

OPEN-ENDED WORKING GROUP ON AGEING FOR THE PURPOSE OF STRENGTHENING THE PROTECTION OF THE HUMAN RIGHTS OF OLDER PERSONS

11TH WORKING SESSION – 29 MARCH - 1 APRIL 2021

STATEMENT BY COMMUNITY LEGAL CENTRES AUSTRALIA (MEETING 1-2, ITEM 5, 29 MARCH 2021)

This statement is made by Community Legal Centres Australia – an organization with ECOSOC special consultative status. Community Legal Centres Australia (formerly National Association of Community Legal Centres, Australia) has engaged with the Working Group since its Fourth Session, providing statements and interventions and co-authoring discussion papers.

Community Legal Centres Australia is a member of the Global Alliance on the Rights of Older Persons and strongly endorses the Global Alliance’s joint written statement calling for the Working Group to start drafting a UN convention on the rights of older persons.

Community Legal Centres Australia congratulates the Australian Government on its support for the Secretary-General’s Policy Brief on the Impact of COVID-19 on Older Persons. We encourage the Australian Government to actively engage in the Eleventh Session.

The human rights of older persons in Australia have undergone intense scrutiny since the 10th Working Session. The Royal Commission into Aged Care Quality and Safety (the Aged Care Royal Commission) issued its final report on 1st March 2021. The report called for a complete rewrite of Australia’s long-term care laws,¹ and an overhaul of the system supported by those laws.

The Royal Commission’s principal recommendations included the need for clear and enforceable legislative standards that protect and promote the human rights of older persons in care.² The recommended ‘list of rights’ falls short of our expectations and does not reflect a comprehensive or contemporary human rights approach.

The Aged Care Royal Commission noted the absence of a global normative standard protecting the rights of older persons:

Explicit references to older people in binding international human rights instruments are scarce. However, there is a growing call for an international convention pertaining to the human rights of older people.³

The Aged Care Royal Commission noted ‘[T]he there is no international consensus on a common set of human rights and principles that should underpin aged care, ...’⁴ Accordingly, the recommendations of the Aged Care Royal Commission were informed by existing instruments, soft-law (the United Nations Principles for Older Persons) and the development approach of the Madrid International Plan of Action on Ageing.

This means that the proposed rights base was developed without a specialist focus, and in a normative vacuum.

The Australian Government will take time to develop its new national laws. It is our hope that by that time, this Working Group may have moved to drafting standards that will engage and guide member states (including Australia) in how they develop human rights standards for older persons.

¹ Australian Government, Royal Commission into Aged Care Quality and Safety, Final Report: Recommendations, 1 March 2021, Recommendation 1.

² Id., Recommendation 2.

³ Australian Government, Royal Commission into Aged Care Quality and Safety, Final Report: Care Dignity and Respect, Volume 3A, March 2021, 19.

⁴ Id.

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STATEMENT BY COMMUNITY LEGAL CENTRES AUSTRALIA (1 April 2021)

I thank the Chair.

I come to you from the country of the Wulgurukaba and Bindal peoples and I pay my respects to their elders past, present and emerging.

As always, the way forward is influenced by where we have been and where we still need to go.

So, where have we been?

Let's begin by comparing two important decades ...

We now have 10 years of Working Group Sessions. The exact same timespan as we expect to create outcomes from a decade of healthy ageing. Would it be acceptable to reach the end of that decade in 2030 without tangible improvements to the health and lives of older persons? I think not.

Why then have we allowed stagnation in this place?

And why would we continue to forgive such inaction going forward. Particularly in the light of the pandemic's obvious call to protect older persons' rights including that supreme right of the human being – the right to life.

We know the absence of an enforceable rights framework to combat ageism has had fatal consequences for older persons around the world. In every corner of the globe, older persons have suffered and died in silence and invisibility. We will grieve for them evermore.

Even through this dreadful time, which continues still, the mandate remains unfulfilled.

The 11 sessions of this group, the 2012 and 2021 analytical studies, reports of the Independent Expert and many intersessional and side events show where we have been and what we have learned.

What they cannot explain is why we are still back there – in past, ignoring the voices of older persons

Older persons have told you:

- They are our voices and our rights
- Older people matter
- Keep our dignity
- No more unequal treatment
- And now, in their words, and in the end a very simple message “it's about rights”

It isn't up to us to take away that hope, that resolve, that need, that destiny. Rather it is our role, this Group's mandate, and our collective job to answer that call.

The Assistant Secretary-General for Human Rights reminded us that the "Secretary-General has leaned into this conversation for the first time, calling upon this Working Group to accelerate efforts to develop proposals for an international legal instrument."

She noted, the necessary demonstration of that commitment is a concrete roadmap towards the fulfilment of its mandate.

To the way forward

This session is not called the way backwards – it compels us to move towards satisfaction of the mandate in a meaningful way.

The Way Forward is clear. It requires immediate and decisive action.

We echo the calls to create a sub-group of the Working Group to assist the Working Group during the intersessional period to achieve its mandate.

I thank the Chair