

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS REPORT ON FOCAL POINT ON THE RIGHTS OF OLDER PERSONS IN AFRICA

Commissioner Y.K.J. Yeung Sik Yuen

1. At the 42nd Ordinary Session of the African Commission on Human and Peoples' Rights [The Commission] held in Congo Brazzaville it was resolved that a Focal Point on the Rights of Older Persons be established. Commissioner Y.K.J. Yeung Sik Yuen was appointed Focal Person with Commissioner Reine Alapini Gansou and former Commissioner Yassir Sid Ahmed El Hassan as members.
2. Under Article 45 of the African Charter on Human and Peoples' Rights [The African Charter] the Commission has a wide mandate in relation to the promotion of human and peoples'rights. Some of the functions of the Commission are laid down in Article 45(1)(a) which reads:

“to collect documents, undertake studies and researches on African problems in the field of human and peoples'rights , organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples'rights and, should the case arise, give its views or make recommendations to Governments.”

3. This initial report gives a brief outline of certain initiatives undertaken at the global level which have established guidelines and drawn up recommendations on the rights of the elderly. They are principally the 1982 Vienna Plan for the Rights of the Elderly, the 1991 United Nations Principles for Older Persons and the 2002 Madrid United Nations International Plan of Action on Ageing.

4. The problems of Ageing which must be linked with problems in ensuring the full enjoyment of human rights have therefore already been the subject of research and discussion over the past two decades at the United Nations [UN] level. That is quite understandable considering that the human rights enjoyed by all are those which are normally contained in the main UN human rights instruments which are the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights [ICCPR] and the International Covenant on Economic, Social and Cultural Rights [ICESCR].

5. While it is noteworthy that the rights of women as well as the rights of children are specifically catered for by international instruments of the World body – viz. Convention on the Elimination of All Forms of Discrimination against Women (1981), Convention on the Political Rights of Women (1954), Convention on the Rights of the Child (1990) – it is remarkable that no specific UN Convention exists to proclaim and regulate the rights of elderly people. There are a number of UN Declarations which are related to the rights of the elderly but again they do not specifically refer to the elderly. A sample of such Declarations are those on the Rights of Disabled Persons, the Right to Development, the Rights of Mentally Retarded Persons, etc.

6. The main documents existing on the Rights of the Elderly are those mentioned at paragraph 3 above. A short presentation of those documents appears hereunder:

(a) **The 1982 Vienna International Plan of Action on Ageing** [Vienna Plan]
The Vienna Plan is the first international instrument on ageing. It is a guide and a thinking forum and contains formulation of policies and programmes on

ageing. It was able to identify sectoral areas of concern to the elderly, more particularly those areas which relate to:

- (a) health and nutrition
- (b) protection of elderly consumers
- (c) housing and environment
- (d) family
- (e) social welfare
- (f) income security and employment
- (g) education.

The Vienna Plan was adopted in 1982 by the First World Assembly on Ageing to safeguard the rights of the elderly within the context of the rights proclaimed by the International Covenants on Human Rights. It contains 62 recommendations which can be considered as good precepts for living a “*perfect old age*”. The Vienna Plan was endorsed by the United Nations General Assembly in its Resolution 35/51 of 3 December 1982.

(b) The United Nations Principles for Older Persons

In 1991 issues of human rights for older persons were taken up in the United Nations Principles for Older Persons [General Assembly Resolution 46/91]. There are 18 principles which have been elaborated around 5 clusters which focus on five main principles, viz.:

- independence
- participation
- care
- Self fulfillment
- Dignity

c) The Madrid International Plan of Action on Ageing 2002

In 2002, the Second World Assembly on Ageing met in Madrid and adopted the Political Declaration and the Madrid International Plan of Action on Ageing, 2002(Madrid Plan)

In Article 2 of the Political Declaration, the representatives of Governments noted the rising life expectancy in the World's as one of humanity's major achievements. According to demographic projections, by 2050 the number of persons aged 60 years will likely increase from 600 million to almost 2 billion and the proportion of persons aged 60 years and over is expected to double from 10 to 21 per cent. Average life expectancy at birth had increased by 20 years since 1950 to 66 years and is expected to further extend a further 10 years by 2050. Older population in developing countries is expected to increase most rapidly and quadruple during the 50 next years. The demographic transition under way will result in the old and the young representing an equal share of the World population by mid-century. It will therefore be a challenge to society to promote opportunities for older persons in order that they realize their potential and participate fully in all aspects of life.

In Article 5, the Second World Assembly proclaims its faith towards "*eliminating all forms of discrimination, including age discrimination*". It recognizes that persons "persons, as they age, should enjoy a life of fulfillment, health, security and active participation in the economic, social, cultural and political life of their societies" and proclaims its resolve "*to enhance the recognition of the dignity of older persons to eliminate all forms of neglect, abuse and violence.*"

Within the African Charter on Human Rights & Peoples' Rights (the African Charter) we can find Article 18 which enjoins on the State duty to protect the family which is recognized as the natural unit basis of society. In Article 18 (4) it is specifically provided that "*the aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs*".

At the level of the individual, Article 29 states that:" the individual shall also have the duty :

- (1) *to preserve the harmonious development of the family and to work the cohesion and respect of the family; to respect his parents at all times , to maintain them in case of need.*

There is accordingly ample justification, both legal and social, for the Commission to establish a Focal Point on the Rights of Older Persons at this juncture.

Aim of this Focal Point

- (1) collect documents and undertake research on problems relating to the Rights of Older Persons in Africa and to prepare sessional reports on progress thereon;
- (2) study problems which come to light with specific reference to prevailing situations in countries in Africa; identify progressive measures taken and recommend on aspects needing remedial measures;
- (3) envisage recommending the preparation of a Draft Declaration on the Rights and Welfare of Older Persons in Africa consideration;
- (4) eventually to envisage recommending the drafting of an African Charter on the Rights and Welfare of Older Persons.