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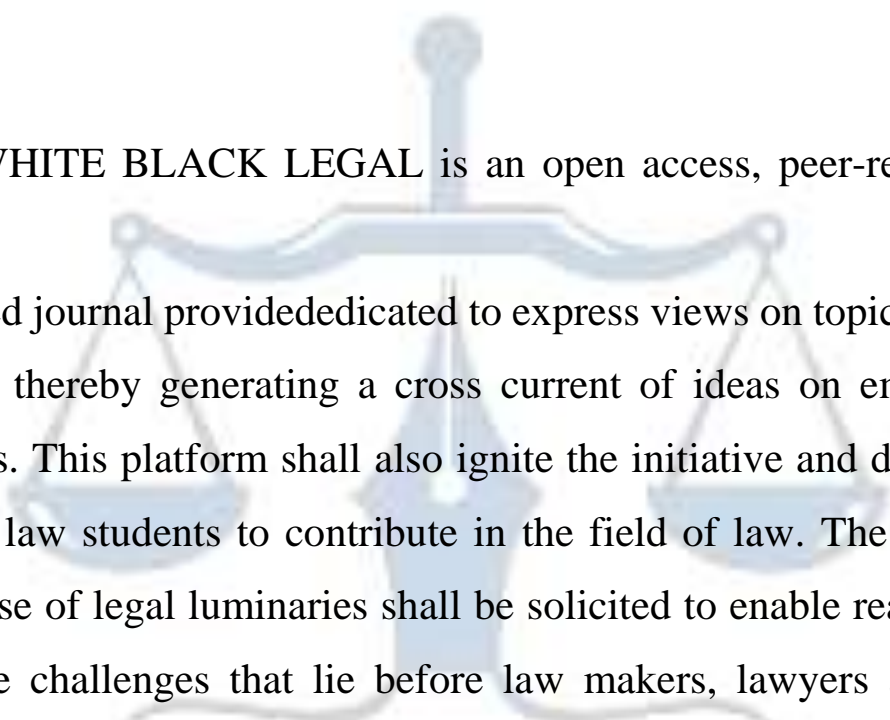


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## ***ABOUT US***



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **"AGING WITH DIGNITY: AN ANALYSIS OF GLOBAL LEGAL INSTRUMENTS FOR THE PROTECTION OF SENIOR CITIZENS"**

AUTHORED BY - ISBAH QURESHI<sup>1</sup>

## **Abstract**

As global aging intensifies, the need for a robust legal framework to protect the rights of senior citizens has become increasingly urgent. This paper begins its analysis with the International Bill of Human Rights, which forms the foundation of universal human rights protections and sets the stage for more specific legal instruments addressing the unique needs of older persons. Following this, the paper delves into key United Nations (UN) documents, including the United Nations Principles for Older Persons (1991), which outlines essential rights such as independence, care, and dignity. The Madrid International Plan of Action on Ageing (MIPAA) and its precursor, the Vienna International Plan of Action on Ageing (VIPAA), are examined for their effectiveness in promoting global standards for elder care, social security, and protection from abuse. The paper also explores the intersection of aging and disability through the lens of the Convention on the Rights of Persons with Disabilities (CRPD), 2008, highlighting the inclusive approach necessary for elderly persons with disabilities. By assessing the strengths and shortcomings of these international instruments, the analysis underscores the need for a more binding global convention to ensure that the aging population enjoys comprehensive legal protection, dignity, and respect worldwide.

**Keywords:** Aging Population, CRPD, Human Rights, MIPAA, Senior Citizens

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## 1. Introduction

There has been a significant change portrayed by a phenomenal expansion in the maturing population globally. This shift carries with it a large group of difficulties and open doors, noticeably among them being the basic to address the prosperity of people as they explore their later years. Aging is a universal phenomenon, rising above boundaries and societies, and thusly, requests a comprehensive way to deal with address the multi-layered elements of the older experience.<sup>2</sup> The protection of human rights became a concern in the international community during the first half of the 20th century after the destruction caused by the two world wars. Human rights were perceived as the inalienable and inherent rights of all human beings, regardless of sex, religion, nationality, ethnic origin, age, or any other status. Human rights are considered by definition to be universal—they are formulated as being equally applicable to any corner of the world. Human rights are illuminated in different global instruments delivered under the support of the United Nations (UN), the Universal Declaration of Human rights and Bill of Rights being the most powerful and significant Office of the High Commissioner for Human Rights (OHCHR 2011).<sup>3</sup> All individuals are conceived free and equivalent in respect and rights. Common freedoms – like the privilege to life - are innate and natural in individuals basically by the reality of their being human. People and gatherings can't wilfully surrender their common freedoms nor would others be able to remove them.<sup>4</sup>

Although numerous documents and treaties refer to rights that have specific bearing to the senior citizens, no comprehensive and complete international instrument subsists that thoroughly attends to the specific needs of and required protections for the senior citizens. Numerous instruments exist that perceive explicit privileges, thus clearly applying to the senior citizens.<sup>5</sup>

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<sup>2</sup> Aastha Agnihotri, 'Aging with Dignity: Exploring the Imperative of Universal Social Pension' (2023) 1 *International Journal of Applied and Scientific Research* 402.

<sup>3</sup> Marthe Fredvang and Simon Biggs, 'The Rights of Older Persons: Protection and Gaps Under Human Rights Law' (2012) 8 *The Centre for Public Policy*.

<sup>4</sup> *The Universal declaration of human rights*, 1948, art.1

<sup>5</sup> Jaclynn M. Miller, "International human rights and the elderly" 11 *Marquette Elders Advisor* 347 (2010)

## **2. Protection of older persons in the existing international human rights instruments**

### **2.1. The International Bill of Rights**

The human rights of all people, including older persons are implicit in the Bill of Rights:

#### **2.1.1. Universal Declaration of Human rights**

The horrendous mishaps of the Second World War brought home that human rights are not always universally respected. In 1948, representatives from the 50 member states of the United Nations came together under the leadership of Eleanor Roosevelt (First Lady of the United States 1933-1945) to plan a listing of all the human rights that everyone across the globe should enjoy. On 10 December 1948, the General Assembly of the United Nations announced the Universal Declaration of Human Rights (UDHR) - 30 rights and freedoms that belong to all of us. Seven decades on and the rights they included continue to form the basis for all international human rights law. The UDHR marked an important shift by daring to say that all human beings are free and equal, regardless of colour, creed or religion. For the first time, a global agreement put human beings, not power politics, at the core of its plan.<sup>6</sup>

While the UDHR itself does not explicitly address aging, its principles and rights have significant implications for the well-being and rights of older persons. Here are some ways in which the UDHR relates to aging:

A. *Right to Life, Liberty, and Security:* The UDHR asserts the right to life, liberty, and security of person. This principle is fundamental to protecting older persons from abuse, neglect, and any form of violence. It emphasizes the need for safeguarding the well-being and security of seniors.<sup>7</sup>

B. *Freedom from Discrimination:* UDHR prohibits discrimination on various grounds, including age. This means that older persons are entitled to the same rights and freedoms as everyone else, without any form of age-based discrimination. Ensuring equal treatment for seniors is crucial for their dignity and well-being.<sup>8</sup>

i. *Right to Work and Social Protection:* UDHR recognizes the right to work, just and favourable conditions of work, and social protection. As individuals age, these rights become particularly important to ensure that

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<sup>6</sup> Amnesty International, 'Universal Declaration of Human Rights' <https://www.amnesty.org.uk/universal-declaration-human-rights-UDHR> accessed 19 November 2023.

<sup>7</sup> *Universal Declaration of Human Rights* (1948) art.3

<sup>8</sup> *Universal Declaration of Human rights* (1948) art 2

older persons have access to suitable employment opportunities, social security, and protection against poverty and homelessness.<sup>9</sup>

- ii. *Right to Health:* Article 25 of the Universal Declaration of Human Rights covers a wide range of rights, including those to adequate food, water, sanitation, clothing, housing and medical care, as well as social protection covering situations beyond one's control, such as disability, widowhood, unemployment and old age. Mothers and children are singled out for special care. This Article is an effort to secure freedom from want, in light of U.S. President Franklin Roosevelt's celebrated vision of four freedoms. In a speech in 1941, he anticipated a world established upon four essential human freedoms: the freedom of speech and expression, the freedom to worship God in his own way, freedom from want and freedom from fear. After Roosevelt's demise and the finish of World War II, his widow Eleanor frequently alluded to the four freedoms as top of the panel drafting the UDHR. The phrase "freedom from fear and want" appears in the Preamble to the UDHR, and Article 25 tells us what that should look like.<sup>10</sup>

*Article 25(1) of UDHR says that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."<sup>11</sup> Although it is technically a declaration, the UDHR (part of the Bill of Rights) is generally considered customary law, and thus legally binding.<sup>12</sup>*

- iii. *Right to Education:* While commonly associated with children, the right to education is not limited by age in the UDHR. Lifelong learning opportunities contribute to the well-being of

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<sup>9</sup> *Universal Declaration of Human Rights* (1948) art 23

<sup>10</sup> United Nations, 'Universal Declaration of Human Rights at 70: 30 Articles on 30 Articles - Article 25' <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23970&LangID=E#:~:text=Article%2025%20of%20the%20Universal,widowhood%2C%20unemployment%20and%20old%20age>> accessed 22 August 2024

<sup>11</sup> United Nations, *Universal Declaration of Human Rights* <<https://www.un.org/en/universal-declaration-human-rights>> accessed 19 November 2023.

<sup>12</sup> *Universal Declaration of Human Rights* (1948) art 25(1) <<https://www.un.org/en/universal-declaration-human-rights>> accessed 1 September 2024

older persons by fostering personal development and enabling them to actively participate in society.<sup>13</sup>

iv. *Right to Participate in Government*: The right to participate in the government is essential for seniors to have a voice in decision-making processes that affect them. This includes policies related to healthcare, social services, and other issues relevant to the aging population.<sup>14</sup>

v. *Freedom of Thought, Conscience, and Religion*: This right emphasizes the autonomy and dignity of individuals, including older persons, to make decisions about their beliefs, values, and preferences, especially in the context of healthcare and end-of-life choices.<sup>15</sup>

Several major treaties, ratified by more than 100 countries, trace their origins to the UDHR. They include, in chronological order:

- The International Convention on the Elimination of Racial Discrimination (1965).
- The International Covenant on Economic, Social and Cultural Rights (1966).
- The International Covenant on Civil and Political Rights (1966).
- The Convention on the Elimination of All Forms of Discrimination against Women (1979).
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).
- The Convention on the Rights of the Child (1989).<sup>16</sup>

While the UDHR does not specifically address aging, its principles are applicable across the lifespan, promoting dignity, equality, and the protection of basic human rights for individuals at all stages of life, including the elderly. The UDHR provides a solid foundation for addressing the rights and well-being of older persons in a comprehensive and inclusive manner.<sup>17</sup>

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<sup>13</sup> *Universal Declaration of Human Rights* (1948) art.26

<sup>14</sup> *Universal Declaration of Human Rights* (1948) art.21

<sup>15</sup> *Universal Declaration of Human Rights* (1948) art.18

<sup>16</sup> Welch, 'The Universal Declaration of Human Rights: A Landmark Document' (University at Buffalo, 2015) <[http://www.buffalo.edu/ubnow/stories/2015/12/qa\\_welch\\_udhr.html#:~:text=It%20has%20become%20a%20touchstone,significance%20matched%20by%20few%20documents](http://www.buffalo.edu/ubnow/stories/2015/12/qa_welch_udhr.html#:~:text=It%20has%20become%20a%20touchstone,significance%20matched%20by%20few%20documents)> accessed 28 December 2023.

<sup>17</sup> United Nations, *Universal Declaration of Human Rights* <https://www.un.org/en/about-us/universal-declaration-of-human-rights> accessed 8 March 2024.

## 2.1.2. International Covenant on Economic, Social and Cultural rights

### *Work related rights*

Article 6 of ICESCR:

Article 6 of the ICESCR provides that State parties recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.<sup>18</sup> Article 6 of the Covenant requires States parties to take appropriate steps to safeguard the right of everyone to the opportunity to gain a living by work which is freely chosen or accepted. In this regard, the Committee, bearing in mind that older workers who have not reached retirement age often encounter problems in finding and keeping jobs, stresses the need for measures to prevent discrimination on grounds of age in employment and occupation.<sup>19</sup>

Article 7 of ICESCR:

Article 7 of the ICESCR provides that the States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
  - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
  - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.<sup>20</sup>

The right to work also provides some good examples of the justiciability of duties of immediate effect. The prohibition of discrimination, the prohibition of forced labour, the right to fair

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<sup>18</sup> *The International covenant on Economic, Social and Cultural rights*, art.6.

<sup>19</sup> Israel Doron and Kate Mewhinney (eds.), *The Rights of Older Persons: Collection of International documents* 78 (Tuvia Mendelson, Eshel, Jerusalem, 2007)

<sup>20</sup> *The International covenant on Economic, Social and Cultural Rights*, art.7.

remuneration, and the right to enjoy conditions of work compatible with human dignity are duties of immediate effect. The African Commission on Human and Peoples' Rights has considered that even positive obligations to detect and eradicate practices that violate these rights represent immediate duties established by the African Charter on Human and Peoples' Rights, regardless of the wealth of the country involved. In an important decision involving a low-income country (Mauritania), where allegations were made regarding large scale slave labour, the African Commission stated that:

*“Independently from the justification given, by the defendant State, the Commission considers, in line with the provisions of Article 23(3) of the Universal Declaration of Human Rights, that everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. These provisions are complemented by those of Article 7 of the International Covenant on Economic, Social and Cultural Rights. In view of the foregoing, the Commission deems that there was a violation of Article 5 of the Charter due to practices analogous to slavery, and emphasises that unremunerated work is tantamount to a violation of the right to respect for the dignity inherent in the human being. It furthermore considers that the conditions to which the descendants of slaves are subjected clearly constitute exploitation and degradation of man; both practices condemned by the African Charter.”<sup>21</sup>*

#### *Rights to social security*

Article 9 of the ICESCR provides that the States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.<sup>22</sup>

A systematic research reveals that quite a number of other international human rights instruments incorporate norms which deal with the right to social security including senior citizens. Among them are Article 5(e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination; Article 11(1)(e) of the Convention on the Elimination of All Forms of Discrimination against Women; Article 16 of the American Declaration of the Rights and Duties of Man; and Articles 12, 13 and 14 of

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<sup>21</sup> African Commission on Human and Peoples' Rights, *Malawi African Association and Others v. Mauritania*, Comm. Nos. 54/91, 61/91, 98/93, 164/97-196/97 and 210/98 (2000), May 11, 2000, para. 135

<sup>22</sup>*The International covenant on Economic, Social and Cultural Rights*, art.9.

the European Social Charter.<sup>23</sup>

*Right to an adequate standard of living*

Article 11 of the ICESCR provides that the

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.<sup>24</sup>

The right to an adequate standard of living is included in several other human rights treaties. Under Article 14 CEDAW, 'States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas to ensure the right to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications'. The CERD recognises the right of everyone, without distinction as to race, colour, or national or ethnic origin, to enjoy, inter alia, the right to housing, and the right to social security and social services. Article 28 CRPD sets out the right to an adequate standard of living and social protection.<sup>25</sup>

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<sup>23</sup> Francesco Seatzu, "The right to social security under article 9 of the international covenant on economic, social and cultural rights", 192 (Chinese (Taiwan) Y.B. Int'l L. & Aff. (2010))

<sup>24</sup> *The International covenant on Economic, Social and Cultural Rights*, art.11.

<sup>25</sup> Human Rights Institute, *The Right to an Adequate Standard of Living* <<https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/substantive-human-rights/the-right-to-an-adequate-standard-of-living>> accessed 27 February 2024.

*Right to the highest attainable standard of physical and mental health*

Article 12 of the ICESCR provides that

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
  - (b) The improvement of all aspects of environmental and industrial hygiene;
  - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
  - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.<sup>26</sup>

The U.N. Committee on Economic, Social, and Cultural Rights explains that, as with all human rights, the right to health levies three levels of obligations: to respect, protect, and fulfil those rights. “The obligation to respect the right to health requires States to refrain from interfering directly or indirectly with the enjoyment of the right to health. The obligation to protect requires States to take measures that prevent third parties (e.g. private parties, corporations, or other states) from interfering” with the enjoyment of the right to health. The obligation to fulfil requires them “to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures” to fully realize the right to health, including making available essential and minimum levels of health facilities, goods and services, and request assistance from other States, civil society and humanitarian organizations. The right to health is not a right to be healthy, but rather a right to the highest attainable standard of health; individuals’ socioeconomic and biological preconditions, genetics, susceptibility to illness, and practice of risky or unhealthy lifestyles are important factors. The Human Rights Committee views the “minimum essential level” of realization of the right to health as states parties’ core obligation to ensure include at least: access to health services, facilities and goods; freedom from hunger; access to an adequate supply of safe water, basic shelter, and sanitation; provision of essential drugs; fair distribution of these items; and adoption and implementation of an evidence-based national public health plan and strategy that includes monitoring with indicators and

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<sup>26</sup> *The International Covenant on Economic, Social and Cultural Rights*, art.12.



benchmarks.<sup>27</sup>

*Right to education*

Article 13 of the ICESCR provides that the

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or

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<sup>27</sup> Carol Castleberry, "A human right to health: is there one and, if so, what does it mean?" 10 *Intercultural human rights law review* 194-195 (2015)

approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.<sup>28</sup>

### **2.1.3. International covenant on Civil and Political Rights**

In the ICCPR, ‘participation rights’ of special concern for older persons are the commitment of states to ensure freedom of expression, assembly and association (Articles 18–19, 21).<sup>29</sup>

Article 18 of ICCPR provides that

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.<sup>30</sup>

Article 19 of ICCPR provides that

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or

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<sup>28</sup> *The International Covenant on Economic, Social and Cultural Rights*, art.13.

<sup>29</sup> Marthe Fredvang and Simon Biggs, “The rights of older persons: Protection and gaps under human rights law” *The centre for public policy* 10 (2012)

<sup>30</sup> *The International Covenant on Civil and Political Rights*, art.18.

through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.<sup>31</sup>

Article 21 of ICCPR provides that the right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.<sup>32</sup>

Article 25 of ICCPR recognizes the right of all to participate in the affairs of their own country.<sup>33</sup> Article 26 states ‘All persons are equal before the law and are entitled without any discrimination to the equal protection of the law’.<sup>34</sup> The article includes race, colour, sex, language, religion, origin ‘or other status’ as prohibited grounds of discrimination. In this article, there is no explicit mention of ‘Age’, yet it might be said to be included in the term ‘and other status’.

At last, ICCPR encodes another key right which has a significance for senior citizens in their commitment with the state, that of recognition as a person before the law.<sup>35</sup> However, older people often struggle to assert their legal identity through lack of papers or documentation, especially in developing countries. Consequently, they are unable to access services to which they are entitled - indeed, one of the objections some governments have raised to state pension provision is that a lack of birth records opens up such schemes to the possibility of widespread fraud - as well as participate fully in political processes.<sup>36</sup>

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<sup>31</sup> *The International Covenant on Civil and Political Rights*, art.19.

<sup>32</sup> *The International Covenant on Civil and Political Rights*, art.21.

<sup>33</sup> *The International Covenant on Civil and Political Rights*, art.25.

<sup>34</sup> *The International Covenant on Civil and Political Rights*, art.26.

<sup>35</sup> *The International Covenant on Civil and Political Rights*, art.16.

<sup>36</sup> Lindsay Judge, “The Rights of Older People: International Law, Human Rights Mechanisms and the Case for New Normative Standards” 8 (2008)

## **2.2. Vienna International Plan of Action on Aging (VIPAA)**

The World Assembly on Ageing adopted the Vienna International Plan of Action on Ageing in the year 1982. This was the first UN human rights instrument on ageing. This document was endorsed by the UN General Assembly in Resolution 37/51. It contained 62 recommendations aimed at strengthening the capacities of states to deal effectively with senior populations. The Vienna Plan included recommendations for the assistance and protection of the senior citizens. The main concerns of the Plan were issues related to health and nutrition, protection of senior citizens consumers, housing, social welfare, family, income security, unemployment, and education.<sup>37</sup>

The progress of the implementation of VIPAA was assessed four times since its adoption in 1982: in 1985, 1989, 1993 and, lastly, in 1997. The first review and assessment in 1985 identified growing awareness of issues of ageing and increasing commitment on the part of governments in both developed and developing countries to pursue the necessary policy measures. The second review and appraisal in 1989 revealed obvious progress in a few parts of the world, yet that progress was not recognized as sufficient for changing the global assessment: 'while the world's population continued to age with increasing rapidity and awareness of the phenomenon continued to grow, policies and programmes in response had grown little. Four years later, in 1993, the third review and appraisal concluded that translating the growing awareness of the consequences of ageing into action-oriented policies and programmes had remained difficult. The last review and appraisal of VIPAA, which was conducted in 1997, had determined that the population over 60 had grown dramatically, yet the response had been minimal at best, and that progress in implementing VIPAA remained modest.

Governments reported several factors underlying the limited progress in implementing the VIPAA: the lack of financial resources owing to economic difficulties in developing countries, countries with economies in transition and particularly in countries in armed conflict and those hit by natural disasters; the low priority given to age-related concerns in countries where the proportion of the ageing population was relatively small; the shortage of government staff in most developing countries; the absence of a well-defined body to manage ageing issues

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<sup>37</sup> United Nations, *Report of the World Assembly on Ageing, Vienna, 26 July-6 August 1982* (U.N. Sales No. E.82.1.16, 1982) <<http://www.un.org/esa/socdev/ageing/ageipaa3.htm>> accessed 20 November 2023.

and/or the lack of coordination between agencies at different levels in the government hierarchy; and the lack of expertise in policy-making. It was also perceived that the VIPAA lacked concrete and refined recommendations and carried no convincing appeal to other stakeholders such as NGOs, the private sector and the media. Limited progress in implementing the VIPAA was one of the impelling motives of convening the Second World Assembly on Ageing. In May 2000 the UN General Assembly decided to convene the Second World Assembly on Ageing in 2002, on the occasion of the twentieth anniversary of the first World Assembly on Ageing held at Vienna, to be devoted to the overall review of the outcome of the first World Assembly, as well as to the adoption of a revised plan of action and a long term strategy on ageing, encompassing its periodic reviews, in the context of a society for all ages.<sup>38</sup>

### **2.3. United Nations Principles for Older Persons**

The General Assembly resolution 46/91 of 16 December 1991 adopted the United Nations Principles for Older Persons. Governments were urged to integrate them into their public projects whenever the situation allows. There are 18 principles, which can be grouped under five themes: independence, participation, care, self-fulfilment and dignity.<sup>39</sup>

#### **Independence**

1. Older persons should have access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support and self-help.
2. Older persons should have the opportunity to work or to have access to other income-generating opportunities.
3. Older persons should be able to participate in determining when and at what pace withdrawal from the labour force takes place.
4. Older persons should have access to appropriate educational and training programmes.
5. Older persons should be able to live in environments that are safe and adaptable to personal preferences and changing capacities.
6. Older persons should be able to reside at home for as long as possible.<sup>40</sup>

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<sup>38</sup> Alexandre Sidorenko and Asghar Zaidi, "International Policy Frameworks on Ageing: Assessing Progress in Reference to the Madrid International Plan of Action on Ageing" 16 *The Journal of Social Policy Studies* 146-147 (2018)

<sup>39</sup> United Nations, *United Nations Principles for Older Persons* <https://olderpeople.wales/about/publication-scheme/our-policies/un-principles/> accessed 8 March 2024.

<sup>40</sup> United Nations, *United Nations Principles for Older Persons* (1991) <https://social.un.org/ageing-working-group/documents/fourth/AWAZUNprinciplesforolderpersons.pdf> accessed 8 March 2024.

## **Participation**

7. Older persons should remain integrated in society, participate actively in the formulation and implementation of policies that directly affect their well-being and share their knowledge and skills with younger generations.
8. Older persons should be able to seek and develop opportunities for service to the community and to serve as volunteers in positions appropriate to their interests and capabilities.
9. Older persons should be able to form movements or associations of older persons.

## **Care**

10. Older persons should benefit from family and community care and protection in accordance with each society's system of cultural values.
11. Older persons should have access to health care to help them to maintain or regain the optimum level of physical, mental and emotional well-being and to prevent or delay the onset of illness.
12. Older persons should have access to social and legal services to enhance their autonomy, protection and care.
13. Older persons should be able to utilize appropriate levels of institutional care providing protection, rehabilitation and social and mental stimulation in a humane and secure environment.
14. Older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives.

## **Self-fulfilment**

15. Older persons should be able to pursue opportunities for the full development of their potential.
16. Older persons should have access to the educational, cultural, spiritual and recreational resources of society.

## **Dignity**

17. Older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse.
18. Older persons should be treated fairly regardless of age, gender, racial or ethnic

background, disability or other status, and be valued independently of their economic contribution.<sup>41</sup>

#### **2.4. Madrid International Plan of Action on Aging**

The Second World Assembly on Ageing occurred precisely 20 years later the main in Vienna, Austria, in 1982. The Madrid Assembly was unique from other ongoing UN meetings and culminations, for most have been dedicated either to a 'novel' subject or to a round date commemoration survey of the execution of recently figured out global strategy documents. The Madrid Assembly was organised to develop a revised international policy document on ageing to replace an earlier one – the Vienna International Plan of Action on Ageing.<sup>42</sup>

The Madrid International Plan of Action on Ageing and the Political Declaration adopted at the Second World Assembly on Ageing in April 2002 was seen to mark a turning point in how the world addresses the key challenge of “building a society for all ages”.<sup>43</sup> The adoption of 2002 Madrid International Plan of Action on Ageing provides a roadmap for addressing challenges of an ageing society and realisation of human rights of older persons. The 2030 Agenda also recognises the importance of realizing their full potential and their contribution for inclusive development. The Madrid International Plan of Action adopted at the Second World Assembly on Ageing in 2002 offered a bold new agenda for handling the issue of ageing in the 21st-century.<sup>44</sup> The plan of action which aims to build a society for all ages where “people everywhere are able to age with security and dignity” consists of 18 issues, 35 objectives, and 239 recommended actions that revolve around 3 main priority directions.<sup>45</sup> The 2002 Madrid

International Plan of Action on Ageing (MIPAA) has three priority areas:

- i. Older persons and development (in particular social protection);
- ii. Advancing health and well-being into old age; and

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<sup>41</sup> United Nations, *United Nations Principles for Older Persons*

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/OlderPersons.aspx> accessed 20 November 2023.

<sup>42</sup> Alexandre Sidorenko and Alan Walker, “The Madrid International Plan of Action on Ageing: from conception to implementation”, *Ageing and Society* 148 (Cambridge University Press, 2004)

<sup>43</sup> Ageing Research at Oxford, ‘Forty Years of Global Action on Ageing: What Has Been Achieved? And What Next?’ <<https://www.ageing.ox.ac.uk/blog/Forty-years-of-Global-Action-on-Ageing-what-has-been-achieved>> accessed 27 February 2024.

<sup>44</sup> <https://economictimes.indiatimes.com/topic/Madrid-International-Plan-of-Action> (Last visited on November 20, 2023)

<sup>45</sup> Regional Review Conference, The 4th Review of Madrid International Plan of Action on Ageing in the Arab Region, UNFPA, 1-2 June, 2022

iii. Ensuring enabling and supportive environments.<sup>46</sup>

The Madrid Plan, which replaces the 1982 Vienna Plan, is the first international agreement to commit governments to act on the right to development of older persons. It

- Specifies that ageing can and should be mainstreamed into global development agendas and calls for the right to development for older persons
- Urges governments to include older persons in national development and social policy processes (such as poverty reduction strategies and national development plans)
- Contains detailed sections on growing areas of concern for older people and their families, including HIV/AIDS, violence and abuse, access to health services and social protection
- Calls for effective collaboration and partnership between government, civil society, international agencies and the private sector, and older persons and their organisations, to achieve the Plan's objectives.<sup>47</sup>

MIPAA has perceived population ageing as a 'widespread power that has the ability to shape the future as much as globalization' and approached the global local area to 'embrace the potential of the maturing populace as a reason for future advancement' while review more seasoned people as both recipients and specialists of advancement. As far as individual ageing is concerned, MIPAA has replaced the 'compassionate ageism' prevalent in VIPAA, which regards older people as a 'deserving' group, with the recognition and promotion of their rights to equal treatment and self-determination.<sup>48</sup> MIPAA built upon the work of its predecessor, the Vienna International Plan of Action on Ageing (VIPAA), during the 1st World Assembly on Ageing in 1982. Notably, MIPAA provided a greater focus on developing countries where the pace of population ageing is more rapid. MIPAA has engaged with the major social transformations that characterised the intervening twenty-year period. These differences are reflected in its key priority areas, issues and objectives. At the outset of MIPAA, it was considered necessary to consciously distance this new Plan from VIPAA of 1982, as VIPAA framework had been less geared towards the experiences of developing countries and consequently it did not support their agendas around ageing. In the twenty years between these Plans, however, demographic ageing has taken hold within developing as well as developed

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<sup>46</sup> Asghar Zaidi, "Implementing the Madrid Plan of Action on Ageing: What have we learned? And, where do we go from here?" *UNDP* (2018)

<sup>47</sup> HelpAge International, *Ageing and Development* (12) <<https://www.helpage.org/silo/files/ageing-and-development-12.pdf>> accessed 8 December 2023.

<sup>48</sup> Alexandre Sidorenko, "Adjusting to population ageing: evidence for policy action", 49-50 (*Population Horizons* 2015)



countries, and the accelerated experience of ageing in developing countries now provides an added impetus for their being proactively included in MIPAA. MIPAA, and its predecessor VIPAA, belong to the category of the non-legally binding United Nations documents, which means that national reporting to the United Nations legislative and consultative bodies on their implementation has been voluntary. In both Plans, the monitoring of implementation was ascribed as a periodic bottom-up process: starting at the national, ideally local, level and ascending through the regional (international) level to the global level. Governments play the central role in bringing about the policy reforms and in monitoring and evaluating the progress.<sup>49</sup>

In the UN Secretariat, the Department of Economic and Social Affairs (DESA) has responsibility to foster and assist MIPAA implementation and follow-up. Within DESA, the UN Programme on Ageing assumes the main responsibility for MIPAA and works with other parts of the UN to get the task done. In a very positive movement, the UN Programme of Youth began taking a closer look at MIPAA in 2003, strengthening its approach to inter-generational issues and mainstreaming MIPAA's recommendations. DESA's Program on Aging organizes expert group meetings and promotes awareness of the bottom-up approach through guidelines in order to assist countries in MIPAA follow-up. DESA also receives assessments on the aging situation from regional commissions and makes recommendations to the UN Secretary General for inclusion in a yearly report.<sup>50</sup>

### **2.5. The Convention on the Rights of Persons with Disabilities (CRPD), 2008**

The UN Convention on the Rights of Persons with Disabilities (UNCRPD) is the first international, legally binding instrument setting minimum standards for rights of people with disabilities.<sup>51</sup> The United Nations Convention on the Rights of Persons with Disabilities (CRPD) took effect in 2008.

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and

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<sup>49</sup> Asghar Zaidi, Jane Parry, *et.al.*, "Developing a toolkit to monitor implementation of the Madrid International Plan of Action on Ageing in the context of the Asia-Pacific region" *Social Development Working Paper* (2018)

<sup>50</sup> Madrid International Plan of Action on Ageing Implementation and Follow-up, Sixty-second session (2007)

<sup>51</sup> European Commission, *Social Affairs - Ageing* <https://ec.europa.eu/social/main.jsp?langId=en&catId=1138> accessed 28 November 2023.

to promote respect for their inherent dignity. Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.<sup>52</sup> The convention provides that the State Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health related rehabilitation. In particular, States Parties shall:

- a. Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- b. Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- c. Provide these health services as close as possible to people's own communities, including in rural areas;
- d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- e. Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- f. Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.<sup>53</sup>

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<sup>52</sup> *Convention on the Rights of Persons with Disabilities, 2008*, art.1.

<sup>53</sup> *The Convention on the Rights of Persons with Disabilities, 2008*, art.25

### 3. Conclusion

As the global population continues to age, the need for comprehensive legal frameworks to protect the rights of senior citizens has never been more urgent. This paper has explored the international legal landscape, beginning with the International Bill of Human Rights and examining key United Nations (UN) instruments, including the United Nations Principles for Older Persons, the Madrid International Plan of Action on Ageing (MIPAA), the Vienna International Plan of Action on Ageing (VIPAA), and the Convention on the Rights of Persons with Disabilities (CRPD). While these frameworks lay the foundation for addressing the needs of older persons, significant gaps remain, particularly in terms of enforceable, binding legal protections for the elderly across different nations.

The lack of a dedicated international convention specifically addressing the rights of senior citizens underscores the need for greater global commitment. The challenges facing older individuals—ranging from access to healthcare and social security to protection from discrimination and abuse—demand stronger, coordinated efforts at both international and national levels. This paper advocates for the development of a more cohesive and binding global convention that integrates the rights of senior citizens into the broader human rights agenda, ensuring their dignity, autonomy, and security as they age. Only through such concerted legal measures can we truly ensure that the aging population is afforded the respect and protection it deserves worldwide.

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