention dealt with interpersonal relationships, not only in marriage, so this was not accepted by many of them. Political opposition was also an issue, because armed conflicts with foreign occupation were a reason to avoid dealing with the issue of persons with disabilities in said situations.

Therefore, this demonstrates that we can beat off anything. We worked strategically with civil society -in this case, persons with disabilities- who became aware of the need to act cooperatively. Differences of opinion, and leadership issues are part of any civil society, but disabilities are not an excuse.

The scenario was the following: *The World Federation of the Deaf* has existed for many years; it was the first organization of persons with disabilities in the world. Then the *World Blind Union* and *Inclusion International* dealt with intellectual disability. Afterwards the *Users and Survivors of Psychiatry* welcomed persons with psycho-social or hearing and visual disabilities, among many others.

Regional organizations of Latin America, Africa, Asia and Europe were created, as well as networks of the US and Canada. In 2001, large international alliances created a network that gave birth to the *International Disability Alliance*.

Since the creation of the *International Disability Alliance*, an international disability convention started to develop. The situation began to be represented by numbers. At that time, 10% of the world population was made up by persons with disabilities; they now became holders of rights, not their families. The ideas to be dealt with were also identified.



We have seen that persons with disabilities do not reach the same standards as persons without disabilities, so it is necessary to identify some human-rights related topics: Individual autonomy, making their own decisions and independence, which are part of principle 1.1 of the Convention. This also appears in an article about their equal recognition as persons before the law.

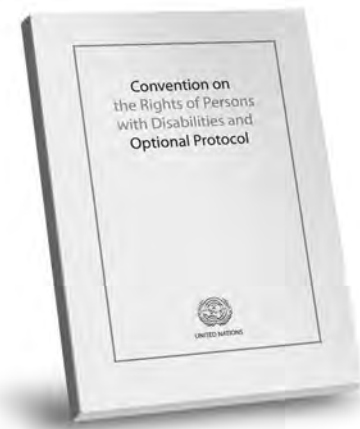
The second principle is *accessibility* as universal matter. Only access was discussed, but it is not the same. I will add a third aspect: *independent life and being included in the community*. These topics have been legally addressed, so I will just mention them.

There are other aspects, such as language. They should not be referred to as *handicapped*, *invalid*, *crippled*, *paralytic*, but as *persons with disabilities*. This causes a huge paradigm

change, because the social and human-rights approaches state that persons with disabilities are no longer those who have physical, sensory, intellectual and mental deficiencies, but it also deals with the interaction with several obstacles, and how this affects full and effective participation in society.

Since they are now considered right-holders, access obstacles force the State and society to remove them and to generate conditions for equal opportunities, which is necessary to create a strong and active civil society. There are many persons with disabilities in the hallways of the United Nations, as well as older persons, which represents a huge effort, because nobody from the outside finances tickets or lodging. This is an effort of their own.

Another matter was with the area of diplomacy. The opening of the diplomatic world to persons with disabilities was crucial, because some were even incorporated in their delegations as experts. This was the origin of the motto: "*Nothing about us without us*", which, in my opinion, changed the way negotiations were carried out in the United Nations. This was an ideologically and intellectually revealing motto; other UN agencies started imitating the idea. Everybody has this goal now. This is how the Convention and a cooperation with civil society was achieved.



Our local struggles to make the executive and legislative powers ratify the convention was enormous; this explains why a number of States Parties quickly decided to ratify the Convention that was to be entered into force in 2008. Since then, there are 174 States Parties, that is, less than 20 remain to achieve a universal ratification.

This innovative convention was applied locally as well, and this is why today we talk about inclusive education, decent inclusive jobs, etc. The Convention is useful because countries now have to address this situation from a legal perspective; it is the basis to achieve public policies, state programs, to involve public and private sectors in a coordinated and interdisciplinary manner. I am very optimistic about the Convention on the Rights of Persons with Disabilities. You already have the Convention of the OAS. In our case, the OAS had the Convention on Disability and then we reached the UN. My praises for the OAS Convention because it revived contemporary legal innovations about Human Rights.

The concepts we should bear in mind are: *active ageing, positive ageing, and intergenerational culture*. This leads to *palliative care*, which is going to be dealt with in the open-ended Working Group.

Having an international instrument will influence international monitoring; the adoption of legal grounds on Human Rights makes a difference when assessing the situation of older persons in a country.

The base for the 2030 Agenda resources are Human Rights. I have always said that human rights provide an inalienable, imprescriptible, irrevocable and sovereign ground to social development that has to be fully inclusive and accessible.

Persons with disabilities are now mentioned in five UN's sustainable development goals (education, work and others), and they were included in their targets and two other indicators.

However, older persons in this regard were not addressed as much as persons with disabilities.

I finish by saying that Boutros-Ghali, former Secretary-General of the United Nations, said that every cultural era responds to its own view on Human Rights, and also to a historical awareness of how said rights are viewed. Undoubtedly, the XXI Century is also the cultural and historical awareness era of the human rights of older persons.



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