

News and Views...from ICSW: Intergovernmental cooperation on ageing issues

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The fifth session of the Open-Ended Working Group (OEWG) on Ageing aimed at strengthening the protection of the human rights of older persons took place at UN Headquarters in New York from 30 July to 1 August 2014. The previous four sessions of the OEWG were convened in 2011–2013. Despite useful discussions highlighting many acute problems that older persons have been facing, the results of the session were rather thin in substantive terms and disappointing to many, reflecting a diplomatic stalemate on the key issue – the feasibility of a new legal instrument to protect the rights of older persons, such as the proposed International Convention on the Rights and Dignity of Older Persons.

Many delegates, along with representatives of international organizations and NGOs, spoke at length about the vulnerabilities of older persons relating to their age; raised issues of income support and financial security; and discussed welfare and social protection schemes, family and inter-generational solidarity, health care and long-term care, nutrition and shelter. It was underscored during the discussion that the Madrid International Plan of Action on Ageing has not lost its relevance for policy makers and remains the point of reference on ageing-specific policies.

Quite often the arguments put forward by proponents and opponents of the Convention bore much resemblance to the positions already articulated during the previous sessions of the Open-Ended Working Group. Developing countries, with the Latin American group in the forefront, put emphasis on the similarity of problems that older persons face in developing and developed countries and the need for a new dedicated international instrument. That group of delegates argued – sometimes very eloquently and with great passion – that in all regions of the world, no matter rich or poor, the elderly faced similar challenges, namely poverty, violence, discrimination, abuse of all kinds, from physical to financial, and eventually social exclusion. From their standpoint, many of the above-mentioned social ills could be addressed much better if an International Convention on the Rights on Older persons became a reality. Accordingly, the main purpose of the OEWG itself was seen by those representatives not so much to continue the current discussions – even given their undeniable significance and importance – but to shift the focus to specific issues related to the elaboration of the framework of the proposed Convention, including consideration of some key elements during the meetings of the OEWG. But those suggestions remained unacceptable to several key developed countries. At the same time, some of the biggest players among the developing countries, such as China and India, were very cautious in their statements and did not call outright for a new legal instrument either.

Even when delegates disagreed with each other on the Convention issue, most of them welcomed the recent appointment by the Human Rights Council of the Independent Expert on the rights of older persons – a step proposed by Brazil and Argentina. The delegate of Brazil also reminded participants that not so long ago the negotiations on the Convention on the Rights of Persons with Disabilities, adopted by the UN General Assembly in 2006 and now ratified by 147

countries, had faced similar opposition from several delegations, and many of the arguments presented against it a decade ago also looked similar.

Welcoming in principle the holding of the fifth session of the Open-Ended Working Group and emphasizing its usefulness as an opportunity to keep discussion alive and exchange more on regional and national matters and efforts, the opponents of the proposed new legal instruments argued, in the words of the European Union representative, that “the whole spectrum of internationally recognized human rights standards and principles naturally also covers and protects older persons without discrimination”, while many issues discussed at the fifth session – such as violence, care, and financial issues – were also addressed by the current international legal framework. In that light, the proposed approach to the Convention controversy by the opponents was similar to the arguments put forward by that group of representatives a year ago: even though it was important to discuss the implementation and protection gaps, those existing gaps “are not of a normative nature”, and therefore, did not require a new legal instrument such as a Convention; the most important approach was “to focus on a determined application of *existing* standards”.

In the same vein, the delegate of Canada expressed concerns that a new convention might duplicate the work being done by other conventions and might apply “more pressure on a monitoring system that is already overburdened”. The delegates of the pro-Convention camp voiced strong disagreement with those arguments. El Salvador speaking on behalf of the cross-regional “Group of Friends of Older Persons” established during the previous, fourth session of the OEWG, stated that “the non-binding character of the existing dedicated regime makes its fulfillment impossible and makes those instruments nothing but a declaration of principles subject to the will and judicial frameworks of each State”.

In a nutshell, the above disagreements on the feasibility of the Convention reflected not only different regional priorities and different perspectives but also a very different understanding why such a Convention might be important (or not) as a legal instrument. Trust in national judicial systems as the ultimate guarantor of the rights of older persons was also clearly a point of disagreement.

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For more details, please go to: <http://social.un.org/ageing-working-group/fifthsession.shtml>