

GENERAL ASSEMBLY



FORTY-FIFTH REGULAR SESSION
June 15 to 16, 2015
Washington, D.C.

OEA/Ser.P
AG/doc.5493/15 corr. 1
14 June 2015
Original: Spanish

Item 14 on the agenda

DRAFT RESOLUTION

INTER-AMERICAN CONVENTION ON PROTECTING
THE HUMAN RIGHTS OF OLDER PERSONS^{1/2/3/4/5/6/7/}

(Agreed upon by the Permanent Council at its meeting held on June 9, 2015)

THE GENERAL ASSEMBLY,

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly”;

RECALLING the contents of resolution AG/RES. 2825 (XLIV-O/14), “Draft Inter-American Convention on Protecting the Human Rights of Older Persons” and of all previous resolutions on the same issue;

RECOGNIZING the significant contributions that the members states, the organs, agencies, and entities of the OAS, other regional, international, and United Nations agencies, particularly the Pan American Health Organization, civil society organizations, and other social actors have made to the ongoing process of negotiations; and

CONVINCED of the need for a legally binding regional instrument to protect the human rights of older persons while fostering active ageing in all its dimensions,

-
1. Canada recalls its previous footnotes outlining its reservations on the drafting of the Inter-American Convention on Protecting the Human Rights of Older Persons. Canada is not endorsing ...
 2. The United States has consistently objected to the negotiation of new legally binding instruments on the rights of older persons. We reiterate our longstanding reservations and concerns with that ...
 3. Jamaica: The Convention shall not be interpreted as diminishing the principle of sanctity of life protected under the Universal Declaration of Human Rights, nor as creating a right to die.
 4. The Government of the Republic of Nicaragua, as guarantor of promotion and protection of human rights for all its citizens, has a constitutionally underpinned legal framework that includes ...
 5. The Peruvian Government, in consideration of the importance of the draft Convention, places on record that it is continuing to analyze the economic and other implications that could arise from ...
 6. The Bolivarian Republic of Venezuela promotes, respects, and guarantees the human rights enshrined in inter-American and international law. However, it considers that the organs of the ...
 7. The delegation of Paraguay wishes to state that it will lodge reservations on certain aspects of the Convention on the Human Rights of Older Persons, in keeping with ...

RESOLVES:

To adopt the following Inter-American Convention on Protecting the Human Rights of Older Persons:

**INTER-AMERICAN CONVENTION ON PROTECTING
THE HUMAN RIGHTS OF OLDER PERSONS**

PREAMBLE

The States Parties to the present Convention,

Recognizing that unqualified respect for human rights has been enshrined in the American Declaration of the Rights and Duties of Man and in the Universal Declaration of Human Rights and reaffirmed in other international and regional instruments;

Reiterating the intention of consolidating, within the framework of democratic institutions, a system of individual liberty and social justice founded upon respect for the fundamental rights of persons;

Bearing in mind that, pursuant to the Universal Declaration of Human Rights and the American Convention on Human Rights, the ideal of a free human being, free from fear and poverty can only be achieved if conditions are created that enable each individual to enjoy their economic, social, and cultural rights, as well as their civil and political rights;

Reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent, and interrelated, as well as the obligation to eliminate all forms of discrimination, in particular, discrimination for reasons of age;

Underscoring that older persons have the same human rights and fundamental freedoms as other persons and that those rights, including the right not to be subjected to age-based discrimination nor any form of violence, are rooted in the dignity and equality inherent in all human beings;

Recognizing also that, as a person ages, they should continue to enjoy a full, independent, and autonomous life, health, safety, integration, and active participation in the economic, social, cultural and political spheres of their society;

Recognizing the need to address matters of old age and ageing from a human-rights perspective that recognizes the valuable current and potential contributions of older persons to the common good, to cultural identity, to the diversity of their communities, to human, social, and economic development, and to the eradication of poverty;

Recalling what has been established in the United Nations Principles for Older Persons (1991), the Proclamation on Ageing (1992), and the Political Declaration and Madrid International Plan of Action on Ageing (2002), as well as in such regional instruments as the Regional Strategy for the Implementation in Latin America and the Caribbean of the Madrid International Plan of Action on Ageing (2003), the Brasilia Declaration (2007), the Plan of Action on the Health of Older Persons,

including Active and Healthy Aging (2009) of the Pan American Health Organization, the Declaration of Commitment of Port of Spain (2009), and the San José Charter on the Rights of Older Persons in Latin America and the Caribbean (2012);

Determined to incorporate and prioritize the subject of ageing in public policy, and to raise and allocate the human, material, and financial resources needed to achieve appropriate implementation and evaluation of the special measures undertaken;

Reaffirming the value of solidarity and complementarity in international and regional cooperation to promote the human rights and fundamental freedoms of older persons;

Actively supporting the incorporation of a gender perspective into all policies and programs designed to ensure the effective exercise of the rights of older persons and underscoring the need to eliminate all forms of discrimination;

Convinced of the importance of facilitating the formulation and enforcement of laws and programs to prevent abuse, abandonment, negligence, and mistreatment of and violence against older persons, and of the need to have national mechanisms that protect their human rights and fundamental freedoms;

Convinced also that the adoption of a broad, comprehensive convention will contribute significantly to protecting, promoting, and ensuring the full enjoyment and exercise of the rights of older persons and to fostering an active ageing process in all regards;

Have agreed to sign the following Inter-American Convention on Protecting the Human Rights of Older Persons (hereinafter, the “Convention”).

CHAPTER I PURPOSE, SCOPE, AND DEFINITIONS

Article 1 Purpose and scope

The purpose of this Convention is to promote, protect and ensure the recognition and the full enjoyment and exercise, on an equal basis, of all human rights and fundamental freedoms of older persons, in order to contribute to their full inclusion, integration, and participation in society.

Nothing in this Convention shall be interpreted as placing limits on broader or additional rights or benefits recognized to older persons in international law or the domestic laws of States Parties.

Where the exercise of any of the rights or freedoms referred to in this Convention is not already ensured by legislative or other provisions, States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative and other measures as may be necessary to give effect to those rights or freedoms.

The States Parties may only establish restrictions or limitations on the enjoyment and exercise of the rights established in this Convention by means of laws promulgated for the purpose of preserving the general welfare in a democratic society and only to the extent that they are not incompatible with the purposes and reasons underlying those rights.

The provisions of the present Convention shall apply to all parts of federal States without limitations or exceptions.

Article 2 **Definitions**

For the purposes of this Convention the following definitions shall apply:

“Abandonment”: Lack of action, deliberate or not, to comprehensively care for an older person’s needs, which may jeopardize their life or physical, psychological, or moral integrity.

“Palliative care”: Active, comprehensive, and interdisciplinary care and treatment of patients whose illness is not responding to curative treatment or who are suffering avoidable pain, in order to improve their quality of life until the last day of their lives. Central to palliative care is control of pain, of other symptoms, and of the social, psychological, and spiritual problems of the older person. It includes the patient, their environment, and their family. It affirms life and considers death a normal process, neither hastening nor delaying it.

“Discrimination”: Any distinction, exclusion, or restriction with the purpose or effect of hindering, annulling, or restricting the recognition, enjoyment, or exercise, on an equal basis, of human rights and fundamental freedoms in the political, cultural, economic, social, or any other sphere of public and private life.

“Multiple discrimination”: Any distinction, exclusion, or restriction toward an older person, based on two or more discrimination factors.

“Age discrimination in old age”: Any distinction, exclusion, or restriction based on age, the purpose or effect of which is to annul or restrict recognition, enjoyment, or exercise, on an equal basis, of human rights and fundamental freedoms in the political, cultural, economic, social, or any other sphere of public and private life.

“Ageing”: A gradual process that develops over the course of life and entails biological, physiological, psychosocial, and functional changes with varying consequences, which are associated with permanent and dynamic interactions between the individual and their environment.

“Active and healthy ageing”: The process of optimizing opportunities for physical, mental, and social well-being, participation in social, economic, cultural, spiritual, and civic affairs, and protection, security, and care in order to extend healthy life expectancy and quality of life for all people as they age, as well as to allow them to remain active contributors to their families, peers, communities, and nations. It applies both to individuals and to population groups.

“Abuse”: A single or repeated act or omission to the detriment of an older person that harms their physical, mental, or moral integrity and infringes the enjoyment or exercise of their human rights and fundamental freedoms, regardless of whether or not it occurs in a relationship of trust.

“Negligence”: Involuntary error or unintentional fault, including, *inter alia*, neglect, omission, abandonment, and failure to protect, that causes harm or suffering to an older person, in either the public or the private sphere, in which normal necessary precautions proportional to the circumstances have not been taken.

“Older person”: A person aged 60 or older, except where legislation has determined a minimum age that is lesser or greater, provided that it is not over 65 years. This concept includes, among others, elderly persons.

“Older person receiving long-term care services”: One who resides temporarily or permanently in a regulated, public, private or mixed establishment, which provides quality comprehensive social and health care services, including long-term facilities for older persons with moderate or severe dependency, who cannot receive care in their home.

“Integrated social and health care services”: Institutional benefits and entitlements to address the health care and social needs of older persons with a view to guaranteeing their dignity and well-being and to promoting their independence and autonomy.

“Household unit or home”: A group of individuals who live in the same dwelling, share the main meals, and address the common basic needs together, without necessarily being relatives.

“Old age”: Social construct of the last stage of the life course.

CHAPTER II GENERAL PRINCIPLES

Article 3

General principles that apply to the Convention:

- a) Promotion and defense of the human rights and fundamental freedoms of older persons;
- b) Recognizing older persons, their role in society, and their contribution to development;
- c) The dignity, independence, proactivity, and autonomy of older persons;
- d) Equality and non-discrimination;
- e) Participation, integration, and full and effective inclusion in society;
- f) Well-being and care;
- g) Physical, economic, and social security;
- h) Self-fulfillment;
- i) Gender equity and equality, and the life course approach;

- j) Solidarity and the strengthening of family and community protection;
- k) Proper treatment and preferential care;
- l) Differentiated treatment for the effective enjoyment of rights of older persons;
- m) Respect and appreciation of cultural diversity;
- n) Effective judicial protection;
- o) Responsibility of the State and participation of the family and the community in the active, full, and productive integration of older persons into society, and in the care of, and assistance to, the older person, in accordance with domestic law.

CHAPTER III GENERAL DUTIES OF STATES PARTIES

Article 4

States Parties undertake to safeguard the human rights and fundamental freedoms of older persons enunciated in this Convention without discrimination of any kind and, to that end, shall:

- a) Adopt measures to prevent, punish, and eradicate practices that contravene this Convention, such as isolation, abandonment, prolonged physical restraint, overcrowding, expulsion from the community, deprivation of food, infantilization, medical treatments that are, *inter alia*, inadequate or disproportional or that constitute mistreatment or cruel, inhuman, or degrading treatment or punishment that jeopardizes the safety and integrity of older persons;
- b) Adopt affirmative measures and make such reasonable adjustments as may be necessary for the exercise of the rights established in this Convention and shall refrain from adopting any legislative measure that is incompatible with it; by virtue of this Convention, affirmative measures and reasonable adjustments that are necessary to expedite or attain *de facto* equality for older persons, or to ensure their full social, economic, educational, political, and cultural engagement, shall not be considered discriminatory; such measures shall not lead to the maintenance of separate rights for different groups, nor be continued beyond a reasonable time once their objectives have been attained;
- c) Adopt and strengthen such legislative, administrative, judicial, budgetary, and other measures as may be necessary to give effect to and raise awareness of the rights recognized in the present Convention, including adequate access to justice, in order to ensure differentiated and preferential treatment for older persons in all areas.
- d) Adopt, to the full extent of their available resources and commensurate with their level of development, such measures as they consider necessary in the framework of international cooperation to progressively achieve in accordance with domestic law the full realization of economic, social, and cultural rights, without prejudice to such obligations as may be immediately applicable under international law;
- e) Promote public institutions specializing in the protection and promotion of the rights of older persons and their integral development;

- f) Encourage the broadest participation by civil society and other social actors, especially older persons, in the drafting, implementation, and oversight of public policies and laws to implement this Convention;
- g) Promote the gathering of adequate information, including statistical and research data, with which to design and enforce policies to implement this Convention.

CHAPTER IV PROTECTED RIGHTS

Article 5 Equality and non-discrimination for reasons of age

This Convention prohibits discrimination based on the age of older persons.

In their policies, plans, and legislation on ageing and old age, States Parties shall develop specific approaches for older persons who are vulnerable and those who are victims of multiple discrimination, including women, persons with disabilities, persons of different sexual orientations and gender identities, migrants, persons living in poverty or social exclusion, people of African descent, and persons pertaining to indigenous peoples, the homeless, people deprived of their liberty, persons pertaining to traditional peoples, and persons who belong to ethnic, racial, national, linguistic, religious, and rural groups, among others.

Article 6 Right to life and dignity in old age

States Parties shall adopt all measures necessary to ensure older persons' effective enjoyment of the right of life and the right to live with dignity in old age until the end of their life and on an equal basis with other segments of the population.

States Parties shall take steps to ensure that public and private institutions offer older persons access without discrimination to comprehensive care, including palliative care; avoid isolation; appropriately manage problems related to the fear of death of the terminally ill and pain; and prevent unnecessary suffering, and futile and useless procedures, in accordance with the right of older persons to express their informed consent.

Article 7 Right to independence and autonomy

State Parties to this Convention recognize 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, and to be afforded access to mechanisms enabling them to exercise their rights.

States Parties shall adopt programs, policies, or actions to facilitate and promote full enjoyment of those rights by older persons, facilitating their self-fulfillment, the strengthening of all families, their family and social ties, and their affective relationships. In particular, they shall ensure:

- a) Respect for the autonomy of older persons in making their decisions, and for their independence in the actions they undertake.
- b) That older persons have the opportunity, on an equal basis with others, to choose their place of residence and where and with whom they live, and are not obliged to live in a particular living arrangement.
- c) That older persons progressively have access to a range of in-home, residential, and other community-support services, including personal assistance necessary to support living and inclusion in the community and to prevent their isolation or segregation from the community.

Article 8

Right to participation and community integration

Older persons have the right to active, productive, full, and effective participation in the family, community, and society with a view to their integration.

States Parties shall adopt measures to enable older persons to participate actively and productively in their community and to develop their capacities and potentialities. To that end, States Parties shall:

- a. Create and strengthen mechanisms for the participation and social inclusion of older persons in an environment of equality that serves to eradicate the prejudices and stereotypes that prevent them from fully enjoying those rights;
- b. Promote the participation of older persons in intergenerational activities to strengthen solidarity and mutual support as key components of social development;
- c. Ensure that facilities and community services for the general population are available to older persons on an equal basis and that they take account of their needs.

Article 9

Right to safety and a life free of violence of any kind

Older persons have the right to safety and a life without violence of any kind, to be treated with dignity, and to be respected and appreciated regardless of their race, color, sex, language, culture, religion, political or other opinions, social origin, nationality, ethnicity, indigenous and cultural identity, socio-economic status, disability, sexual orientation, gender, gender identity, economic contribution, or any other condition.

Older persons have the right to a life without any kind of violence or mistreatment. For the purposes of this Convention, violence against older persons shall be understood as any act or conduct

that causes death or physical, sexual, or psychological harm or suffering, either in the public or the private sphere.

Violence against older persons shall be understood to include, inter alia, different forms of financial, physical, sexual, and psychological abuse and mistreatment, expulsion from the community, and any form of abandonment or negligence that takes place within the family or household unit or that is perpetrated or tolerated by the State or its agents, regardless of where it occurs.

States Parties undertake to:

- a. Adopt legislative, administrative, and other measures to prevent, investigate, punish, and eradicate acts of violence against older persons, as well as those that would enable reparation for harm occasioned by such acts.
- b. Produce and disseminate information in order to generate diagnostic assessments of possible situations of violence with a view to developing prevention policies.
- c. Promote the creation and strengthening of support services to address cases of violence, mistreatment, abuse, exploitation, and abandonment of older persons. Foster access for older persons to such services and provide them with information about them.
- d. Establish or strengthen mechanisms for preventing any form of violence in the family or household unit, facilities that provide older persons with long-term care services, and society at large, with a view to effectively protecting the rights of older persons.
- e. Inform and sensitize society as a whole about the various forms of violence against older persons and about how to identify and prevent them.
- f. Train and sensitize government officials, social workers, and health care personnel responsible for attending to and caring for older persons in long-term care facilities or at home about the different forms of violence, in order that they are treated with dignity and to prevent negligence, violence, and mistreatment.
- g. Develop training programs for family members and persons providing home care services, in order to reduce violence in the home or household unit.
- h. Promote appropriate and effective complaint mechanisms for cases of violence against older persons and strengthen legal and administrative mechanisms for dealing with such cases.
- i. Actively promote the elimination of all practices that generate violence and affect the dignity and integrity of older women.

Article 10
**Right not to be subjected to torture or cruel, inhuman,
or degrading treatment or punishment**

Older persons have the right not to be subjected to torture or cruel, inhuman, or degrading treatment or punishment.

States Parties shall take all necessary measures of a legislative, administrative, judicial, or other nature to prevent, investigate, punish and eradicate all forms of torture or cruel, inhuman, or degrading treatment or punishment of older persons.

Article 11
Right to give free and informed consent on health matters

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.

In order to ensure the right of older persons to express their prior and informed consent in a voluntary, free, and explicit manner to any medical decision, treatment, procedure, or research in the area of health, and the right to modify or revoke such consent, States Parties undertake to prepare and enforce appropriate and effective mechanisms to prevent abuse and strengthen the capacity of older persons to fully understand existing treatment options and their risks and benefits.

Those mechanisms must ensure that the information provided is appropriate, clear and timely, available on a non-discriminatory basis in an accessible and easily understood form, and commensurate with the older person's cultural identity, level of education, and communication needs.

Public or private institutions and health professionals may not administer any medical or surgical treatment, procedure, or research without the prior and informed consent of the older person.

In life-threatening medical emergencies where it is not possible to obtain informed consent, exceptions established in accordance with domestic law may be applied.

Older persons have the right freely to consent to, refuse, or suspend medical or surgical treatment—including that of the traditional, alternative, and complementary kind—research, or medical or scientific experiments, whether physical or psychological, and to be given clear and timely information about the potential consequences and risks of such a decision.

States Parties shall also establish a procedure that enables older persons to expressly indicate in advance their will and instructions with regard to health care interventions, including palliative care. In such cases, that advance will may be expressed, amended, or expanded at any time by the older person only through legally binding instruments in accordance with domestic law.

Article 12
Rights of older persons receiving long-term care

Older persons have the right to a comprehensive system of care that protects and promotes their health, provides social services coverage, food and nutrition security, water, clothing, and

housing, and promotes the ability of older persons to stay in their own home and maintain their independence and autonomy, should they so decide.

States Parties shall design assistance measures for families and caregivers through the introduction of services for those providing care to older persons, taking into account the needs of all families and other forms of care, as well as the full participation of older persons and respect for their opinions.

States Parties shall adopt measures toward developing a comprehensive care system that takes particular account of a gender perspective and respect for the dignity, physical, and mental integrity of older persons.

In order to ensure that older persons can effectively enjoy their human rights when receiving long-term care, States Parties undertake to:

- a) Establish mechanisms to ensure that the initiation and conclusion of long-term care services are subject to an indication by the older person of their free and express will.
- b) Ensure that such services have specialized personnel who can provide appropriate, comprehensive care and prevent actions or practices that could cause harm or exacerbate an existing condition.
- c) Establish an appropriate regulatory framework on the operations of long-term care services that allows the situation of older persons to be assessed and supervised, as well as the adoption of measures to:
 - i. Ensure access for older persons to information, especially to their own physical or digital records, promote their access to the various media and sources of information, including social networks, and apprise them of their rights and of the legal framework and protocols governing long-term care services.
 - ii. Prevent arbitrary or illegal intrusions in their private life, family, home, household unit, or any other sphere in which they are involved, or in their correspondence or any other form of communication.
 - iii. Promote older persons' interaction with their family and society, bearing in mind all families and their affective relationships.
 - iv. Protect older persons' personal security and the exercise of their personal liberty and freedom of movement.
 - v. Protect the integrity of older persons as well as their privacy and intimacy in all their activities, particularly in acts of personal hygiene.
- d) Enact the necessary legislation, in accordance with domestic mechanisms, so that the corresponding personnel and long-term care givers may be held liable to

administrative, civil, and/or criminal penalties, as applicable, for any acts they commit that cause harm to older persons.

- e) Adopt appropriate measures, as applicable, to ensure that older persons receiving long-term care also have palliative care available to them that encompasses the patient, their environment, and their family.

Article 13 **Right to personal liberty**

Older persons have the right to personal liberty and safety, regardless of their environment.

States Parties shall ensure that older persons enjoy the right to personal liberty and safety, and that in no instance shall age be used to justify the arbitrary denial or restriction of liberty.

States Parties shall ensure that any measure to deprive or restrict liberty is in accordance with law and that older persons who are deprived of their liberty because they are under prosecution are afforded, on an equal basis with other sectors of the population, due guarantees in keeping with international human rights law and treated in accordance with the purposes and principles enshrined in this Convention.

States Parties shall ensure access for older persons deprived of their liberty to special and comprehensive care programs, including rehabilitation mechanisms for their reintegration in society and, as appropriate, shall promote alternatives to custodial measures, in accordance with their domestic laws.

Article 14 **Right to freedom of expression and opinion, and access to information**

Older persons have the right to freedom of expression and opinion, and access to information on an equal basis with other sectors of the population, by whatever medium they choose.

States Parties shall adopt measures to ensure the effective exercise of these rights by older persons.

Article 15 **Right to nationality and freedom of movement**

Older persons have the right to freedom of movement, to choose their residence, and to hold a nationality on an equal basis with other segments of the population, without discrimination on grounds of age.

States Parties shall adopt measures to ensure the effective exercise of these rights by older persons.

Article 16
Right to privacy and intimacy

Older persons are entitled to privacy and intimacy, and neither their private life, family, home, household unit, nor any other environment in which they function, nor their correspondence, nor any other communications shall be the subject of arbitrary or illegal intrusion.

Older persons have the right not to have their dignity, honor, and reputation attacked. They are also entitled to privacy in their personal hygiene and other activities, regardless of their environment.

States Parties shall adopt the measures necessary to guarantee these rights, particularly for older persons receiving long-term care services.

Article 17
Right to social security

All older persons have the right to social security to protect them so that they can live in dignity.

State Parties shall progressively promote, within available resources, the provision of income to ensure a dignified life for older persons through social security systems and other flexible social protection mechanisms.

States Parties shall seek to facilitate, through institutional agreements, bilateral treaties, and other hemispheric mechanisms, the recognition of benefits, social security contributions, and pension entitlements for migrant older persons.

Everything in this article will be in accordance with national legislation.

Article 18
Right to work

Older persons have the right to dignified and decent work and to equal opportunity and treatment on the same terms as other workers, whatever their age.

States Parties shall adopt measures to prevent labor discrimination against older persons. It is prohibited to make any kind of distinction that is not based on the specific requirements of the job, in accordance with domestic laws and local conditions.

The same guarantees, benefits, labor and union rights, and pay should apply to all workers in the same employment or occupation and for similar tasks and responsibilities.

States Parties shall adopt legislative, administrative, and other measures to promote formal work for older persons and to regulate the various forms of self-employment and domestic work, with a view to preventing abuse and ensuring them adequate social coverage and recognition for unremunerated work.

States Parties shall promote programs and measures that will facilitate a gradual transition into retirement, for which they may rely on the participation of organizations representing employers and workers, as well as of other interested agencies.

States Parties shall promote labor policies that take account of the needs and characteristics of older persons, with the aim of fostering workplaces that are suitable in terms of working conditions, environment, work hours, and organization of tasks.

States Parties shall encourage the design of training and knowledge-certification programs in order to promote access for older persons to more-inclusive labor markets.

Article 19 **Right to health**

Older persons have the right to physical and mental health without discrimination of any kind.

States Parties shall design and implement comprehensive-care oriented intersectoral public health policies that include health promotion, prevention and care of disease at all stages, and rehabilitation and palliative care for older persons, in order to promote enjoyment of the highest level of physical, mental and social well-being. To give effect to this right, States Parties undertake to:

- a. Ensure preferential care and universal, equitable and timely access to quality, comprehensive, primary care-based social and health care services, and take advantage of traditional, alternative, and complementary medicine, in accordance with domestic laws and with practices and customs.
- b. Formulate, implement, strengthen, and assess public policies, plans, and strategies to foster active and healthy ageing.
- c. Foster public policies on the sexual and reproductive health of older persons.
- d. Encourage, where appropriate, international cooperation in the design of public policies, plans, strategies and legislation, and in the exchange of capacities and resources for implementing health programs for older persons and their process of ageing.
- e. Strengthen prevention measures through health authorities and disease prevention, including courses on health education, knowledge of pathologies, and the informed opinion of the older person in the treatment of chronic illnesses and other health problems.
- f. Ensure access to affordable and quality health care benefits and services for older persons with non-communicable and communicable diseases, including sexually transmitted diseases.
- g. Strengthen implementation of public policies to improve nutrition in older persons.

- h. Promote the development of specialized integrated social and health care services for older persons with diseases that generate dependency, including chronic degenerative diseases, dementia, and Alzheimer's disease.
- i. Strengthen the capacities of health, social, and integrated social and health care workers, as well as those of other actors, to provide care to older persons based on the principles set forth in this Convention.
- j. Promote and strengthen research and academic training for specialized health professionals in geriatrics, gerontology, and palliative care.
- k. Formulate, adapt, and implement, in accordance with domestic law, policies on training in and the use of traditional, alternative, and complementary medicine in connection with comprehensive care for older persons.
- l. Promote the necessary measures to ensure that palliative care services are available and accessible for older persons, as well as to support their families.
- m. Ensure that medicines recognized as essential by the World Health Organization, including controlled medicines needed for palliative care, are available and accessible for older persons.
- n. Ensure access for older persons to the information contained in their personal records, whether physical or digital.
- o. Promote and gradually ensure, in accordance with their capabilities, coaching and training for persons who provide care to older persons, including family members, in order to ensure their health and well-being.

Article 20 **Right to education**

Older persons have the right to education, on an equal basis with other sectors of the population and without discrimination, in the modalities determined by each State Party; to participate in existing educational programs at all levels; and to share their knowledge and experience with all generations.

States Parties shall ensure effective exercise of the right to education for older persons and shall:

- a) Facilitate access for older persons to appropriate educational and training programs that provide access, *inter alia*, to the different levels of the education cycle, to literacy, post-literacy, technical and professional training, and to continuing education, especially for groups in situations of vulnerability.
- b) Promote the development of accessible and suitable educational programs, materials, and formats for older persons that fit their needs, preferences, skills, motivations, and cultural identities.

- c) Adopt the necessary measures to reduce and progressively eliminate barriers and obstacles to educational goods and services in rural areas.
- d) Promote education and training for older persons in the use of new information and communication technologies (ICTs) in order to bridge the digital, generational, and geographical divide and to increase social and community integration.
- e) Design and implement active policies to eradicate illiteracy among older persons, especially women and groups in situations of vulnerability.
- f) Foster and facilitate the active participation of older persons in both formal and non-formal educational activities.

Article 21 Right to culture

Older persons have the right to their cultural identity, to participate in the cultural and artistic life of the community, to enjoy the benefits of scientific and technological progress and those resulting from cultural diversity, and to share their knowledge and experience with other generations in any of the contexts in which they participate.

States Parties shall recognize, ensure, and protect the intellectual property rights of older persons on an equal basis with other sectors of the population and in accordance with domestic laws and international instruments adopted in this area.

States Parties shall promote the necessary measures to ensure preferential access for older persons to cultural goods and services in accessible formats and conditions.

States Parties shall promote cultural programs to enable older persons to develop and utilize their creative, artistic, and intellectual potential for their own benefit as well as for the enrichment of society as conduits of values, knowledge, and culture.

States Parties shall foster the participation of older persons' organizations in the planning, execution, and dissemination of educational and cultural projects.

States Parties shall, through acts of recognition and incentives, encourage the contributions of older persons to different artistic and cultural expressions.

Article 22 Right to recreation, leisure, and sports

Older persons are entitled to recreation, physical activity, leisure, and sports.

States Parties shall promote the development of recreational services and programs, including tourism, as well as leisure and sports activities, taking into account the interests and needs of older persons, particularly those receiving long-term care, in order to improve their health and quality of

life in all respects and to promote their self-fulfillment, independence, autonomy, and inclusion in the community.

Older persons shall be able to participate in the creation, management, and evaluation of such services, programs, or activities.

Article 23

Right to property

All older persons have the right to the use and enjoyment of their property and not to be deprived of said property on the grounds of age. The law may subordinate such use and enjoyment to the interests of society.

No older person shall be deprived of their property except upon payment of just compensation, for reasons of public utility or social interest, or in the cases and according to the forms established by the law.

States Parties shall adopt all necessary measures to ensure the effective exercise of older persons' right to property, including the right to freely dispose of their property, and to prevent the abuse or illegal transfer thereof.

States Parties undertake to eliminate all administrative or financial practices that discriminate against older persons—especially older women and groups in situations of vulnerability—where the exercise of their right to property is concerned.

Article 24

Right to housing

Older persons have the right to decent and adequate housing and to live in safe, healthy, and accessible environments that can be adapted to their preferences and needs.

States Parties shall adopt appropriate measures to promote the full enjoyment of this right and facilitate access for older persons to integrated social and health care services and to home care services that enable them to reside in their own home, should they wish.

States Parties shall ensure the right of older persons to decent and adequate housing and shall adopt policies to promote the right to housing and access to land, recognizing the needs of older persons and the priority of allocating to those in situations of vulnerability. Likewise, States Parties shall progressively foster access to home loans and other forms of financing without discrimination, promoting, *inter alia*, collaboration with the private sector, civil society and other social actors. Such policies should pay particular attention to:

- a) The need to build or progressively adapt housing solutions, so that they are architecturally suitable and accessible for older persons with disabilities and restricted mobility;

- b) The specific needs of older persons, particularly those who live alone, by means of rent subsidies, support for housing renovations, and other pertinent measures, within the capacities of States Parties.

States Parties shall promote the adoption of expedited procedures for complaints and redress in the event of evictions of older persons and shall adopt the necessary measures to protect them against illegal forced evictions.

States Parties shall promote programs to prevent accidents inside and in the vicinity of older persons' homes.

Article 25 **Right to a healthy environment**

Older persons have the right to live in a healthy environment with access to basic public services. To that end, States Parties shall adopt appropriate measures to safeguard and promote the exercise of this right, *inter alia*:

- a. To foster the development of older persons to their full potential in harmony with nature;
- b. To ensure access for older persons, on an equal basis with others, to basic public drinking water and sanitation services, among others.

Article 26 **Right to accessibility and personal mobility**

Older persons have the right to accessibility to the physical, social, economic, and cultural environment, as well as to personal mobility.

In order to ensure accessibility and personal mobility for older persons, so that they may live independently and participate fully in all aspects of life, States Parties shall progressively adopt appropriate measures to ensure for older persons access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, *inter alia*:

- a. Buildings, roads, transportation, and other indoor and outdoor facilities, including centers of education, housing, medical facilities, and workplaces;
- b. Information, communications, and other services, including electronic services and emergency services.

States Parties shall also take appropriate measures to:

- a. Develop, promulgate, and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- b. Ensure that public and private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for older persons;
- c. Provide training for all stakeholders on accessibility issues facing older persons;
- d. Promote other appropriate forms of assistance and support to older persons to ensure their access to information;
- e. Promote access for older persons, at the lowest possible cost, to new information and communications technologies and systems, including the Internet;
- f. Foster access for older persons to preferential fees, or no fees, for transportation services open or provided to the public;
- g) Promote initiatives, in transportation services open or provided to the public, for the provision of reserved seats for older persons, which should be identified by appropriate signs;
- h) In buildings and other facilities open to the public, provide signage in formats that are easy to read and understand, and are appropriate for older persons.

Article 27 **Political rights**

Older persons have the right to participate in political and public life on an equal basis with others and not to be discriminated against for reasons of age.

Older persons have the right to vote freely and to be elected. The State shall facilitate the conditions and the means for exercising those rights.

States 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 intimidation in elections and public referendums;

- c) Ensure that older persons are able to freely express their will as voters and, to that end, when necessary and with their consent, to allow a person of their choice to assist them in voting;
- d) Create and strengthen mechanisms for citizen participation with a view to including the opinions, contributions, and demands of older persons and their groups and associations in decision-making processes at all levels of government.

Article 28
Freedom of association and assembly

Older persons have the right to assemble peacefully and to freely form their own groups and associations, in accordance with international human rights law.

To that end, States Parties undertake to:

- a) Facilitate the creation and legal recognition of said groups or associations, respecting their freedom of initiative and lending them support for their formation and activities, within the capacities of States Parties;
- b) Strengthen older persons' associations and the development of positive leadership to facilitate the achievement of their objectives and dissemination of the rights enunciated in this Convention.

Article 29
Situations of risk and humanitarian emergencies

States Parties shall adopt all necessary specific measures to ensure the safety and rights of older persons in situations of risk, including situations of armed conflict, humanitarian emergencies, and disasters, in accordance with the norms of international law, particularly international human rights law and international humanitarian law.

States Parties shall adopt assistance measures specific to the needs of older persons in preparedness, prevention, reconstruction, and recovery activities associated with emergencies, disasters, and conflict situations.

States Parties shall foster the participation of interested older persons in civil protection protocols in the event of natural disasters.

Article 30
Equal recognition before the law

States Parties reaffirm that older persons have the right to recognition as persons before the law.

States Parties shall recognize that older persons enjoy legal capacity on an equal basis with others in all aspects of life.

States Parties shall take appropriate measures to provide access by older persons to the support they may require in exercising their legal capacity.

States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will, and preferences of older persons, are free of conflict of interest and undue influence, are proportional and tailored to older persons' circumstances, apply for the shortest time possible, and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect older persons' rights and interests.

Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of older persons to own or inherit property, to control their own financial affairs, and to have equal access to bank loans, mortgages, and other forms of financial credit, and shall ensure that older persons are not arbitrarily deprived of their property.

Article 31 **Access to justice**

Older persons have the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against them or for the determination of their rights and obligations of a civil, labor, fiscal, or any other nature.

States Parties shall ensure effective access to justice for older persons on an equal basis with others, including through the provision of procedural accommodations in all legal and administrative proceedings at any stage.

State Parties shall ensure due diligence and preferential treatment for older persons in processing, settlement of, and enforcement of decisions in administrative and legal proceedings.

Judicial action must be particularly expedited in instances where the health or life of the older person may be at risk.

Likewise, States Parties shall develop and strengthen public policies and programs to promote:

- a. Alternative dispute settlement mechanisms;
- b. Training in protection of the rights of older persons for personnel associated with the administration of justice, including police and prison staff.

**CHAPTER V
AWARENESS-RAISING**

Article 32

States Parties agree to:

- a. Adopt measures to achieve dissemination of, and to progressively educate the whole of society about, this Convention.
- b. Foster a positive attitude to old age and dignified, respectful, and considerate treatment of older persons, and, based on a culture of peace, encourage actions to disseminate and promote the rights and empowerment of older persons, and avoid stereotypical images and language in relation to old age;
- c. Develop programs to sensitize the public about the ageing process and older persons, encouraging the participation of the latter and of their organizations in the design and formulation of such programs;
- d. Promote the inclusion of content that fosters understanding and acceptance of ageing in study plans and programs at different levels of education, as well as in academic and research agendas;
- e. Promote recognition of the experience, wisdom, productivity, and contribution to development that older persons offer society as a whole.

**CHAPTER VI
FOLLOW-UP MECHANISM TO THE CONVENTION
AND MEANS OF PROTECTION**

**Article 33
Follow-up Mechanism**

In order to monitor the commitments under this Convention and to promote its effective implementation, a Follow-up Mechanism will be established that shall comprise a Conference of States Parties and a Committee of Experts.

The Follow-up Mechanism shall be established upon deposit of the tenth instrument of ratification or accession.

The General Secretariat of the Organization of American States shall serve as secretariat of the Follow-up Mechanism.

Article 34
Conference of States Parties

The Conference of States Parties, the principal organ of the Follow-up Mechanism, comprises the States Parties to the Convention and has, *inter alia*, the following functions:

- a. To monitor progress by States Parties in complying with the commitments under this Convention;
- b. To draft its rules of procedure and adopt them by an absolute majority;
- c. To monitor the activities of the Committee of Experts and make recommendations to improve the workings, rules, and procedures of said Committee;
- d. To receive, analyze, and evaluate the recommendations of the Committee of Experts and present appropriate observations;
- e. To promote the exchange of experiences and best practices as well as technical cooperation among States Parties, with a view to ensuring the effective implementation of this Convention;
- f. To resolve any matter pertaining to the operations of the Follow-up Mechanism.

The Secretary General of the Organization of American States shall convene the first meeting of the Conference of States Parties within 90 days after the establishment of the Follow-up Mechanism. The first meeting of the Conference, to adopt its rules of procedure and working methodology, as well as to elect its officers, will be held at the headquarters of the Organization, unless a State Party should offer to host the meeting. Said meeting will be chaired by a representative of the first state to deposit its instrument of ratification of or accession to the Convention.

Subsequent meetings shall be convened by the Secretary General of the Organization of American States at the request of any State Party with the approval of at least two thirds of the States Parties. Other member states of the Organization may participate as observers in said meetings.

Article 35
Committee of Experts

The Committee of Experts shall comprise experts appointed by each State Party to the Convention. The quorum for meetings will be established in its rules of procedure.

The Committee of Experts shall have the following functions:

- a. To assist in monitoring progress by States Parties in implementing this Convention and conduct a technical review of the periodic reports submitted by States Parties; to that end, States Parties undertake to present a report to the Committee of Experts on implementation of their obligations under this Convention, within one year of the first meeting; thereafter, States Parties shall submit reports every four years.
- b. To submit recommendations for progressive compliance with the Convention based on reports presented by States Parties on the subject matter under review;
- c. To draft and adopt its rules of procedure in accordance with the functions set forth in this article.

The Secretary General of the Organization of American States shall convene the first meeting of the Committee of Experts within 90 days after the establishment of the Follow-up Mechanism. The first meeting of the Committee, to adopt its rules of procedure and working methodology, as well as to elect its officers, will be held at the headquarters of the Organization, unless a State Party should offer to host the meeting. Said meeting will be chaired by a representative of the first state to deposit its instrument of ratification of or accession to the Convention.

The Committee of Experts shall have its headquarters at the Organization of American States.

Article 36 **System of individual petitions**

Any person or group of persons, or nongovernmental entity legally recognized in one or more member states of the Organization of American States may submit to the Inter-American Commission on Human Rights petitions containing reports or complaints of violations of the provisions contained in this Convention by a State Party.

In implementing the provisions of this article, consideration shall be given to the progressive nature of the observance of the economic, social and cultural rights protected under this Convention.

In addition, any State Party, when depositing its instrument of ratification of, or accession to, this Convention, or at any time thereafter, may declare that it recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed violations of the human rights established in this Convention. In such an instance, all the relevant procedural rules contained in the American Convention on Human Rights shall be applicable.

States Parties may consult the Inter-American Commission on Human Rights on questions related to the effective application of this Convention. They may also request the Commission's advisory assistance and technical cooperation to ensure effective application of any provision of this Convention. The Commission will, to the extent that it is able, provide the States Parties with the requested advisory services and assistance.

Any State Party may, when depositing its instrument of ratification of, or accession to, this Convention, or at any time thereafter, declare that it recognizes as binding, *ipso jure* and without any special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of this Convention. In such an instance, all relevant procedural rules contained in the American Convention on Human Rights shall be applicable.

CHAPTER VII GENERAL PROVISIONS

Article 37 Signature, ratification, and entry into force

This Convention is open to signature, ratification and accession by all member states of the Organization of American States. After its entry into force, this Convention shall be open to accession by all member states that have not signed it.

This Convention is subject to ratification by the signatory states in accordance with the procedures set forth in their constitutions. The instruments of ratification or accession shall be deposited with the General Secretariat of the Organization of American States.

This Convention shall enter into force on the thirtieth day following the date on which the second instrument of ratification or accession is deposited with the General Secretariat of the Organization of American States.

For each state that ratifies or accedes to the Convention after the second instrument of ratification or accession has been deposited, the Convention shall enter into force on the thirtieth day following deposit by that state of the corresponding instrument.

Article 38 Reservations

States Parties may enter reservations to this Convention when signing, ratifying, or acceding to it, provided that such reservations are not incompatible with the aim and purpose of the Convention and relate to one or more specific provisions thereof.

Article 39 Denunciation

This Convention shall remain in force indefinitely, but any State Party may denounce it through written notification addressed to the Secretary General of the Organization of American States. The Convention shall cease to have force and effect for the denouncing state one year after the date of deposit of the instrument of denunciation, and shall remain in force for the other States Parties. Denunciation of the Convention shall not exempt the State Party from its obligations under the Convention in respect of any act or omission that occurred before the date on which the denunciation took effect.

Article 40 Depositary

The original instrument of the Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall send a certified copy thereof to the United Nations Secretariat for registration and publication pursuant to Article 102 of the United Nations Charter.

Article 41
Amendments

Any State Party may submit proposals for amendment of this Convention to the Conference of States Parties.

Amendments shall enter into force for the states ratifying them on the date of deposit of the respective instruments of ratification by two thirds of the States Parties. For the remaining States Parties, they shall enter into force on the date of deposit of their respective instruments of ratification.

FOOTNOTES

1. ... the resulting text that is being adopted in this resolution. Canada has consistently raised concerns that efforts towards pursuing such a convention would duplicate the work happening in the UN Open-ended Working Group on Ageing. Canada maintains that such a Convention would place unnecessary strain on international human rights monitoring systems and duplicate the monitoring of the rights of older persons. Canada will continue to work in practical ways with the OAS and its member states towards promoting the rights of older persons.

2. ... exercise and the resulting convention. The United States remains convinced of the importance of working in the OAS and in the United Nations to address the many challenges faced by older persons in this Hemisphere and throughout the world, including with respect to their enjoyment of human rights. However, we do not believe a convention is necessary to ensure that the human rights of older persons are protected. The United States believes that – rather than promoting this new instrument – the resources of the OAS and of its member states should be used to identify practical steps that governments in the Americas might adopt to combat discrimination against older persons, including best practices in the form of national legislation and enhanced implementation of the international human rights treaties. Such efforts should be aimed at addressing immediately and practically the challenges faced by older persons.

4. ... the Organic Law on Social Security (Ley Orgánica de Seguridad Social) and the Law on Older Persons (Ley del Adulto Mayor), which guarantee protection measures on the part of the family, society, and the State for older persons. We value the efforts of the member states of the Organization to have a legally binding regional instrument the goal of which is the protection of the human rights of older persons. However, the Government of Nicaragua believes that the contents of the Convention will create an overlap with work already being done by other organs of the inter-American human rights system. Furthermore, its crosscutting nature and impact would impinge on the system of laws in force in the Nicaragua. Therefore, the Government of the Republic of Nicaragua sets out its express reservation to the contents of the Inter-American Convention on Protecting the Human Rights of Older Persons.

5. ... erroneous interpretations by the inter-American human rights system of the provisions of Article 17, “Right to Social Security,” of the draft Convention and, accordingly, that it is also analyzing the possibility of making a reservation regarding that article at such a time as it signs and/or ratifies the instrument in question.

6. ... inter-American human rights system established as “means of protection” contravene the objectives for which they were established. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights should be re-established due to the bias, politicization, and discriminatory and selective attitude they have adopted toward the progressive countries of the region. Those features have destroyed the credibility of both institutions that once stood for ethical values and commitment to protect human rights. That was what led the Venezuelan State to denounce the American Convention on Human Rights.

7. ... provisions of the Constitution of Paraguay.