



Group Exercise : Deep dive into the General Comment on Older Persons

In 1995, the UN Committee on Economic, Social and Cultural Rights has adopted a General Comment (GC) on older persons, which was drafted taking due account of the Vienna International Plan of Action on Ageing (VIPAA) and the UN Principles of Older Persons. Further developments have taken place since, including the 2002 Madrid International Plan of Action on Ageing (MIPAA) as well as the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD).

Almost 25 years after its adoption, does the 1995 General Comment still reflect the reality of older persons, or are there aspects missing? Consider in particular:

- *Whether the GC reflects any stereotypical views about older persons and/or ageing*
- *Whether it address all areas of older people's lives*
- *Whether main issues of concern and situations of vulnerability are taken into consideration*
- *Whether there are key policy and legal advancements that need to be taken into account*
- *Whether there are societal challenges, like digitalization or the economic recession that create particular challenges to older persons' rights and should be reflected in the GC*
- *Whether the recommendations included in the GC are appropriate, concrete and adequate to respond to today's challenges*

Relevant excerpts¹

Age discrimination

11. Another important issue is whether discrimination on the basis of age is prohibited by the Covenant. Neither the Covenant nor the Universal Declaration of Human Rights refers explicitly to age as one of the prohibited grounds. Rather than being seen as an intentional exclusion, this omission is probably best explained by the fact that, when these instruments were adopted, the problem of demographic ageing was not as evident or as pressing as it is now.

12. This is not determinative of the matter, however, since the prohibition of discrimination on the grounds of "other status" could be interpreted as applying to age. The Committee notes that while it may not yet be possible to conclude that discrimination on the grounds of age is comprehensively prohibited by the Covenant, the range of matters in relation to which such discrimination can be accepted is very limited (...) In the few areas in which discrimination continues to be tolerated, such as in relation to mandatory retirement ages or access to tertiary education, there is a clear trend towards the elimination of such barriers. The Committee is of the view that States parties should seek to expedite this trend to the greatest extent possible.

Older persons

16. Older persons as a group are as heterogeneous and varied as the rest of the population and their situation depends on a country's economic and social situation, on demographic, environmental, cultural and

¹ The full text of the General Comment can be found at: <https://www.refworld.org/docid/4538838f11.html>

employment factors and, at the individual level, on the family situation, the level of education, the urban or rural environment and the occupation of workers and retirees.

17. Side by side with older persons who are in good health and whose financial situation is acceptable, there are many who do not have adequate means of support, even in developed countries, and who feature prominently among the most vulnerable, marginal and unprotected groups. In times of recession and of restructuring of the economy, older persons are particularly at risk (...) even in times of severe resource constraints, States parties have the duty to protect the vulnerable members of society.

Older women

20. (...) the Committee considers that States parties should pay particular attention to older women who, because they have spent all or part of their lives caring for their families without engaging in a remunerated activity entitling them to an old-age pension, and who are also not entitled to a widow's pension, are often in critical situations.

21. To deal with such situations (...) States parties should institute non-contributory old-age benefits or other assistance for all persons, regardless of their sex, who find themselves without resources on attaining an age specified in national legislation. Given their greater life expectancy and the fact that it is more often they who have no contributory pensions, women would be the principal beneficiaries.

Work and retirement

22. (...) 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

23. The right "to the enjoyment of just and favourable conditions of work" (Covenant, art. 7) is of special importance for ensuring that older workers enjoy safe working conditions until their retirement. In particular, it is desirable, to employ older workers in circumstances in which the best use can be made of their experience and know-how.⁷

24. In the years preceding retirement, retirement preparation programmes should be implemented, with the participation of representative organizations of employers and workers and other bodies concerned, to prepare older workers to cope with their new situation. Such programmes should, in particular, provide older workers with information about: their rights and obligations as pensioners; the opportunities and conditions for continuing an occupational activity or undertaking voluntary work; means of combating detrimental effects of ageing; facilities for adult education and cultural activities, and the use of leisure time.⁸

25. The rights protected by article 8 of the Covenant, namely, trade union rights, including after retirement age, must be applied to older workers.

27. (...) States parties must take appropriate measures to establish general regimes of compulsory old-age insurance, starting at a particular age, to be prescribed by national law.

28. (...) the Committee invites States parties to establish retirement age so that it is flexible, depending on the occupations performed and the working ability of elderly persons, with due regard to demographic, economic and social factors.

29. In order to give effect to the provisions of article 9 of the Covenant, States parties must guarantee the provision of survivors' and orphans' benefits on the death of the breadwinner who was covered by social security or receiving a pension.

30. (...) States parties should, within the limits of available resources, provide non-contributory old-age benefits and other assistance for all older persons, who, when reaching the age prescribed in national legislation, have not completed a qualifying period of contribution and are not entitled to an old-age pension or other social security benefit or assistance and have no other source of income

Protection of the family

31. (...), States parties should make all the necessary efforts to support, protect and strengthen the family and help it, in accordance with each society's system of cultural values, to respond to the needs of its dependent ageing members. Recommendation 29 encourages Governments and non-governmental organizations to establish social services to support the whole family when there are elderly people at home and to implement measures especially for low-income families who wish to keep elderly people at home. This assistance should also be provided for persons living alone or elderly couples wishing to remain at home.

Adequate standard of living

33. (...) housing for the elderly must be viewed as more than mere shelter and that, in addition to the physical, it has psychological and social significance which should be taken into account. Accordingly, national policies should help elderly persons to continue to live in their own homes as long as possible, through the restoration, development and improvement of homes and their adaptation to the ability of those persons to gain access to and use them (recommendation 19). Recommendation 20 stresses the need for urban rebuilding and development planning and law to pay special attention to the problems of the ageing, assisting in securing their social integration, while recommendation 22 draws attention to the need to take account of the functional capacity of the elderly in order to provide them with a better living environment and facilitate mobility and communication through the provision of adequate means of transport

Physical and mental health

34.(...) States parties should (...) take a comprehensive view, ranging from prevention and rehabilitation to the care of the terminally ill.

35. Clearly, the growing number of chronic, degenerative diseases and the high hospitalization costs they involve cannot be dealt with only by curative treatment. In this regard, States parties should bear in mind that maintaining health into old age requires investments during the entire life span, basically through the adoption of healthy lifestyles (food, exercise, elimination of tobacco and alcohol, etc.). Prevention, through regular checks suited to the needs of the elderly, plays a decisive role, as does rehabilitation, by maintaining the functional capacities of elderly persons, with a resulting decrease in the cost of investments in health care and social services.

Organisers' note : see for your information, the General recommendation 27 of the CEDAW Committee on older women in relation to the right to health ([CEDAW/C/GC/27](#), 16 December 2010, paragraph 45)

45. States parties should adopt a comprehensive health-care policy aimed at protecting the health needs of older women in line with the Committee's general recommendation No. 24 (1999) on women and health. Such policy should ensure affordable and accessible health care to all older women through, where appropriate, the elimination of user fees, training of health workers in geriatric illnesses, provision of medicine to treat age-

related chronic and non-communicable diseases, long-term health and social care, including care that allows for CEDAW/C/GC/27 8 independent living and palliative care. Long-term care provisions should include interventions promoting behavioural and lifestyle changes to delay the onset of health problems, such as healthy nutritional practices and an active lifestyle, and affordable access to health-care services, including screening for and treatment of diseases, in particular those most prevalent among older women. Health policies must also ensure that health care provided to older women, including those with disabilities, is based on the free and informed consent of the person concerned. 46. States parties should adopt special programmes tailored to the physical, mental, emotional and health needs of older women, with special focus on women belonging to minorities and women with disabilities, as well as women tasked with caring for grandchildren and other young family dependants due to the migration of young adults, and women caring for family members living with or affected by HIV/AIDS.

Education and culture

36. (...) this right must be approached from two different and complementary points of view: (a) the right of elderly persons to benefit from educational programmes; and (b) making the know-how and experience of elderly persons available to younger generations.

37. (...) older persons should have access to suitable education programmes and training and should, therefore, on the basis of their preparation, abilities and motivation, be given access to the various levels of education through the adoption of appropriate measures regarding literacy training, life-long education, access to university, etc.; (...) informal, community-based and recreation-oriented programmes for the elderly in order to develop their sense of self-reliance and the community's sense of responsibility. Such programmes should enjoy the support of national Governments and international organizations.

38. (...) attention is drawn to the important role that elderly and old persons still play in most societies as the transmitters of information, knowledge, traditions and spiritual values and to the fact that this important tradition should not be lost.

39. (...) In this respect, the Committee urges States parties to take account of the recommendations contained in the United Nations Principles for Older Persons, and in particular of principle 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"; and principle 16: "Older persons should have access to the educational, cultural, spiritual and recreational resources of society".

40. (...) Governments and international organizations to support programmes aimed at providing the elderly with easier physical access to cultural institutions (museums, theatres, concert halls, cinemas, etc.).

41. (...) stresses the need for Governments, non-governmental organizations and the ageing themselves to make efforts to overcome negative stereotyped images of older persons as suffering from physical and psychological disabilities, incapable of functioning independently and having neither role nor status in society. These efforts, in which the media and educational institutions should also take part, are essential for achieving a society that champions the full integration of the elderly.

42. (...) States parties should (...) make efforts to promote research on the biological, mental and social aspects of ageing and ways of maintaining functional capacities and preventing and delaying the start of chronic illnesses and disabilities. In this connection, it is recommended that States, intergovernmental organizations and non-governmental organizations should establish institutions specializing in the teaching of gerontology, geriatrics and geriatric psychology in countries where such institutions do not exist.