

**SAN JOSÉ CHARTER ON THE RIGHTS OF OLDER PERSONS IN  
LATIN AMERICA AND THE CARIBBEAN**

*We, the representatives of the Governments gathered in San José, Costa Rica, from 8 to 11 May 2012 at the Third Regional Intergovernmental Conference on Ageing in Latin America and the Caribbean,*

*Determined* to identify the key actions relating to the human rights and social protection of older persons in Latin America and the Caribbean,

*Aware* that age continues to be an explicit and symbolic basis for discrimination which affects the exercise of all human rights in old age and that older persons require special attention from the State,

*Expressing concern* over the dispersion of measures to protect the rights of older persons at the international level, which hinders their implementation and results in a lack of protection at the national level,

*Convinced* that it is essential to take additional steps to protect the civil, political, economic, social and cultural rights of older persons, including the possibility of developing new international instruments,

*Recognizing* that, despite the efforts made by several countries in the region to incorporate greater solidarity into their social protection systems and expand the protection of the human rights of older persons, limitations and exclusions persist, which affects the quality of life and dignity of these persons,

*Having examined* the reports of the special mechanisms of the United Nations Human Rights Council, in particular the thematic study on the realization of the right to health of older persons<sup>1</sup> and the Report on the question of human rights and extreme poverty,<sup>2</sup>

*Guided* by the general comments of the Committee on Economic, Social and Cultural Rights, which cover issues of special concern to older persons,<sup>3</sup> General Recommendation No. 27 of the Committee on the Elimination of Discrimination against Women and General Comment No. 2 of the Committee against Torture,

*Endorsing* the conclusions and recommendations arising from the meetings held in follow-up to the Brasilia Declaration between 2008 and 2010; the International meeting to monitor implementation of the Brasilia Declaration and promote the rights of older persons held in 2011; and the International Forum on the rights of older persons held in 2012,

*Expressing* satisfaction at the creation of the Open-ended Working Group on Ageing, which was established by the United Nations General Assembly under resolution 65/182 of 21 December 2010, and bearing in mind the conclusions of its first and second meetings held in 2011,

*Recognizing* the systematic work carried out by the Economic Commission for Latin America and the Caribbean (ECLAC), through the Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, to support the countries of the region in incorporating ageing into their development agendas, and expressing appreciation for the support provided by the United Nations Population Fund (UNFPA) and the Pan American Health Organization (PAHO),

*With the firm determination* to adopt measures at every level to gradually expand the coverage and quality of social protection systems, including social services for an ageing population, and implement actions designed

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<sup>1</sup> See document A/HRC/18/37, 2011.

<sup>2</sup> See document A/HRC/17/34, 2011.

<sup>3</sup> General Comment No. 6 on the economic, social and cultural rights of older persons, 1995; No. 14 on the right to the highest attainable standard of health (art. 12), 2000; No. 19 on the right to social security (art. 9), 2008; and No. 20 on non-discrimination and economic, social and cultural rights (art. 2), 2009.

to strengthen protection of the human rights and fundamental freedoms of older persons, without any discrimination,

*Having considered* the documentation prepared by the secretariat of the Economic Commission for Latin America and the Caribbean for this Conference, and welcoming the conclusions and proposals presented in the document entitled *Ageing, solidarity and social protection: time for progress towards equality*,<sup>4</sup>

1. *Reaffirm* the commitment expressed in the Brasilia Declaration to spare no effort to promote and protect the human rights and fundamental freedoms of all older persons, to work to eradicate all forms of discrimination and violence and to create networks for the protection of older persons with a view to the effective exercise of their rights;
2. *Support* the work of the Open-ended Working Group on Ageing and urge it to consider the feasibility of an international convention on the rights of older persons, and support the Working Group on Protecting the Human Rights of Older Persons of the Organization of American States so that it can make progress in developing an inter-American convention;
3. *Request once again* that the member countries of the United Nations Human Rights Council consider, at the earliest opportunity, the possibility of appointing a special rapporteur responsible for the promotion and protection of the human rights of older persons;
4. *Recognize* that access to justice is an essential human right and the fundamental instrument for guaranteeing that older persons are able to exercise and effectively defend their rights;
5. *Affirm* that the political, public and social participation of older persons is a fundamental human right, as well as respect for their autonomy and independence in decision-making;
6. *Declare* that we will strengthen actions designed to increase the protection of human rights at the national level and undertake to:
  - (a) Adopt appropriate legislative, administrative and other measures which guarantee differential, preferential treatment of older persons in all spheres and prohibit all forms of discrimination against them;
  - (b) Strengthen the protection of the rights of older persons by enacting special laws for the protection of such rights or updating existing laws, including institutional and civic measures which guarantee their full implementation;
  - (c) Give priority and preferential treatment to older persons in the processing, resolution and implementation of decisions taken in administrative and legal proceedings, as well as in the services and benefits provided by the State;
  - (d) Adopt affirmative action which complements the legal system and promotes the social integration and development of older persons;
  - (e) Develop public policies and programmes designed to raise awareness of the rights of older persons, including the promotion of their treatment with dignity and respect and a positive, realistic image of ageing;

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<sup>4</sup> See document LC/L.3451(CRE.3/3), April 2012.

(f) Guarantee and provide the necessary resources to ensure access to information by older persons and the dissemination of their rights;

(g) Guarantee also the right of older persons to participate in civil society organizations and in councils, as well as in the formulation, implementation and monitoring of policies which affect them;

7. *Agree* to improve social protection systems so that they effectively meet the needs of older persons by promoting the following actions:

*Social security*

(a) Promote the universalization of the right to social security, based on country-specific opportunities;

(b) Guarantee the long-term sustainability of contributory and non-contributory pension schemes, based on country-specific opportunities;

(c) Ensure that social security programmes are complemented with other social policies, in particular the provision of health care and housing;

*Health*

(d) Promote the universalization of the right of older persons to health;

(e) Design and implement policies on comprehensive preventive health care, with emphasis on gerontology and an interdisciplinary approach, in particular by means of primary care including rehabilitation services;

(f) Implement models of multi- and interdisciplinary care in geriatrics and gerontology at different levels of health care in order to meet the needs of older persons;

(g) Facilitate preferential access to medicines, equipment, assistive devices and comprehensive rehabilitation services to promote the independence of older persons, based on country-specific opportunities;

(h) Ensure the right to free and informed prior consent for any medical intervention, regardless of age, health or treatment, in order to promote the autonomy of older persons;

(i) Promote the development of and access to palliative care to ensure that older persons with terminal illnesses die with dignity and free of pain;

(j) Protect, by means of mechanisms for regular monitoring and supervision, the rights and dignity of older persons who live in public or private care institutions or medical facilities;

(k) Promote the training of human resources in geriatrics and gerontology at all levels of care;

(l) Implement human-rights based training programmes for health teams at all levels of care, carers and persons working in institutions which work with older persons;

(m) Design policies to implement programmes which deal effectively with communicable and non-communicable diseases;

(n) Formulate and adapt the legal frameworks, protocols and mechanisms to human rights instruments in order to protect the dignity of older persons living in public or private institutions or medical facilities;

### *Social services*

- (o) Create and guarantee the necessary social services to provide care for older persons taking into account their specific characteristics and needs and to promote their independence, autonomy and dignity;
  - (p) Develop home-care services to complement institutional care and enable older persons to remain in their own homes and retain their independence, based on country-specific opportunities;
  - (q) Design permanent measures to provide support for families by introducing special services, especially for people who care for older persons;
  - (r) Promote initiatives to achieve a work-life balance as a strategy for improving the capacity of families to provide care;
  - (s) Guarantee that older persons living alone have access to formal support which is complemented by means of informal networks;
  - (t) Create forums for intersectoral coordination by including work in integrated networks which generate comprehensive, progressive care plans for older persons;
  - (u) Include in the operational plans of State institutions activities involving coordination and cooperation with organizations for older persons;
  - (v) Guarantee that older persons are given every facility to obtain their identity documents;
  - (w) Guarantee also differentiated, preferential treatment of older persons with neurodegenerative diseases in both public and private institutions, including day, specialized and long-stay centres;
  - (x) Promote actions designed to pay particular attention to the situation of migrant older persons to facilitate access to services and benefits in communities of origin, transit and destination;
  - (y) Guarantee respect for the human rights of older persons who are deprived of liberty;
8. *Promote* fulfilment of the right of older persons to work and have access to income-generating activities by means of the following actions:
- (a) Promote the development of measures designed to ensure equal treatment and equal opportunities, especially with regard to working conditions, guidance and training at all levels, in particular equality in vocational training and job placement;
  - (b) Adopt active employment policies that promote the participation or re-entry of older workers in the labour market, based on country-specific opportunities;
  - (c) Promote legal reforms and economic incentives to enable older persons to continue working beyond the retirement age, in accordance with their capacity, experience and preferences, including measures such as gradually reducing the working day, part-time employment and flexible hours;
  - (d) Disseminate information on the right to retire, preparations for retirement and its advantages, as well as on the possibilities of other vocational or voluntary activities;

- (e) Promote entrepreneurship and access to credit;
9. *Reject* any type of abuse of older persons and undertake to work to eradicate it by:
- (a) Implementing policies and procedures to prevent, punish and eradicate any type of abuse or ill-treatment of older persons, including penalizing those responsible;
  - (b) Establishing mechanisms for prevention and supervision and strengthening legal mechanisms in order to prevent any type of violence against older persons;
  - (c) Guaranteeing special protection of older persons who, because of their gender identity, sexual orientation, state of health or disability, religion, ethnic origin, homelessness or other conditions of vulnerability, are at greater risk of being abused;
  - (d) Providing older persons with access to legal remedies to protect them against property exploitation;
10. *Seek* to improve the living conditions and environment of older persons to strengthen their autonomy and independence by:
- (a) Making every effort to ensure that older persons enjoy adequate housing and are given high priority in the assignment of housing or land, particularly in situations of crisis, emergency, displacement or development-based evictions;
  - (b) Ensuring that older persons live in a secure, healthy environment and have access to transport facilities and services;
  - (c) Creating and retrofitting age-friendly, safe public spaces thereby guaranteeing accessibility for older persons by eliminating architectural barriers;
11. *Reiterate* our conviction that older persons should enjoy the right to education and continuous learning and therefore undertake to:
- (a) Promote active policies to combat illiteracy among older women and men;
  - (b) Facilitate older persons' access to and active participation in recreational, cultural and sporting activities promoted by public or private organizations, associations and institutions;
  - (c) Implement educational programmes which enable older persons of different ethnic and other groups to share their knowledge, culture and values, taking into account the intercultural approach;
  - (d) Promote the incorporation of the issue of ageing and old age in curricula at all levels, from the earliest age;
  - (e) Promote actions to guarantee access by older persons to information and communications technologies, in order to reduce the technological divide;
12. *Emphasize* the obligations of States relating to ageing with dignity and rights, especially their duty to eradicate the multiple forms of discrimination which affect older persons, with particular emphasis on gender-based discrimination, by:

- (a) Preventing, punishing and eradicating all forms of violence against older women, including sexual violence;
  - (b) Promoting recognition of the role that older persons play in the political, social, economic and cultural development of their communities, with special emphasis on older women;
  - (c) Ensuring the involvement and equal participation of older women and men in the design and implementation of policies, programmes and plans concerning them;
  - (d) Guaranteeing equal access of older women and men to social security and other social protection measures, particularly when they do not enjoy retirement benefits;
  - (e) Protecting the inheritance rights of older widows, especially rights relating to property and possession;
13. *Draw attention* to the vulnerability of older persons in emergency situations and following natural disasters and undertake to work to:
- (a) Include priority, preferential assistance for older persons in disaster relief plans;
  - (b) Prepare national guidelines that include older persons as a priority group given preferential treatment in disaster preparedness, relief worker training and the availability of goods and services;
  - (c) Give priority and preferential treatment to the needs of older persons during post-emergency or post-conflict reconstruction;
14. *Propose* the following measures with the aim of strengthening public institutions working on behalf of older persons:
- (a) Revise existing policies to ensure that they promote intergenerational solidarity and social cohesion;
  - (b) Strengthen the administrative powers and competencies of and inter-agency links between public bodies working on behalf of older persons;
  - (c) Promote the design and implementation of public policies and programmes to strengthen institutions responsible for older persons;
  - (d) Prepare five- or ten-year plans to define priorities and strategies for action;
  - (e) Guarantee the effective provision of the necessary resources and budgets to carry out the activities that should be undertaken by institutions working on behalf of older persons;
  - (f) Strengthen the technical capacity of public institutions responsible for older persons by providing training for their teams and bringing them up to date and facilitate the sustainability and permanence of specialized human resources;
  - (g) Carry out regular evaluations of programmes, projects and services for older persons which are implemented by institutions;
  - (h) Guarantee the participation of older persons in institutional consultation and accountability processes;

- (i) Promote horizontal cooperation through the sharing of experiences among institutions in the countries of the region;
  - (j) Implement a system of specific indicators and information to serve as a frame of reference for the follow-up and evaluation of the situation of older persons at the national level;
15. *Request* the Executive Secretary of ECLAC to continue promoting the adoption of measures to intensify the activities carried out by the United Nations in the area of ageing; request also that the Commission continue providing technical support to the countries of the region in their efforts to increase human rights protection for older persons and strengthen social protection systems;
  16. *Request* the Chair of the Presiding Officers of this Conference to convene a future working session to review the progress made concerning this Charter and to present the outcomes of this Conference and its follow-up to the ECLAC sessional Ad Hoc Committee on Population and Development;
  17. *Resolve* that this San José Charter on the rights of older persons in Latin America and the Caribbean will constitute the contribution of Latin America and the Caribbean to the fifty-first session of the Commission for Social Development of the United Nations Economic and Social Council, which will be held in February 2013;
  18. *Decide* that the next Regional Intergovernmental Conference on Ageing will be called the Regional Intergovernmental Conference on Ageing and the Rights of Older Persons in Latin America and the Caribbean;
  19. *Commend* the Government of Costa Rica for its invaluable contribution to this Third Regional Intergovernmental Conference on Ageing in Latin America and the Caribbean.