

Global Action on Aging Draft Convention on the Rights of Older Persons

Preamble¹

The States Parties to the present Convention,

- (a) *Realizing* all human rights and fundamental freedoms of all elderly persons;
- (b) *Achieving* secure aging, which involves reaffirming the goal of eradicating poverty in old age and building on the United Nations Principles for Elderly Persons;
- (c) *Empowering* elderly persons to fully and effectively participate in the economic, political and social lives of their societies, including through income-generating and voluntary work;
- (d) *Providing* opportunities for individual development, self-fulfillment and well-being throughout life as well as in late life, through, for instance, access to lifelong learning and participation in the community while recognizing that elderly persons are not one homogenous group;
- (e) *Ensuring* the full enjoyment of economic, social and cultural rights, and civil and political rights of persons and the elimination of all forms of violence and discrimination against elderly persons;
- (f) *Committing* to gender equality among elderly persons through, inter alia, elimination of gender-based discrimination;
- (g) *Recognizing* the crucial importance of families, intergenerational interdependence, solidarity and reciprocity for social development;
- (h) *Providing* health care, support and social protection for elderly persons, including preventive and rehabilitative health care as well as disability care;
- (i) *Facilitating* partnership between all levels of government, civil society, the private sector and elderly persons themselves in implementing the International Plan of Action;
- (j) *Harnessing* of scientific research and expertise and realizing the potential of technology to focus on, inter alia, the individual, social and health implications of aging, in particular in developing countries;

¹ Most of the points were from MIPAA but there were some that I added, inspired by other conventions and my own ideas.

(k) *Recognizing* the situation of aging indigenous persons, their unique circumstances and the need to seek means to give them an effective voice in decisions directly affecting them;

(l) *Recognizing* the valued existing and potential contributions made by elderly persons to the well-being and diversity of their communities;

(m) *Emphasizing* the needs of the poorest elderly persons, many of them living in harsh conditions and often with disabilities;

(n) *Concerned* that existing laws, practice, and customs violates the rights of elderly persons dictated in the International Covenants on Human Rights.

(o) *Recognizing* that elderly persons are no less important than the younger persons in society and deserve the same respect and dignity afforded to the younger generations;

(p) *Taking* appropriate measures, including legislation, educational and administration, to revise or abolish existing laws, customs, or practice that is discriminative towards elderly persons;

(q) *Recognizing* the importance of international cooperation for improving the living conditions of elderly persons in every country, especially in developing countries;

(r) *Realizing* there are elderly persons living in exceptionally difficult conditions and that such elderly persons need special consideration

(s) *Bearing in mind* that to provide full protection of elderly persons, it is imperative to fully respect the purposes and principles dictated in the Charter of the United Nations.

PART I

Article 1

Purpose

The purpose of the present Convention is to protect and ensure equal human rights, fundamental freedoms, and dignity by all elderly persons.

Article 2²

Definitions

For the purpose of the present Convention:

Elderly Person is a human being over the age of sixty years, as determined by the United Nations, unless the retirement age imposed by the States Party is earlier.

² I got the idea of having an article on definitions from the Convention on the Rights of Persons with Disabilities; I chose which words are relevant to be defined.

Discrimination on the basis of age is any form of exclusion, treatment, or restriction made on the basis of age. Discrimination can occur in any field including, inter alia, employment, housing, healthcare, entertainment, places of public accommodation, credit and business contracts.

Reasonable accommodation is a necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden to ensure that elderly persons enjoy the same access on an equal basis as their younger counterparts.

Accessibility is the ability to have access without restriction of any kind afforded to younger persons. This includes, inter alia, employment opportunities, healthcare, public transportation, and entertainment.

Resources are any source or supply that functions as a tool that enhances the quality of human life in all aspects.

Living Assistance from the States is any kind of living arrangement for elderly persons funded and provided by the States. This includes, but not limited to, nursing home, full-time or part-time home attendants, cooks, housekeepers, transportation providers, and nurses.

Health is defined by the World Health Organization as a States of complete physical, mental and social well-being, not merely the absence of disease and infirmity. To reach old age in good health and well-being requires individual efforts throughout life and an environment within which such efforts can succeed.

Emergency situations are, inter alia, armed conflicts, States of war, terrorist attack, natural disaster, and declared States-of-emergency status.

International institutions are, inter alia, the World Bank, the International Monetary Fund, the World Trade Organization, the World Health Organization and transnational corporations.

Regional integration organizations shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention.

Article 3³

States Parties' Responsibilities

³ The idea of States Responsibilities is inspired by the Convention on the Rights of Persons with Disabilities. I decided the responsibilities based on my comparison of the different conventions (Women, Child, and Disabilities). I also looked at the New Jersey Division on Civil Rights' fact sheet on age discrimination.

1. States Parties shall respect, ensure and enforce the rights set forth in the present Convention to each elderly person within their jurisdiction without discrimination on the basis of the elderly person's race, creed, national or ethnic origin, nationality, ancestry, language, religion, political affiliation, sex (including pregnancy and sexual harassment), marital or domestic partnership status, sexual orientation, mental or physical disability, including HIV and AIDS related illness.
2. In any action that concerns elderly persons, undertaken by public or private institutions, courts of law, administrative authorities, or individuals, the best interest of the elderly person shall always be a primary consideration.
3. States Parties shall implement a system and provide necessary protection and care for elderly persons to secure their well-being, during periods of peace, of States or armed conflicts and of natural disaster.
4. States Parties shall implement a standard system, agreed by the Committee on the Rights of Elderly Persons, overseen by the United Nations, to address the issue of elderly persons who cannot prove their age.
5. States Parties shall establish a standard, set by authorities in the areas of safety and health with elderly persons' input, for institutions, services and facilities responsible for the care and protection of all elderly persons to conform.
6. States Parties shall supervise all actions and policies made by institutions, services and facilities responsible for the care and protection of all elderly persons.
7. States Parties shall desist from engaging in any kind of act or practice of discrimination against all elderly persons.
8. States Parties shall take appropriate measures, including legislation and administration, to protect all elderly persons' healthcare and pension needs.
9. States Parties shall ensure that any regulation or change will not have a negative impact on the well-being and rights of all elderly persons.

Article 4⁴

Elderly Women

1. States Parties recognize that elderly women are subject to multiple discriminations because of their gender.
2. States Parties shall take appropriate measures to ensure the full enjoyment of all human rights and fundamental freedoms of all elderly women.

⁴ The idea is inspired by Convention on the Rights of Persons with Disabilities.

3. States Parties acknowledge that older women often outnumber older men and the situation of older women everywhere requires policy action recognizing the differential impact of aging on women and men.

Article 5⁵

Elderly Persons with Disabilities

1. States Parties recognize that elderly persons with disabilities are subject to multiple discriminations because of their disabilities.

2. States Parties recognize that the development of disability is an expected consequence of aging and does not diminish an elderly person's right to dignity and fundamental freedoms.

3. States Parties shall take appropriate measures to ensure the full enjoyment of all human rights and fundamental freedoms of all elderly persons with disabilities.

Article 6⁶

Elderly Persons Living in Poverty

1. States Parties recognize that elderly persons living in poverty have their needs and rights ignored due to their poverty conditions, which is a violation of their rights to dignity and fundamental freedoms.

2. States Parties recognize that elderly persons living in poverty are more prone to develop severe health problems and disabilities due to their poverty conditions.

3. States Parties recognize that elderly persons living in poverty are not able to ameliorate their conditions without any external assistance including, inter alia, financial, medical, and social types.

4. States Parties will provide the necessary assistance to ameliorate the conditions of all elderly persons living in poverty.

Article 7⁷

Fair and Just Trial and Sentencing

1. States Parties shall confirm that elderly persons are presumed to be innocent until proven guilty.

2. States Parties shall partake to ensure that appropriate and effective safeguards of elderly persons are honored. This includes accommodating an elderly person's mental, physical, and emotional conditions.

⁵ Ibid.

⁶ Ibid.

⁷ This was my idea.

3. If an elderly person is required to stand trial, States Parties shall ensure that this person is physically, mentally, and emotionally capable to stand trial.

4. States Parties shall ensure that any punishment imposed on all elderly persons found guilty will not threaten and/or deteriorate their mental and/or health conditions.

5. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent elderly persons from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

6. States Parties shall ensure that appropriate accommodations are made for all elderly persons who are serving their sentences.

Article 8⁸

Legal Actions

States Parties recognize that all elderly persons have equal legal entitlements as their younger counterparts in:

(a) Taking legal actions against any party responsible for damages done upon them.

(b) Receiving a fair and speedy hearing.

(c) Being thoroughly and fully informed on all cost, procedures and consequences.

(d) Being treated equally as a client and a person.

(e) Receiving any assistance and accommodation needed to accomplish a legal action.

(f) Receiving a fair and appropriate verdict.

Article 9⁹

Living Independently and in a Community

1. States Parties recognize that elderly person who gives the power of attorney rights to someone else does it with a clear conscious and without pressure or force.

2. States Parties recognize the right of elderly persons to be in full charge of their living arrangements, provided they are conscious and are legally competent to make decisions.

⁸ This was my idea.

⁹ The Convention on the Rights of Persons with Disabilities had this article and I thought this was relevant for elderly persons; I decided what should be included in the article with some ideas and wording from MIPAA.

3. States Parties acknowledge that elderly persons have the right to be part of their communities, with equal rights to participate in, inter alia, the decision-making, cultural, and social aspects of a community life.
4. States Parties shall provide nursing homes for elderly persons in need of such arrangements.
5. States Parties acknowledge that all elderly persons have the right to decide to or not to live in nursing homes.
6. States Parties shall ensure that nursing homes built for elderly persons are accommodating and safe for their mental, emotional, and physical conditions.
7. States Parties shall protect all elderly persons' right to personal mobility by:
 - (a) Provide access to public transportation within reasonable walking distance an elderly person can walk.
 - (b) Ensure public transportation is accessible to elderly persons by providing accommodation such as, but not limited to, wheelchair ramps, elevators, small steps, well-lit paths and reserved seats for elderly persons.
8. States Parties shall ensure that all elderly persons are able to receive immediate assistance by:
 - (a) Providing an easy way to contact emergency personnel, including those in the medical, police, and fire areas regardless of their location and/or disabilities.
 - (b) Designing an efficient and quick way for emergency personnel to reach to the elderly person in need of assistance.
 - (c) Educating all emergency personnel on how to communicate, work and treat elderly persons to ensure their safety.
9. States Parties shall protect elderly persons' right to decide for themselves, without interference or pressure from outside parties, in, inter alia, medical, employment, and housing aspects of life.
10. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect all elderly persons from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.
11. All elderly persons shall enjoy legal capacity afforded to others in all aspects of life, including employment, pension, and health.

Article 10¹⁰

Accessibility to Information and Freedom of Speech

1. All elderly persons have the same right to freedom of expression afforded to all citizens of the States(s) in which they are citizens.
2. All elderly persons have the right to receive and impart information of all kinds in all forms of communication, including oral, written, form of art, or any other media.
3. Any restriction posed on an elderly person's right to freedom of speech must not be attributed to their age.
4. All elderly persons have the right to have their opinion be heard and treated with equal respect and dignity afforded to people of all ages.
5. All elderly persons have the right to have opportunities to learn how to use new information sources.

Article 11¹¹

Education

1. States Parties recognize the right of all elderly persons to education and to achieve this right, the States Parties shall:
 - (a) Promote literacy and basic education specifically for illiterate elderly persons.
 - (b) Encourage elderly persons to receive all kinds of education, including general and vocational education, and offering financial assistance if needed.
 - (c) Make educational and vocational information and guidance available and accessible to all elderly persons.
 - (d) Ensure that educational institutions and tools are accessible and/or accommodated to secure the success of an elderly person receiving the education.
2. States Parties shall take all appropriate legislative, administrative, social and educational measures to ensure that institutions do not discriminate or treat an elderly person with disrespect and indignity in the areas of, but not limited to:
 - (a) Program Admission.
 - (b) Classroom Setting.
 - (c) Coursework/Assignments and Grades.

¹⁰ I got the idea from the Convention on the Rights of Persons with Disabilities.

¹¹ I created this article and got ideas for some of the wording from the Convention on the Rights of Persons with Disabilities.

(d) School Social Activities and Events.

(e) Employment Opportunities.

Article 12¹²

Employment

1. States Parties ensure that:

(a) All elderly persons are enabled to continue with income-generating work for as long as they want and for as long as they are able to do so productively.

(b) All elderly candidates shall be considered on an equal basis as their younger counterparts.

(c) All elderly persons shall not be demoted, fired, laid off or forced to retire because of their age.

(d) All elderly persons are entitled to receive training or education needed to accomplishing job duties and assignments.

(e) All elderly persons are entitled to receive pay raise and promotion if they merit it through their work.

(f) The right of all elderly persons to be protected from economic exploitation and from performing any work that is likely to be hazardous or to be harmful to their physical, mental, spiritual or moral well-being.

2. States Parties recognize the need to:

(a) Remove disincentives to working beyond retirement age, for example through protecting acquired pension rights, disability benefit rights and health benefits from being affected by delayed retirement age.

(b) Provide necessary assistance and accommodation for elderly persons already engaged in informal sector activities by improving their income, productivity and working conditions.

(c) Eliminate age barriers in the formal labor market by promoting the recruitment of elderly persons and preventing the onset of disadvantages experienced by ageing workers in employment.

(d) Promote and educate a new approach to retirement; make retirement more positive and take account of the needs of both the employees and employers when drafting retirement policies and practices.

¹² I decided that this is an important aspect of elderly rights and should therefore be included. I got ideas for the wording from MIPAA, Convention on the Rights of Persons with Disabilities, and the Convention on the Rights of Women.

(e) Adapt the workplace and work arrangements to the condition and need of an elderly employee to maximize working capacity and productivity.

(f) Remove the damaging stereotypes about elderly workers by promoting a realistic and appropriate depiction of their working skills and abilities.

(g) Support workers in making informed decisions about the potential financial, health and other impacts of a longer participation in the workforce.

Article 13¹³

Health

1. States Parties recognize the right of all elderly persons to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness.

2. States Parties shall strive to ensure that no elderly person is deprived of his or her right of access to such health care services by implementing a universal healthcare plan.

3. States Parties recognize that for a successful healthcare policy for elderly persons, they must acknowledge that:

(a) All elderly persons are fully entitled to have access to preventive, curative, sexual and reproductive care.

(b) It is imperative to establish health promotion and disease prevention activities to educate elderly persons on how to better care for themselves.

(c) All elderly persons are responsible to maintain a healthy lifestyle, but for this to be successful, the Government must create a supportive environment that promotes the advancement of health and well-being into old age.

(d) All elderly persons are entitled to have the same access to preventive, curative, sexual and reproductive care and rehabilitation as their younger counterparts.

(e) Special training and education for personnel and facilities is essential to meet the special needs of the elderly population and protect their well-being.

(f) There is a need to establish policies to meet the growing need for care and treatment of the elderly persons and to do so in a safe and cost-effective manner.

(g) Elderly persons are more susceptible to various forms of environmental pollution than their younger counterparts and are more likely to be affected by even the lowest pollution levels.

¹³ I decided that this is an important aspect of elderly rights and should therefore be included. I got ideas for the wording from MIPAA, Convention on the Rights of Persons with Disabilities, and the Convention on the Rights of Women.

(h) Malnutrition among elderly persons place them at a disproportionate risk and can affect their health and vitality.

(i) Health promotion and disease prevention measures focusing, inter alia, on nutrition and physical activities will greatly reduce the development of many diseases, disability and mortality.

4. States Parties recognize that the following measures will increase an elderly person's chance of having a healthy lifestyle:

(a) Promote immunization programs for all elderly persons as a preventive measure.

(b) Design early interventions to prevent or delay the onset of disease and disability.

(c) Provide training and incentives for health and social service and care professionals to counsel and guide persons reaching old age on healthy lifestyles and self-care.

(d) Pay attention to the dangers arising from social isolation and mental illness and reduce the risk they pose to the health of elderly persons by supporting community empowerment and mutual aid groups, including peer outreach and neighborhood visiting programs and by facilitating the active participation of elderly persons in voluntary activities.

(e) Rigorously implement and reinforce national and international safety standards to prevent injuries at all ages.

(f) Promote civic and cultural participation of elderly persons as strategies to combat social isolation and support empowerment.

(g) Develop statistical indicators at all levels on common diseases in elderly persons to guide policies aimed at preventing further illness in this age group.

(h) Encourage elderly persons to maintain or adopt an active and healthy lifestyle, including physical activity and sport.

(i) Encourage and sponsor programs modeling the World Health Organization's Active Aging programs.

(j) Improve the health status of elderly persons in the poor and marginalized section of society by giving it priority for a poverty eradication policy.

(k) Identify and address the main environmental and socio-economic factors that contribute to the onset of disease and disability in later life.

- (l) Set in place and implement legal and administrative measures and organize public information and health promotion, including campaigns to reduce the exposure to environmental pollutants from childhood and throughout life;
 - (m) Promote the safe use of all medications and minimize the misuse of prescription drugs through regulatory and education measures with the participation of the industry and professional sectors involved.
 - (n) Promote the exchange of appropriate information in the preventive health care and medical and psychological treatment fields between different States Parties to improve their capabilities and skills to meet the needs of all elderly persons.
 - (o) Take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of elderly persons.
5. Elderly persons are entitled to make independent decisions concerning their health as long as they are conscious and are able to reflect clearly and make decisions.
6. Elderly persons with any form of dementia are entitled to the same degree of protection and care afforded to those without dementia.
7. Any decision or action concerning elderly persons with dementia must be made with their best interest in mind.
8. Elderly persons who have not assigned any power of attorney to oversee their health have the right to refuse any medical care or health service.
9. States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of an elderly person who was victim of any form of neglect, exploitation, or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment. Elderly persons shall have their recovery and reintegration taken place in an environment that endorses their health, self-respect and dignity.

Article 14¹⁴

Elderly Persons with HIV/AIDS

1. States Parties recognize that:
- (a) HIV/AIDS diagnosis among elderly persons is difficult because symptoms of infection can be mistaken for other immunodeficiency syndromes that occur in elderly persons.

¹⁴ I decided that elderly persons affiliated with HIV/AIDS are tremendously impacted and their issues are very different in different parts of the world *and* from non-HIV/AIDS-related health issues, therefore should have an article of its own. I borrowed some of the wordings from MIPAA.

(b) Elderly persons can be at increased risk of HIV infection merely because they are typically not addressed by public information campaigns and thus do not benefit from education on how to protect themselves.

(c) In certain countries that are severely affected by HIV/AIDS, elderly persons usually are the primary caregivers for their children and grandchildren.

2. States Parties recognize the importance of taking the following actions:

(a) Ensure and expand the compilation of HIV/AIDS data to allow for the assessment of the extent of HIV/AIDS infection in elderly persons.

(b) Pay special attention to elderly carers of HIV/AIDS patients, including the collection of both quantitative and qualitative data on the health status and needs of elderly carers.

(c) Revise, as appropriate, public health and prevention strategies to reflect local epidemiology. Information on prevention and risks of HIV/AIDS for the general population should meet the needs of elderly persons.

(d) Provide training to elderly caregivers to help them to provide effective care while minimizing the possible negative impact on their own health and well-being.

(e) Ensure that AIDS treatment and support strategies recognize the needs of elderly persons who are infected by HIV/AIDS.

(f) Review the economic impact of HIV/AIDS on elderly persons, particularly in their role as caregivers, as agreed in the Declaration of Commitment on HIV/AIDS; 9.

(g) Introduce policies to provide in-kind support, health care and loans to elderly caregivers to assist them in meeting the needs of children and grandchildren in accordance with the Millennium Declaration; 10.

(h) Foster collaboration between governmental agencies and nongovernmental organizations that work with elderly persons and their families on HIV/AIDS issues.

(i) Encourage the elaboration of studies to better understand and highlight the contribution of elderly persons to social and economic development in all countries, in particular those countries severely affected by HIV/AIDS, and disseminate the findings as widely as possible.

Article 15¹⁵

¹⁵ The pension idea was from MIPAA but I came up with the disability protection part.

Pension and Disability Protection

1. States Parties recognize the importance of having a structured and efficient pension system to ensure the stability and adequate pension income for all retired elderly persons.

2. States Parties acknowledge that in order to have a successful pension system, they shall:

(a) Develop and implement policies aimed at ensuring that all persons have adequate economic and social protection during old age.

(b) Strive to ensure gender equality in social protection/social security systems.

(c) Ensure, where appropriate, that social protection/social security systems cover an increasing proportion of the formal and informal working population.

(d) Consider innovative social protection/social security programs for persons working in the informal sector.

(e) Introduce programs to promote employment of low-skilled elderly workers, giving access to social protection/social security systems.

(f) Strive to ensure the integrity, sustainability, solvency and transparency of pension schemes, and, where appropriate, disability insurance.

(g) Establish a regulatory framework for private and supplementary pension and, where appropriate, disability insurance.

(h) Provide advice and counseling services for elderly persons regarding all areas of social protection/social security.

3. States Parties shall establish a pension system for elderly persons who could not meet the working criteria to be eligible for pension for reasons beyond their control, for instance:

(a) A disabled person is denied a job all his or her life and is not able to accumulate the necessary number of working years to qualify for pension.

(b) A person who becomes disabled on the job is unable to work, therefore not being able to accumulate the necessary number of working years to qualify for pension.

(c) A person who worked in the informal sector with no cash compensation, especially women who are either housewives or have family care obligations and are not considered employed.

(d) Personal domestic servants who usually get paid in cash and usually are not part of a pension system.

- (e) A period of high unemployment rate due to lack of job scarcity.
4. States Parties recognize that elderly women in the labor market need special attention when calculating their pension income due to the following reasons:
- (a) Women often receive lower salaries due to sex discrimination.
 - (b) Women often lack career development due to interrupted work histories, family care obligations and sex discrimination, which hinders their ability to have better financial security.
5. States Parties shall establish a pension system for un-pensioned elderly women who lose their husband's pension upon his death.
5. States Parties shall implement a disability insurance program to guarantee the well-being and amelioration of elderly employees who become disabled.
6. States Parties shall ensure that the minimal pension income of all elderly persons is enough to finance their shelter, food, and medical cost based on the average living costs in the respective States.

Article 16¹⁶
Sexual Rights

1. States Parties acknowledge that elderly persons are entitled to be sexually active as long as their younger counterparts.
2. States Parties shall protect elderly persons' dignity and self-respect and not demean them for wanting to remain sexually active.
3. States Parties shall not take any actions or allow any actions to prevent elderly persons from remaining sexually active.
4. States Parties are aware that elderly persons who are sexually active are at risk of contracting sexually transmitted infections and sexually transmitted diseases and spreading them. In the light of this fact, States Parties shall:
- (a) Implement programs to educate elderly persons on sexually transmitted infections and sexually transmitted diseases and how to practice safe sex and protect themselves.

¹⁶ I decided to include this Article because with social, technological, and scientific advancement, sexual activity among elderly persons is increasing. Additionally, they are not aware of the risks involved because they were raised in a tabooed society and in a society where discussion about sex and having multi-partners are not commonly accepted or practiced.

- (b) Require doctors to ask elderly patients about their sexual status and educate them about sexually transmitted infections and sexually transmitted diseases and how to practice safe sex.
5. States Parties shall protect the rights of elderly persons to engage in sexual activities with heterosexual or homosexual partners.

Article 17¹⁷

Sexual Exploitation

1. States Parties shall undertake to protect all elderly persons from all forms of sexual exploitation and sexual abuse.
2. States Parties shall take all appropriate measures to prevent:
 - (a) The inducement or pressure of an elderly person to engage in any unlawful sexual activity.
 - (b) The exploitative use of elderly persons in unlawful sexual practices.

Article 18¹⁸

Receiving Living Assistance from the States

States Parties shall ensure that elderly persons who are receiving living assistance from the government are:

- (a) Living in an adequate standard of living, which includes adequate food, clothing and housing in addition to continuous improvement of living conditions.
- (b) Receiving all appropriate medical care, both preventive and rehabilitative.
- (c) Treated with respect and dignity without abuse, neglect, maltreatment, exploitation or torture of any kind.
- (d) To be part of any decision-making process that concerns them and their well-being.
- (e) To be fully informed of all factors, benefits, and risks of any decision they may choose.

Article 19¹⁹

Power of Attorney

¹⁷ This idea was inspired by both the Convention on the Rights of Child and the Convention on the Declaration of the Rights of Persons with Disabilities.

¹⁸ I created this article because there are many people that rely on the States for survival and I believe that it's essential that the States does provide the services appropriately and sans abuse.

¹⁹ I decided to include this article because there have been a lot of problems when it came down to power of attorney, its role and function and how it affects all the parties involved. This article will protect elderly persons and makes it clear how much power each party has.

1. Elderly persons are entitled, in their clear and conscious States of mind and without pressure from people, to give power of attorney to anyone they trust to make decisions on their behalf on matters concerning their financial and health situation and condition.
2. All persons with power of attorney for an elderly person must make all decisions with in mind the best interest of the well-being of the elderly person.
3. Elderly persons are entitled, in their clear and conscious States of mind and without pressure from people, to remove a person's power of attorney and choose a replacement.
4. Elderly persons are entitled to refuse to delegate a person with power of attorney over them.

Article 20²⁰

Emergency Situations

1. States Parties recognize that elderly persons are in especially vulnerable position in event of an emergency situation and shall be identified as such.
2. States Parties shall provide the same protection for elderly persons afforded to women and children under the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, G.A. res. 3318 (XXIX), 29 U.N. GAOR Supp. (No. 31) at 146, U.N. Doc. A/9631 (1974).
3. States Parties recognize that veracity of the key issues for elderly persons during an emergency situation, which are:²¹
 - (a) Mobility: In certain emergency situations, civilians are forced to flee amidst physical chaos and violence. Elderly persons are often left behind without support or resources. Centralized healthcare and food facilities are often inaccessible for elderly persons.
 - (b) Healthcare: Health-related organizations give healthcare primarily to women and children, leaving elderly persons without immediate care. Emergency food and nutrition programs are not often adjusted to elderly persons' dietary needs. Medications for elderly persons' chronic health problems are usually not available during the States of emergency.
 - (c) Livelihoods: In the aftermath of an emergency situation that required evacuation, elderly persons usually are deprived of access to land and scarce resources to rebuild their lives.

²⁰ The MIPAA has a section on emergency situations and I felt it was important to include this. I researched different resolutions adopted by the General Assembly and came across the Declaration on the Protection of Women and Children in Emergency and Armed Conflict and I noticed it does not include elderly persons.

²¹ The idea for this section comes from HelpAge International.

(d) Isolation: In emergency situations, loss of lives does happen often. There are cases when elderly persons are the sole survivors of their families, which increase their vulnerability. They are faced with the dilemma of being isolated and without support system of any kind. This leads to abandonment, discrimination, and self-exclusion.

(e) Perceptions: Chronic health, mobility and mental-health problems are not the priorities for aid agencies. For elderly persons, this heightens vulnerability and increases the difficulty of supporting themselves and their communities.

4. Based on Article 19, Item 5, States Parties shall take the follow measures to alleviate and avoid unnecessary hardship on elderly persons during emergency situations:

(a) Identify elderly persons and assess their situation as early as possible.

(b) Create aid agencies and humanitarian programs specifically designed to address the needs of elderly persons.

(c) Ensure that the healthcare and medical needs of elderly persons are one of the priorities during an emergency situation.

(d) Establish an emergency food program specifically designed for elderly persons and ensure that any food given to elderly persons meet their nutritional and physical needs.

(e) Ensure that rehabilitation and reconstruction programs provide elderly persons with full and equal support and resources in rebuilding their lives.

(f) Take concrete measures to protect and assist elderly persons in situations of armed conflict and foreign occupation, including physical and mental services for those who are disabled.

(g) Incorporate elderly persons' input during the reconstruction and rehabilitation phases.

(h) Educate relief agency personnel of the physical and health issues elderly persons face and of ways to adapt to their needs.

(i) Give elderly persons accessibility to healthcare and food facilities either with transportation or with a delivery system.

(j) In cases of displacement, be aware and sensitive to elderly persons' different cultural background and less flexibility to adapt to their new and unfamiliar surroundings.

(k) Establish explicit national guidelines to assist elderly persons in disaster relief plans, including disaster preparedness, training for relief workers, and availability of services and good. Ensure that these guidelines are up-to-date.

(l) Establish a network system in local communities to reduce chances of isolation and abandonment.

(m) Prepare elderly persons for emergency situations by educating and empowering them.

Article 21²²

Elderly Persons in the Rural Environment

1. States Parties recognize that situations and conditions of elderly persons living in the rural environment are unique and therefore require different kind of attention and services.

2. States Parties recognize that elderly persons living in the rural area have the same rights and are entitled to the same protection and services afforded to those who live in an urbanized area.

3. States Parties acknowledge that elderly persons living in the rural have the right not to be isolated and neglected.

4. States Parties shall ensure that there exist the following facilities for elderly persons living in rural areas:

(a) Access to healthcare services such as, but not limited to, clinics, hospitals, pharmacies and ambulatory service within **fifty miles²³** from their place of residence.

(b) Access to social protection services including, but not limited to, police department, fire department, emergency crew and disaster control center within **fifty miles²⁴** from their place of residence.

(c) **Access²⁵** to resources such as, but not limited to, food, water, petrol, bank, library and transportation to urbanized areas.

²² I got the idea of having a separate section for rural area from Global Action on Aging's website. The details are mostly my ideas with some ideas from MIPAA's section on elderly persons living in the rural area.

²³ I am not sure if that distance is realistic or reasonable and should be greater or lesser. What I'm trying to do is to put something on the Convention that requires the government to provide reasonable accessibility for elderly persons living in the rural area and prevent them from being completely isolated.

²⁴ Ibid.

²⁵ Access is a very abstract concept. I would need to think more about how to make it more concrete and reduce loopholes.

- (d) **Access** to information such as, but not limited to, changes in the rural area that will impact them, weather forecast that may endanger their safety, possible emergency situation and nearest contact persons and/or centers.
 - (e) **Access** to academic and training centers to encourage mental stimulation and increase knowledge and education.
5. States Parties recognize that isolation often happens to elderly persons in the rural areas and shall do the following:
- (a) Establish and coordinate community support mechanism including, but not limited to, nursing homes, community center and hotline connection.
 - (b) Pay particular attention to elderly women who are likely to live longer and have fewer resources.
 - (c) Pay particular attention to elderly persons who are disabled and provide necessary resources to ensure they can maintain their independence.
 - (d) Empower elderly persons in decision-making process.

Article 22²⁶

Economic and Social Changes

1. States Parties acknowledge that social and economic changes are inevitable and do happen with the intention of improving conditions in their nation as a whole and have impact on everyone, including elderly persons.
2. States Parties are aware that elderly persons are less likely to adapt and survive through new economic and social changes.
3. States Parties and international institutions shall have a detailed outline of how economic and social changes will be executed and how they will impact specifically the elderly population.
4. States Parties and international institutions shall have a detailed outline of services and resources that will assist elderly persons through the social and economic transitions.
5. States Parties and international institutions shall take all necessary measures to ensure elderly persons are not in worse condition after the social and economic transitions.

Article 23²⁷

²⁶ I decided to include this section because I have done research on international institutions; they all have influence on social and economic changes but most of them do not take elderly persons into consideration and those changes usually have a negative impact on them.

Respect for Privacy

1. States Parties acknowledge that no elderly persons shall be subjected to arbitrary or unlawful interference with their privacy, family, home or any types of communication. Their honor and reputation shall not be subjected to unlawful attacks. Elderly persons have the rights to have legal protections from such interference or attacks.
2. States Parties shall treat elderly persons with the same degree of respect on the privacy of personal, health and rehabilitation information of elderly persons as their younger counterparts.

PART II²⁸

Article 24

Committee on the Rights of Elderly Persons

1. For the purpose of examining and supervising the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of Elderly Persons (hereafter referred to as “the Committee”), which shall carry out the functions hereinafter provided.
2. The Committee shall consist, at the time of entry into force of the Convention of thirteen experts serving in their personal capacity with one being an expert of the Madrid International Plan of Action on Aging (MIPAA). After every additional thirty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of forty-five members.
3. The members of the Committee must be of high moral standing and recognized competence in the field covered by the present Convention.
4. The members of the Committee shall be elected to serve in their personal capacity with consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participations of elderly experts and experts with disabilities.
5. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at the meetings of the Conference of States Parties. Each State Parties may nominate only two persons from among their nationals.

²⁷ The Convention on the Rights of Persons with Disabilities had this article and because elderly persons have similar degrees of vulnerability as persons with disabilities, I felt it was important to include this article.

²⁸ For Part II, I look at the texts and wording of the Convention on the Rights of Persons with Disabilities, the Convention on the Rights of Women, and the Convention on the Rights of Child.

6. At the Conference of States Parties meetings, for which two-thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

7. The initial election shall be held six months after the date of the entry into force of the present Convention. At least four months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall then prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the State Parties.

8. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if re-nominated. The terms of thirteen of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these thirteen members shall be chosen by lot by the Chairman of the Committee.

9. The election of the six additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3, 4, and 5 of this article, following the thirty-fifth ratification or accession.

10. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article to serve for the remainder of the term, subject to the approval of the Committee.

11. The Committee shall elect its **officers**²⁹ for a period of two years who shall obtain an absolute majority.

12. The Committee shall establish its own rules of procedure.

13. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

14. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

15. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee

²⁹ Should I list what kind of officers are needed?

shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

Article 25

Reports by States Parties

1. States Parties shall submit to the Secretary-General of the United Nations, for consideration by the Committee, a comprehensive report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect., within one year after the entry into force of the present Convention for the State Party concerned.
2. Thereafter, State Parties shall submit subsequent reports at least every three years and further whenever the Committee so requests.
3. The Committee shall decide any guidelines applicable to the content of the reports.
4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in Article 3, Items 2 – 6, 8 and 9 of the present Convention.
5. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention.
6. Reports shall contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
7. The Committee may request from States Parties further information relevant to the implementation of the Convention.

Article 26

Cooperation between State Parties and the Committee

1. Each State Party shall cooperate with the Committee and assist its members in the fulfillment of their mandate.
2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

Article 27

States Parties' Responsibilities

1. States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.
2. State Parties shall make the Committee's and their reports widely available to the public in their own countries.

Article 28

Report of the Committee

The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

Article 29

Relationship of the Committee with other Bodies

1. In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention:

(a) The specialized agencies, the UN Programme on Ageing, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized non-governmental organizations such as, inter alia, Global Action on Aging and HelpAge International, and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications.

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the elderly persons.

Article 30

Conference of State Parties

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.

2. No later than six months after the entry into force of the present Convention, the Conference of the States Parties shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.

Article 31

Depositary

The Secretary-General of the United Nations shall be the depositary of the present Convention.

Article 32

Signature

The present Convention shall be open for signature by all States and by regional integration organizations at the United Nations Headquarters in New York as of (DATE).

Article 33

Consent to be bound

1. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. The present Convention shall remain open to accession by all States and by all regional integration organizations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 34

Entry into Force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 35

Reservations

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 36

Amendments

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favor a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favor such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 37

Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 38

Accessible Format

The text of the present Convention shall be made available in accessible formats.

Article 39

Authentic texts

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.