The Right to Care and Support in the United Nations Convention on the Rights of Older Persons



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Introduction

In April 2025, the United Nations Human Rights Council adopted a consensus resolution to establish a working group and begin formal drafting of a Convention on the Rights of Older People. The consensus comes after decades of advocacy work highlighting how existing international human rights laws lack a specific framework to address the unique issues faced by older persons. This protection of the rights of older people is long overdue.

Yet, there has never been a more opportune moment to recognize the rights of older persons in international law. We are seeing rapid aging of populations around the world, pressures on social security and pension systems, frequent health and climate emergencies that leave older persons vulnerable, and growing recognition of the importance of the care agenda. This context makes a treaty protecting older persons all the more urgent and relevant.

Drafting of the convention is underway in Geneva. It is expected to build on existing frameworks and discussions, perhaps most notably the non-binding United Nations Principles for Older Persons adopted in 1991. Since then, the UN has encouraged governments to incorporate the following five principles into their policy and programs regarding older persons: independence, participation, care, self-fulfilment, and dignity. While these principles are still very much relevant, the discussion on the rights of older persons and human rights more broadly has come a long way since 1991.

Specifically, the conversation on the right to care and support has evolved significantly since the 1991 principles. The current conversations surrounding the right to care and support extend beyond the older persons sector. In addition to age, other dimensions, such as gender and disability, add complexity to care relations. These dimensions should be accounted for in the formulation of articles protecting the rights to care and support of older people. This brief provides three reasons why ensuring a full understanding of the right to care and support is key to protecting the rights of older persons.

1. Recognizing the diversity of older persons

Across the world, older persons are more likely to have a disability (DESA). For instance, in 2024, 47.3% of persons aged over 65 in Europe had a disability (Council of the European Union, 2026). A similar analysis with data from 2021 and 2022 from 8 countries in Latin America and the Caribbean found that the disability prevalence was 37.1% among adults 55 years or older (Duryea et al., 2024). In Asia, data from 2021 found that 46.8% of persons 60 years or older had a disability (Yau et al., 2022). Moreover, disability prevalence increases with age, especially among the oldest age groups. For instance, a study in the United States found that the disability prevalence was 71% among 90–94-year-olds, 89% among 95–99-year-olds, and 97% among persons 100 years or older (Berlau et al., 2009). There are factors both lowering and increasing the disability prevalence among older persons. For instance, improved healthcare and prevention measures have reduced the prevalence of certain conditions, yet these same factors can increase overall life expectancy and hence increase the probability of purely age-related functional decline. Therefore, as the population ages, overall disability prevalence is expected to increase.

Indeed, life expectancies have increased across the board, including for people with lifelong disabilities. People with specific types of disabilities that were previously not expected to live past childhood or early adulthood are now reaching and surpassing retirement ages. This is the case for people with conditions such as polio, Down syndrome, and cystic fibrosis, among others (Torr et al., 2010). As the life expectancy of some groups of people with disabilities expands, this creates the need to address their specific care and support needs. Hence, systems to address the needs of older persons should consider the needs of persons who have lived with lifelong disabilities.

At the same time, recognizing the diversity of older persons in establishing a right to care and support also involves recognizing that older persons not only receive care, but are often caregivers themselves. Women live longer on average and often provide care even in older age when they themselves have care and support needs (UN Women). At the same time, parents of aging persons with lifelong disabilities increasingly provide care and support for their children into old age, while at the same time these persons with disabilities may also provide care and support to their parents. Thus, a definition of the right to care and support that encompasses disability and gender can help ensure that the Convention responds to the full diversity of older persons.

2. Consistency with other international and regional human rights frameworks

The Convention should build upon previous international and regional human rights frameworks - and recognize that care and support are already core concepts within international law. For instance, care and support are closely connected to the right to live independently and be included in the community as recognized in the CRPD. Where support is available through institutional settings, older persons may be forced to leave their homes, families, and communities and historically face the risk of loss of autonomy. An expanded definition of the right to care would encourage States to develop a continuum of accessible, affordable, and person-centered support options, including personal assistance, home and community-based services, respite support, assistive technologies, and accessible information, all of which are provided for in the CRPD. It would also recognize the importance of removing environmental and social barriers that create or intensify the need to rely on human care and support. This approach benefits all older persons, including those who require significant support, by promoting participation over segregation. The Convention should be seen as an opportunity to strengthen deinstitutionalization as established by the CRPD. The CRPD also recognizes the right to access in-home, residential and other community support services, including personal assistance, which requires States to develop supports that make living in the community possible and prevent isolation or segregation. Furthermore, the CRPD Committee has subsequently made the connection between the right to independent living and deinstitutionalization explicit: the 2022 Guidelines on Deinstitutionalization are explicitly based on Article 19 and are intended to guide States in planning deinstitutionalization and preventing institutionalization. Importantly, the Committee recognizes that simply replacing large institutions with smaller institutions is not sufficient. In other words, older persons, including older persons with disabilities, should not only have the right to live in their homes. Older persons should also have the right to decide on their care and living arrangements. Respecting their legal capacity requires States to commit to developing services that facilitate community living rather than institutionalization.

Alongside the international human rights standards that already exist, a new convention could potentially build on regional human rights standards. This includes the Protocol to the African Charter on the Rights of Older Persons, which provides some guarantees regarding policies and legislation that

provide incentives to family members who provide home care for older persons, alongside Advisory Opinion No. 31 of the Inter-American Court of Human Rights (AO31).

AO 31 establishes that the right to care constitutes an autonomous human right, essential for a dignified life and rooted in the universal human need for care. The Opinion highlights the collective duty of society and the State to ensure those providing care have the resources, recognition, and working conditions they need, while also guaranteeing that people who require care have the right to receive quality care that is sufficient and appropriate to foster inclusion and and support people in living with dignity. With regard to disability, the Opinion affirms a social model of disability, recognizing that barriers, not conditions, limit equal enjoyment of rights, in line with the CRPD. Accordingly, the Opinion rejects the idea that persons with disabilities and older persons are merely passive recipients of care and affirms their autonomy and decision-making capacity. Care must therefore be based on providing the supports required for independent living, community participation, caregiving, and self-care.

3. Moving towards social models of care and support

Traditional discussions often frame care and support for older persons primarily as a response to dependency. The concept of dependency has been adopted within care policy from the fields of medicine and nursing to describe persons who have long-term medical care needs. As such, dependency-focused policies typically focus on addressing self-care and physical functioning needs, such as eating and bathing, thus largely ignoring the full spectrum of functioning needs, for example, socializing, civic participation, and managing one's finances. Hence, care policies and programs that require evaluations of dependency and design programs to meet dependency-specific needs largely ignore other human support needs that beneficiaries may have (such as human guiding or sign language interpretation). Alongside this, because of the medical origins of the concept and how doctors and nurses are often tasked with making decisions for their patients, dependency is often associated with the denial of legal capacity.

Adopting this medicalized model of care risks reinforcing ageist and ableist assumptions, overlooking the agency of older persons, and excluding the broader range of support people may require to participate fully in society. Moreover, care and human supports shouldn't only satisfy basic functioning

needs; rather, they should be a means for expanding participation in community life and agency. An expanded definition of care and support, informed by the human rights model of disability, can help ensure that the Convention reflects the lived realities of older persons with diverse needs, preferences, and identities.

⏭ Moving forward

The following are key recommendations for the drafting of the right to care within the Older Persons Convention.

1. Recognize the diversity of older persons, including older persons with different types of disabilities, and older persons providing care, living in different contexts and those in different living arrangements.
2. Expand on the right to live at home for as long as possible by recognizing the rights to accessibility, independent living in the community, legal capacity, and promoting deinstitutionalization.
3. Specifically address the needs of older persons with disabilities, distinguishing them from other vulnerable groups of older persons, such as older persons with illnesses.
4. Move away from conceptualizing care needs based on dependency. It's more appropriate to describe persons based on high or low support needs.

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