

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES
COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

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Working Group on Protection of the
Human Rights of Older Persons

WORKING GROUP ACTIVITIES IN THE PERIOD 2011-2012

(Report of the Chair of the Working Group, to be presented to the
Committee on Juridical and Political Affairs)

WORKING GROUP ACTIVITIES IN THE PERIOD 2011-2012

I. BACKGROUND

In the Declaration of Commitment of Port of Spain,^{1/} the Heads of State and Government of the Americas pledged to continue “working to incorporate issues of aging into public policy agendas” and to promote “in the regional framework and with support from PAHO and ECLAC, a review of the feasibility of preparing an inter-American convention on the rights of older persons”.

In the framework of the Organization of American States (OAS), member states have underscored the importance of this issue through General Assembly resolutions AG/RES. 2455 (XXXIX-O/09) and AG/RES. 2562 (XL-O/10). In fulfillment of the mandate emanating from resolution AG/RES. 2562 (XL-O/10), the Permanent Council held a special meeting on human rights and older persons on October 28, 2010 with the participation of the Inter-American Commission on Human Rights (IACHR), the Pan American Health Organization (PAHO), the United Nations Population Fund, (UNFPA), civil society representatives, and specialists from the OAS General Secretariat.

At its forty-first regular session, the General Assembly adopted resolution AG/RES. 2654 (XLI-O/11) and requested that the Permanent Council establish a working group composed of national representatives and experts from the academic sector and civil society, as well as from international organizations and specialized agencies.

On July 21, 2011, the Permanent Council assigned to the Committee on Juridical and Political Affairs (CAJP) the mandates set forth in resolution AG/RES. 2654 (XLI-O/11).^{2/} The CAJP, in fulfillment of said mandates, began the work to establish the Working Group on September 8. At that meeting, the Argentine delegation verbally presented a draft proposed methodology for establishing the Working Group, which was enriched by input from member states at that CAJP meeting and distributed as document [CP/CAJP-3017/12](#). The CAJP established the Working Group on Protection of the Human Rights of Older Persons on September 22, 2011.

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1. The Government of Nicaragua places on record its express reservation to the Declaration of the Fifth Summit of the Americas, held in Port of Spain, Trinidad and Tobago. During that event, Nicaragua expressed its view that the Declaration of the Fifth Summit of the Americas was unacceptable and inadequate as it did not resolve a number of matters that were extremely important for the Hemisphere and were still under discussion. Nor does Nicaragua accept that references may be made to that Declaration in the resolutions to be adopted by the OAS General Assembly. Nicaragua reaffirms that the items on the General Assembly agenda should be derived from the debates and deliberations of the Heads of State and Government in Trinidad and Tobago.
 2. Distribution of mandates assigned by the General Assembly at its forty-first regular session, (Approved by the Permanent Council on July 21, 2011 and revised on September 7, 2011), [CP/doc.4654/11](#) rev. 2).

II. MANDATE

The General Assembly of the OAS, meeting in San Salvador, El Salvador in June 2011, through resolution AG/RES. 2654 (XLI-O/11) “Protecting the Human Rights of Older Persons,”^{3/ 4/} requested that the Working Group prepare “by the end of 2011 a report analyzing the situation of older persons in the Hemisphere and the effectiveness of binding universal and regional human rights instruments with regard to protection of the rights of older persons”.

It also requested that the Working Group “prepare, based on the findings of the above-mentioned report, a draft inter-American convention for the advancement and protection of the rights of older persons, which shall be submitted to the Permanent Council before the end of the first half of 2012 and which recommends other measures to further the implementation of existing international conventions.”

III. AUTHORITIES

On September 22, 2011, the CAJP elected Mrs. Ana Pastorino, Alternate Representative of Argentina, as Chair of the Working Group for the period 2011-2012. On December 2, 2012, the Group elected Mrs. Wendy Acevedo, Alternate Representative of El Salvador, as its Vice Chair.

IV. WORKING GROUP ACTIVITIES (2011-2012)

A. Organization of the Work

At the Working Group’s meeting of October 20, 2011, the Chair submitted to the Group for consideration a draft Work Plan, which was approved by the delegations and is set forth in document [CAJP/GT/DHPM-1/12](#) rev. 2.

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3. Canada reserves its position on the necessity of creating a draft inter-American convention for the advancement and protection of the rights of older persons pending the outcome of deliberations in the UN Open-ended Working Group on Ageing concerning a recommended approach to addressing the needs of this vulnerable group. Canada is notably concerned by the prospect of duplication of international work in this area and believes it prudent to await clarification from the UN Open-ended Working Group concerning what gaps may exist in the current international rights framework in this area and what additional instruments, if any, may be required before the OAS considers the relative merit of moving ahead with an inter-American convention. Canada encourages the OAS to focus on implementing existing human rights resolutions and on strengthening the effectiveness of existing human rights instruments rather than creating new and potentially duplicative processes before there is a clearly identified need.
 4. The United States is committed to promoting the human rights of all persons, including older persons. However, it is premature to call for preparation of a draft inter-American convention for the advancement and protection of the rights of older persons at this time, while a UN working group is assessing whether such an instrument is needed. Rather, we believe that the OAS should await the conclusions of the UN group, and consider those conclusions, before deciding whether to undertake a potentially lengthy, costly, and duplicative negotiating and drafting process. We, therefore, reserve our position on the necessity of creating any new international instruments, including a draft inter-American convention, to protect the rights of older persons.

At that meeting, the group agreed to:

1. Request that the Chair of the Working Group prepare a background paper summarizing the principal conclusions of the special meeting of the Permanent Council on October 28, 2010;
2. Request the members of the Working Group to remit, by November 11, 2011, a paper containing their perspective on the specific rights of older persons and the corresponding duties of States, which will serve as inputs to be assessed in the diagnostic report to be submitted to the Permanent Council by late 2011;
3. Set November 4, 2011 as the date for a diagnostic assessment meeting of the Working Group, to review the main conclusions reached at the special meeting of the Permanent Council on October 28, 2010 and invite specialists from renowned institutions with experience in this field to share their perspective on the specific rights of older persons, as well as their assessment of the regional and universal binding instruments on the human rights of older persons, in terms of their effective contribution to the protection of their rights, and the solutions found and tested by said institutions for achieving effective protection of the rights of older persons;
4. Request the Chair of the Group to consolidate the rights, duties, and other factors identified, once the inputs prepared by the Working Group have been received, into a report that the Chair will submit for consideration and approval by the Working Group on December 2, 2011;
5. Hold an evaluation meeting, initially proposed for January 20, 2012, to take stock of the diagnostic assessment meeting and of the aforementioned report; and to debate the broad guidelines that should be included in "a draft inter-American convention for the advancement and protection of the rights of older persons"; and
6. Hold, in March 2012, a meeting to discuss a first draft of a proposed inter-American convention, that would be submitted for observations and contributions from the members of the Working Group and consolidated by the Chair of the Group for submission to the Permanent Council before the end of the first half of 2012, in fulfillment of the mandate set forth in operative paragraph 2 of resolution AG/RES. 2654 (XLI-O/11).

B. Working Group Meetings

The Working Group held six regular meetings in 2011-2012. At the October 20 meeting, the work plan and the agenda for the November 4, 2011 meeting were considered.

At the November 4 meeting, the document containing the main conclusions from the October 28, 2010 special meeting of the Permanent Council, which was circulated as document [CAJP/GT/DHPM-6/12](#) rev. 1, was presented. The meeting also heard presentations by Mr. Javier Vázquez, Regional Advisor on Human Rights, Pan American Health Organization (PAHO); Mr. Dirk Jaspers, Director, Latin American and Caribbean Demographic Centre (CELADE) – Population Division, Economic Commission for Latin America and the Caribbean (ECLAC); and Mrs. Sonia

Martinelli, Regional Advisor for Latin America and the Caribbean, United Nations Population Fund (UNFPA), who generously shared with the delegations their views on the specific rights of older persons, together with their assessment of the binding regional and universal instruments on the human rights of older persons.

At its December 2 meeting, the Group considered the “Report on the Situation of Older Persons in the Hemisphere and the Effectiveness of Binding Universal and Regional Human Rights Instruments with Regard to Protection of the Human Rights of Older Persons,” which was prepared taking into account the perspectives sent by the member states, the main conclusions from the Permanent Council’s October 28, 2010 special meeting, and input from the experts who participated in the Working Group meeting on November 4, 2011. The report was distributed under the classification [CAJP/GT/DHPM-14/11](#) rev. 1.

On that occasion, the Group agreed to submit the report to the CAJP so the latter could in turn present it to the Permanent Council, in fulfillment of the mandate emanating from operative paragraph 1 of General Assembly resolution AG/RES. 2654 (XLI-O/11).

Ambassador Albert Ramdin, Assistant Secretary General, participated in the Working Group’s February 22 meeting; he recognized the importance of the Group’s work and expressed the Secretariat’s willingness to provide the support needed to achieve the stated objectives. Also in attendance was Mrs. Juana Sotomayor, Specialist with the United Nations Office of the High Commissioner for Human Rights; Mr. Víctor Abramovich, Executive Secretary of the MERCOSUR Human Rights Public Policy Institute; Mrs. Sandra Huenchuan, Specialist with the Latin American and Caribbean Demographic Centre – Population Division, Economic Commission for Latin America and the Caribbean (ECLAC); and Mr. Javier Vázquez, Regional Advisor on Human Rights, Pan American Health Organization (PAHO).

On that occasion, the Group heard presentations from the guest experts, and there was a dialogue among meeting participants to create the first draft of the proposed instrument, to be presented to the Permanent Council.

At the end of the meeting, the Chair proposed a timetable for activities related to preparing the draft Inter-American Convention, which was approved by the Working Group. The schedule highlighted the following dates and activities:

- March 8: Deadline for the delegations to submit their input;
- March 15: The Chair circulates the draft background paper;
- March 26: The Chair shares the draft proposed inter-American convention, informally, with experts from the member states participating in the International Forum on Protection of the Human Rights of Older Persons, held by the Mexico City government and ECLAC in Mexico City, Mexico, from March 26 to 28, 2012. The Chair takes note of the various comments and suggestions that attendees make on the paper and incorporate some of them as the Chair’s suggestions;
- March 27: The background paper is circulated informally at the meeting of MERCOSUR senior human rights and foreign affairs authorities, for comments and suggestions;
- March 30: Deadline for delegations’ comments on the draft;
- April 10: The chair circulates the document with the comments received;

- April 16: Meeting of the Working Group to consider the draft Convention;
 - April 26: Deadline to present the draft Convention to the CAJP, in order to comply with the mandate emanating from the aforementioned resolution.
- C. Draft Inter-American Convention on the Protection of the Human Rights of Older Persons

At the meeting scheduled for April 16, the Chair of the Working Group presented the draft Inter-American Convention on the Protection of the Human Rights of Older Persons, which was prepared taking into account: (1) the report presented to the Permanent Council on December 14, 2011, document CAJP/GT/DHPM-14/11 rev. 1, which took into account, among other things, the document prepared by the Technical Secretariat on the conclusions of the October 28, 2010 special meeting of the Permanent Council, CAJP/GT/DHPM-6/11 rev. 1; and included the views sent by the delegations on the rights of older persons; and (2) the opinions of the PAHO, UN, ECLAC, and MERCOSUR experts on the content to be incorporated into the draft Inter-American Convention for the Advancement and Protection of the Human Rights of Older Persons.

The proposals and comments sent by the delegations on the draft Convention were also presented, together with those compiled by the Chair at the informal meeting with experts from the member states participating in the International Forum on Protection of the Human Rights of Older Persons, held in Mexico City, Mexico from March 26 to 28, 2012.

The Group agreed to hold a meeting prior to the deadline for submitting the draft Convention to the CAJP, to continue considering the draft Convention and the proposals presented by the delegations.

On April 20, 2012, at the request of the delegations and in order to bring together the most possible elements, viewpoints, and contributions to enrich the draft Convention, the Chair of the Working Group requested that the Chair of the CAJP grant an extension for presentation of the draft Convention. That request was granted, and so its presentation was rescheduled for May 3.

At the April 26, 2012 meeting, the Working Group agreed to present to the CAJP the “Draft Inter-American Convention on the Human Rights of Older Persons”^{5/6/12} [CAJP/GT/DHPM-37/12](#) and

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5. This replaces document CAJP/GT/DHPM-30/12.
 6. The draft Convention will be enriched with future contributions from the delegations during the formal negotiation process.
 7. “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. We therefore thank the Commissioner and the Working Group President for the attention brought to this issue. However, as the United States has explained previously, we believe that the OAS should await the conclusions of the United Nations Open-ended Working Group on Ageing and consider those conclusions before deciding whether to undertake a potentially lengthy, costly, and duplicative multilateral process of negotiating and drafting an inter-American convention. We, therefore, have not participated actively in the Working Group and reserve our position on this draft that the Working Group has prepared. Moreover, the United States continues to encourage the OAS to focus on measures to improve respect by member states for their human rights obligations to older persons under existing human rights treaties

the compendium of proposals on the draft Inter-American Convention on the Human Rights of Older Persons^{8/9/} [CAJP/GT/DHPM-44/12](#), both of which are attached to this report.

D. General Assembly Draft Resolution

At the April 16, 2012 regular meeting of the Working Group, the Chair presented the draft resolution, "Protecting the Human Rights of Older Persons," which was considered by the Working Group at its April 26 meeting. The draft resolution with the proposed amendments was distributed under classification [CAJP/GT/DHPM-33/11](#) rev. 3 and is attached to this report.

V. ACKNOWLEDGEMENTS

The Chair of the Working Group would like to thank the Vice Chair of the Group, Counselor Wendy Acevedo, Alternate Representative of El Salvador to the OAS, and underscore her concern for and dedication to the success of the Group's work; the delegations, whose dedicated participation made it possible to move forward in fulfilling the Group's assigned mandate; and the international organization and civil society representatives who enriched the Group's work with their input and recommendations. The Chair would also like to thank the Department of Social Development and Employment and the Secretariat of the Permanent Council for their ongoing support and advising.

Ana Pastorino
Alternate Representative of Argentina to the OAS
Chair of the Working Group on Protection of the
Human Rights of Older Persons

as a potentially more effective and immediate way to address what we all recognize to be very serious problems in this area."

8. This includes the proposals and comments from the delegations reflected in documents CAJP/GT/DHPM-30/12 rev. 6 corr. 1 and CAJP/GT/DHPM-30/12 add. 1.
9. This document will be enriched by contributions from the delegations and will serve as a tool for negotiating the Draft Inter-American Convention on the Human Rights of Older Persons, document CAJP/GT/DHPM-xx/12.

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES
COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

Working Group on Protecting
the Human Rights of Older Persons

ANNEX I

OEA/Ser.G
CAJP/GT/DHPM-37/12
30 April 2012
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PRELIMINARY DRAFT INTER-AMERICAN CONVENTION ON PROTECTION
OF THE HUMAN RIGHTS OF OLDER PERSONS^{10/11/12/}

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10. This document replaces document CAJP/GT/DHPM-30/12 and was prepared taking into consideration the following: 1) The report presented to the Permanent Council on December 14, 2011, document CAJP/GT/DHPM-14/11 rev. 1, which took into account, among others, the document prepared by the Technical Secretariat, on the conclusions of the Special Meeting of the Permanent Council of October 28, 2010, CAJP/GT/DHPM-6/11 rev. 1, and included the perspectives sent in by delegations in relation to the rights of older persons; and 2) The opinions of the experts from PAHO, UN, ECLAC, and MERCOSUR, on content to be incorporated into the draft Inter-American Convention for the Promotion and Protection of the Rights of Older Persons.
 11. The draft Convention will be enhanced with future contributions by delegations, during the formal negotiation process.
 12. “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. We therefore thank the Commissioner and the Working Group President for the attention brought to this issue.

However, as the United States has explained previously, we believe that the OAS should await the conclusions of the United Nations Open-ended Working Group on Ageing and consider those conclusions before deciding whether to undertake a potentially lengthy, costly, and duplicative multilateral process of negotiating and drafting an Inter-American convention. We, therefore, have not participated actively in the Working Group and reserve our position on this draft that the Working Group has prepared.

Moreover, the United States continues to encourage the OAS to focus on measures to improve respect by member states for their human rights obligations to older persons under existing human rights treaties as a potentially more effective and immediate way to address what we all recognize to be very serious problems in this area.”

Draft Inter-American Convention on the Human Rights of Older Persons

DRAFT

Preamble: The States to the present Convention

- a. *Recalling* that the principles of the United Nations Charter proclaim freedom, justice and peace in the world, and are based on recognition of the dignity, inherent value and equal and inalienable rights of all members of the human family;
- b. *Recognizing* that in the Universal Declaration of Human Rights and the International Covenants on Human Rights, the United Nations recognized and proclaimed that all persons have the rights and freedoms set out in those instruments, without distinction of any kind;
- c. *Reaffirming* that all human rights and fundamental liberties are universal, indivisible, interdependent and interrelated, and that older persons must be able to exercise those rights fully without discrimination or violence, considering them as rights holders and not passive objects of public policies;
- d. *Recalling* the American Convention on Human Rights, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, “Protocol of San Salvador”, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, “Convention of Belem do Pará”, the Inter-American Convention, and the Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities;
- e. *Taking into consideration* the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- f. *Recalling* also, *inter alia*, the Additional Protocols to Geneva Conventions of 1949 that refer, respectively, to victims of international and domestic armed conflict, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (adopted by United Nations General Assembly in Resolution 40/34 of November 29, 1985) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (adopted by the General Assembly in Resolution 43/173 of December 9, 1988);
- g. *Taking into consideration* the various programming instruments adopted in the United Nations that reflect concern over the special vulnerability of older persons and possible situations of more serious discrimination, such as the United Nations Principles for Older Persons (adopted by the General Assembly in Resolution 46/91 of December 16, 1991); the Proclamation on Ageing (adopted by the General Assembly in resolution A/RES/47/ of

October 16, 1992); and also the Program of Action of the International Conference on Population and Development” (1994); the Political Declaration and Plan of Action of Madrid on Ageing of 2002, and the Durban Declaration and Program of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001);

- h. *Taking into consideration also* the various regional efforts and instruments based on the United Nations guidelines, such as, *inter alia*, the Regional Strategy for the Implementation in Latin America and the Caribbean of the Madrid International Plan of Action on Ageing; the Declaration of Brasilia for the Latin American and Caribbean Region (2007); the Declaration of Commitment of Port of Spain of Plenipotentiaries, Organization of American States, OAS (2009); resolution 2455 on human rights and older persons, OAS (2009); the Plan of Action of the Pan American Health Organization/World Health Organization (PAHO/WHO on the Health of Older Persons, including Active and Healthy Ageing (2009) [PAHO];
- i. *Reaffirming* their commitment to spare no effort to promote democracy, reinforce the rule of law, and promote the equality of men and women, and to promote and protect human rights and fundamental liberties, including the right to development;
- j. *Reaffirming* also the commitment to eliminate all forms of discrimination, *inter alia*, discrimination for reasons of age, recognizing that as they age, persons should enjoy a full life, in health, engagement, safety and with active participation in the economic, social, cultural and political spheres of their societies;
- k. *Recognizing* that the ageing of the population is one of the greatest achievements of humanity, and that it is a demographic revolution that has repercussions in all spheres and dimensions of society and on public policies;
- l. *Bearing in mind* that the ageing of the population is very diverse, and that the world-wide trend towards longer life is a historic achievement that should be reflected in a re-adaptation of public policies, the drafting of national laws, the organization of society and the crafting of varied responses by the States to the changes in the age structure of the population;
- m. *Reaffirming* the commitment to address the topic of ageing and give it priority in all spheres of public policies and programs, and to assign and manage human, material and financial resources to ensure appropriate follow-up and evaluation of the measures put in place, differentiating between urban and rural areas and recognizing, among others, intergenerational, gender, race, and ethnic perspectives in the policies, programs and laws geared to the most vulnerable sectors of the population because of their economic and social condition and humanitarian emergency situations, such as armed conflict, natural disasters and forced displacement;
- n. *Convinced* that the particular vulnerability of older persons distinguishes them from other groups that are given special consideration and that the fact that the various international instruments on human rights are dispersed makes an annotated application difficult, which may cause a lack of protection; a specific effort at codification is therefore considered

essential to assuring the realization of their civil, political, economic, social, and cultural rights, and the exercise of their free, active, and significant participation in their personal development;

- o. *Recognizing* that there are stereotypes, and social and cultural prejudices that warrant affirmative actions and awareness-raising in order to counteract them, since they view ageing as a disability per se, link it mainly to illness, loss and isolation, with which the older person himself also identifies; and that these ideas have a damaging effect on the social and community integration of older persons, and on the full exercise of their citizen rights.
- p. *Recognizing* that efforts to promote, protect and give effect to the rights of older persons must be set in the framework of the construction of societies that are more inclusive, cohesive and democratic, that safeguard equality and reject all forms of discrimination, including those related to age, and that develop mechanisms for intergenerational solidarity and new forms of contributing to development at all ages, bearing in mind the diverse forms of the family.
- q. *Stressing* that in addressing the challenges of ageing, some countries have developed different frameworks for promoting, protecting and giving effect to the rights of older persons and encouraging social inclusion, but that despite this, differences in situations and achievements among countries and subregions persist, as does a preponderance of charitable actions that do not take account of the need for a rights-based approach to social security, health and general social services policies;
- r. *Recognizing* the need to shift the paradigm in order to address matters of old age and ageing, and leaving charity aside in favor of a rights-based approach that recognizes the valuable current and potential contributions of older persons to the common good, their contribution to cultural and community identity and to the diversity of their communities, and a significant advance in the human, social, and economic development of society and the eradication of poverty;
- s. *Bearing in mind* that ageing may produce disabilities and therefore dependency that require specially designed services for comprehensive care, which requires rejecting the approach of merely treating the illness, which at times produces therapeutic cruelty, in order to foster comprehensive social and health services that take into account the social determinants of health, and include for older persons the idea of prevention and minimizing the risks of dependency, that favor the quality of life, and also curtail morbidity;
- t. *Supporting* actively the incorporation of a gender perspective into all policies and programs that take into account the needs and experiences of older persons;
- u. *Actively supporting* also the need to bear in mind the added vulnerability of older persons who are victims of racism, xenophobia, machismo, homophobia, transgender phobia and any kind of treatment that makes them inferior/excludes/discriminates against them;

- v. *Convinced* of the importance of facilitating the formulation and enforcement of laws and programs to prevent the abuse, abandonment, negligence, and mistreatment of and violence against older persons, whether they use long-stay services or live at home, as well as the need to create legal frameworks and supervisory mechanisms to protect the human rights and fundamental liberties of older persons; and
- w. *Convinced* also that a broad, comprehensive inter-American convention to promote, protect, and assure the rights and dignity of older persons will contribute significantly to reducing the dispersed nature of the rules, unify the concepts, criteria, approaches [and] standards on the rights of older persons, and at the same time, encourage the creation of bodies to observe progress, facilitate the work of the States responsible for taking domestic legislative and policy measures to safeguard the rights of older persons, and the work of the rights holders themselves and other interested parties, and will promote the engagement and participation of older persons, with equal opportunities in the civil, political, economic, social and cultural fields both in developing and developed countries, and promote active, successful ageing.

CHAPTER I SCOPE OF APPLICATION AND DEFINITIONS

Article 1 Scope of application

The purpose of the present Convention is to promote, protect, and assure full enjoyment, in equality of conditions, of all the human rights and fundamental liberties of all older persons, without distinction of any kind, to promote respect for their inherent dignity, and to promote their full integration into society.

For the purposes of the present Convention, “older person” shall be understood as a person sixty years old or more.

The provisions of the present Convention shall apply in the public and private spheres of the member states.

Article 2 Definitions

For the purposes of this Convention, the following shall be understood as:

“Individual ageing”: is understood as the process that begins at birth and ends with death, and that entails biological, physiological, and psychosocial changes with varying consequences. Individual ageing is part of a person’s life cycle and is therefore determined by the contexts in which the individual has lived, his strategies for response and adaptability, and the results of those strategies. (Chile) Development and ageing should be understood as simultaneous processes that are ongoing throughout life, in which gains, losses and

compensations come together and are associated with ongoing interaction between the subject and his environment.

“Demographic or population ageing”: Population ageing refers to the process of demographic change in society, characterized by growth in the proportion of older individuals with respect to younger people.

“Old age”: is defined as a social construct that describes the last stage of life. It is found in the majority of peoples, although it is not a universal and is not applicable to all human organizations. This stage involves a set of biological, psychological, and social processes, which, although given meaning by each culture, takes on characteristics particular to this human group.

“Stages of life”: are defined as socially stipulated moments when the subject takes on various responsibilities toward his society. Infancy, adolescence, adulthood, and old age were created and had meaning in different cultures and moments of history, in terms of specific needs or demands. Each society determines the stage of old age according to longevity, economic and educational resources, lifestyles, etc.

“Active ageing”: defined by WHO as the process of optimizing opportunities for physical, social and mental health throughout life, in order to expand healthy life expectancy, productivity, and quality of life in old age.

“Discrimination”: means any distinction, exclusion, restriction or preference based on race, color, ethnicity, sex, age, sexual orientation, language, religion, political or any other type of opinion, national or social origin, economic position, migrant, refugee or displaced person status, place of birth, stigmatized infectious or contagious condition, disability or any other social condition that has the purpose or effect of annulling or restricting the recognition, enjoyment or exercise, in equality of conditions, of human rights and fundamental liberties in the political, cultural, economic, social, or any other sphere of public and private life”.

“Age discrimination”: is understood as any distinction, exclusion, or restriction based on age that has the effect or purpose of hampering or annulling the recognition, enjoyment, or exercise of human rights and fundamental freedoms.

“Multiple discrimination”: means any distinction, exclusion, restriction or preference suffered by an older person based on two or more factors or characteristics of the person, such as race, color, ethnicity, sex, age, sexual orientation, language, religion, political or other type of opinion, national or social origin, economic position, migrant, refugee or displaced person status, place of birth, stigmatized infectious or contagious condition, disability or any other social condition.

“Affirmative measures”: are special actions of protection or promotion on behalf of older persons in order to contribute to the elimination of social, legal, institutional, or even physical barriers that prevent them from enjoying or benefitting from substantive equality as compared to other sectors of the population.

“Protection measures”: are appropriate, effective actions to prevent all types of violence and mistreatment of older persons in any sphere in which they occur, with particular emphasis on those who live in long-term care services, adaptive housing and assisted living residences, in order to secure the independence of older persons, including the freedom to make their own choices and preserve their individual autonomy;

“Reasonable adjustments”: shall be understood as necessary and appropriate changes and adaptations that do not impose a disproportionate or undue burden, when required in a particular case, to assure older persons of the enjoyment or exercise, in equal conditions with other people, of all human rights and fundamental freedoms;

“Abandonment or negligence”: is defined as any failure or omission in performing certain actions or leaving unprotected a person who depends on the care provided by a long-stay facility, the private sector or family members, and for whom this type of facility or actors have some legal or moral obligation. Negligence or abandonment may be intentional or unintentional. “Abuse or mistreatment of older persons” is defined as any action, set of actions, or failure to act appropriately that produces physical or psychological harm and that occurs in a relationship of trust.

“Physical abuse or mistreatment”: is defined as any action that causes physical harm or injury, physical coercion, such as preventing the free movement of a person without appropriate justification. Abuse or physical mistreatment may take the form of blows, pushing, force-feeding, tying up, forced restraint in bed, burns, sexual abuse, [or] incorrect postures that adversely affect disability or cause wounds.

“Psychological abuse or mistreatment”: is defined as any action that causes psychological harm, such as causing stress and anxiety, or that attacks the dignity of a person with insults.

“Economic abuse or exploitation”: is defined as the exploitation of the assets of a person, fraud or swindling an older person, deceit or theft of his money or property.

“Institutional abuse or mistreatment”: is that exercised by institutions that care for older persons.

“Family abuse and mistreatment”: is that exercised by the family.

“Community and social abuse and mistreatment”: is exercised by society in discriminating against older persons.

“Institutionalized older person”: is a person aged sixty or more who lives in a group home where in addition to board and lodging, he receives care and assistance with his daily living activities and monitoring of his state of health.

“Informed consent”: is consent obtained freely, without threats or undue persuasion, after having given the person in question appropriate, comprehensible information in a form and in language that he understands.

“Palliative care”: refers to the active, total care of patients whose illness is not responding to curative treatment. Central to palliative care is the control of pain, other symptoms and social, psychological and spiritual problems, in other words, it involves meeting the needs of the ill person. Palliative care is interdisciplinary in application, and includes the patient, his family, and his environment. Palliative care affirms life and considers death as a normal process; it does not hasten nor delay death. It is administered in order to maintain the best possible quality of life up until death.

“Economic exploitation”: refers to exploitation of a person’s assets, fraud, or swindling an older person, deceit or theft of his money or property.

“Sexual exploitation”: refers to any sexual act that is performed against the will of the person.

“Long-stay facility”: is a group home that, in addition to room and board, offers personal care services and health monitoring, along with social services, and nursing and/or medical services.

“Review Body”: is a body generally established under national law and duly enabled to take decisions regarding, *inter alia*, admissions, remaining in a long-stay facility, legal capacity, review of legal capacity and proxy consent.

“Legal representative” or “legal proxy”: is a person who under the law has the duty to represent the interests of an older person who is incapable of taking decisions in a particular area, or to exercise specific rights on behalf of the person.

Personal representative or “personal proxy”: is any person named in advance by the individual, or he may be a person who is related by blood or marriage to the person who does not have the capacity to take decisions.

CHAPTER II GENERAL PRINCIPLES AND GENERAL CLAUSE ON LIMITATIONS

Article 3 General principles

General principles that apply to all clauses of this Convention:

- a. Valuing the role of older persons and of their contribution to the community.
- b. Full and effective participation and social inclusion of older persons and their engagement in the community.

- c. Respect for full exercise of their rights, equality of opportunities, the inherent dignity and independence of older persons, including the freedom to make their own choices, and preserve their individual autonomy, with equity and social justice.
- d. The need to make the failure to protect older persons visible and ensure, by positive actions of the States, appropriate protection, and also awareness of an active view of ageing and the construction of societies that are more inclusive, cohesive and democratic, and that safeguard equality and reject all forms of discrimination, including those related to age.
- e. The need for comprehensive social protection to ensure pertinent, coordinated interventions that drive economic and social development, based on respect and social and community solidarity that will strengthen responsibilities and obligations of mutual support among persons of different generations in the economic, social, and emotional fields.

Article 4
General clause on limitations

- a. Nothing in the present Convention shall affect provisions of the laws of a State Party or of international law in force in that State that provide for a greater exercise of the rights of older persons.
- b. None of the human rights and fundamental liberties recognized or existing in the States Party shall be restricted or derogated in the present Convention in accordance with law, conventions and covenants, regulations or custom, on the pretext that those rights or liberties are not recognized in the present Convention or are recognized to a lesser extent.
- c. The provisions of the present Convention shall apply to all parts of federal States without limitation or exception.
- d. The requirements and scope of the regulations, restrictions and the suspension of rights and guarantees established in the present Convention shall be governed according to the provisions of the pertinent parts of the American Convention on Human Rights.

CHAPTER III
GENERAL DUTIES OF THE STATES PARTY

Article 5

- a. The States Party shall respect the rights set out in the present Convention and shall assure its application to all older persons subject to its jurisdiction, independently of race, color, sex, language, religion, political or other type of opinion, social, national ethnic or indigenous origin, socio-economic position, disability, sexual orientation, gender, gender identity, geographic area of residence, or any other condition.

- b. The States Party shall take all pertinent legislative, administrative, and other measures to give effect to the rights recognized in the present Convention, including the creation of networks of protection to give them effect.
- c. The States party shall refrain from acts or practices that are incompatible with the present Convention, and shall ensure that public officials and institutions act in accordance with its provisions, making such reasonable adjustments as are required for that purpose.
- d. The States Party shall take steps to the full extent of their available resources and, when necessary, in the framework of international cooperation, to ensure the full realization of the economic, social, political, educational, and cultural rights of older persons, without prejudice to those obligations called for in the present Convention that apply immediately under international law.
- e. The States Party commit to developing systems for the production and analysis of information and statistical data on the situation of older persons, broken down by age cohorts and by different categories, and to keep them systematically up to date.
- f. The particular needs shall be differentiated according to race, color, sex, language, religion, social, national, ethnic or indigenous origin, socio-economic position, disability, sexual orientation, gender, gender identity, geographical area of residence, state of health and any other condition, in policies and programs for older persons, including those that will be implemented in situations of humanitarian emergency, natural disasters, and forced displacement.
- g. The States Party shall take all legislative, budgetary, administrative, and other types of measures to facilitate ageing in the community and to strengthen preventive actions to reduce vulnerability and dependence in old age.
- h. The States Party shall support the strengthening of academic centers, scientific societies, and cooperative networks on population, ageing and development, to conduct studies on old age and ageing.
- i. The States Party shall hold consultations and shall actively cooperate with older persons, through the organizations that represent them, in the drafting and application of laws and policies that will give effect to the present Convention, and on other matters related to older persons.
- j. The States Party shall develop and publish, with the support and participation of civil society organizations for the defense and promotion of the rights of older persons, the regular reports mentioned in Article 37 of the present Convention.

**CHAPTER IV
PROTECTED RIGHTS**

**Article 6
Equality and non-discrimination for reasons of age**

- a. The States Party shall take appropriate legislative and other types of measures to prohibit all forms of discrimination against older persons, which shall include appropriate sanctions for any person, organization or private company that discriminates on the grounds of age.
- b. In order to promote equality and eliminate discrimination, the States Party shall take all pertinent measures to ensure that reasonable adjustments are made.
- c. The States shall take special priority measures for the protection of older persons, with particular consideration for situations of multiple discrimination.
- d. Specific affirmative measures, or differences in treatment that may be necessary to accelerate or achieve de facto equality of older persons and their full integration into society shall not be considered discriminatory under the present Convention.
- e. The States shall develop specific approaches in their policies on ageing to older persons who are highly vulnerable and those who are victims of multiple forms of discrimination, including, inter alia, women, disabled persons, persons of different sexual orientations or gender identities, migrant persons, persons living in poverty or social exclusion, persons of African descent and persons belonging to indigenous peoples, homeless persons, persons in prison and persons belonging to traditional peoples.
- f. The States Party shall take effective measures to review national and local government policies, and to amend, derogate or annul laws and provisions that are discriminatory by reason of age, or whose application may have the effect of discriminating against older persons.

**Article 7
Right to life, independence, autonomy and dignity at the end of life**

- a. The States Party reaffirm the inherent right to life of all human beings and shall take all measures necessary to guarantee effective enjoyment of that right by older persons in equal conditions with others.
- b. Older persons have the right to decide on their life plan, self-realization and to live an independent life.
- c. The States shall promote programs or actions that strengthen the autonomy of older persons, taking into account their vulnerability, fragility and/or their degree of dependence, and foster the maintenance and development of their capacities and potential, also taking into account

the strengthening of family ties, their affective relationships and the various forms of the family.

- d. The States Party shall offer equitable access to palliative care, nutritional support, measures to prevent isolation and appropriately manage problems related to the fear of death, the terminally ill, allowing them to avoid pain, therapeutic cruelty and to die with dignity.

Article 8

Right to physical, mental, emotional safety, safety of their inheritance, and not to suffer mistreatment

- a. Older persons have the right to be able to live with dignity and safety, to receive dignified treatment that avoids infantilizing them, independently of race, color, sex, language, religion, political or other type of opinion, social, national, ethnic or indigenous origin, economic position, disability, sexual orientation, gender, gender identity, or any other condition, and to be valued independently of their economic contribution.
- b. Older persons have the right to live lives free of violence and mistreatment of a physical, sexual or psychic nature; emotional or financial abuse; exploitation in the workplace, and any form of abandonment or negligence that causes avoidable harm.
- c. The States Parties shall act with due diligence to prevent, investigate, sanction, and make amends for violence against older persons. To this end, they pledge:
 1. To take legislative or other types of measure to prevent, stop, and punish acts of violence, mistreatment, abuse, exploitation or abandonment of older persons.
 2. Produce information for the purpose of developing risk assessments of possible situations of violence, in order to develop prevention policies.
 3. Promote the creation of support services to address cases of violence, mistreatment, abuse, exploitation, and abandonment of older persons.
 4. Establish mechanisms for prevention and supervision, and strengthen judicial mechanisms in order to prevent family violence against older persons.
 5. Sensitize those responsible for law enforcement agencies, those responsible for social and health services, and civil society as a whole about the different forms of violence, mistreatment, abuse, exploitation and abandonment of older persons, and ways of identifying and preventing them.
 6. Take steps to train caregivers or personnel responsible for older persons, whether in institutionalized care services or at home, in order to prevent actions or practices of violence and mistreatment; and also practice due diligence to prevent avoidable harm, pain, or illness.
 7. To promote accountability on the part of caregivers or professionals, such that they must report alleged cases of mistreatment to the appropriate body.

- d. Older persons in public and private long-stay facilities shall be guaranteed full respect of their human rights and dignity. For this purpose, the States Party shall act with due diligence, and shall:
1. Establish an appropriate regulatory framework for the operations of public and private facilities that provide care for older persons.
 2. Take concrete steps that will enable them to look at and verify the situation of older persons in these facilities as it concerns the enjoyment of the human rights protected by the present Convention, and also to ensure that they have specialized personnel who can prevent actions or practices of violence, such as: threats of abandonment; physical or psychological abuse or mistreatment; economic exploitation; force-feeding of older persons; restraint in bed, or intentional neglect in hydration, nutrition or palliative care that could cause harm or aggravate the existing condition.
 3. Determine procedures and precise competencies that give responsibility to specialized authorities in order to ensure that internments are reviewed and that persons may fully exercise their rights during their institutionalization, including exercising the right to leave. An independent, impartial and interdisciplinary review body could be created, advised by the government and civil society.
 4. Those in charge of governmental and nongovernmental facilities that care for older persons, and professionals in them, are civilly and, if appropriate, criminally liable for acts they may commit against older persons, without prejudice to corresponding administrative sanctions.

Article 9

Right not to be subjected to torture nor to cruel, inhuman or degrading treatment or punishment

- a. No older person shall be submitted to torture or other cruel, inhuman or degrading treatment or punishment. In particular, no one shall be submitted to medical or scientific experiments without his free and informed consent.
- b. The States Party shall take measures to eliminate the following practices: isolation; harassment; malnutrition; abusive use of therapeutic treatment, and other cruel, inhuman or degrading treatment to which older persons may be submitted.
- c. The States shall take all measures of a legislative, administrative, judicial, or other nature that will be effective in preventing older persons in equal conditions with others, from being submitted to torture or other cruel, inhuman, or degrading treatment or punishment.

Article 10

Right to give free, informed consent

- a. Older persons have the right to take decisions freely and to accept or reject, voluntarily and without coercion, any treatment, or medical or scientific interventions or experiments, whether physical or mental. Measures to guarantee that older persons understand the treatment they will receive shall be promoted.

- b. No medical treatment shall be administered to a person in a long-stay institution without his informed consent, that of his personal representative or that of the person appointed by the older person for that purpose.
- c. Older persons have the right to refuse to receive treatment or to suspend it. The consequences of his decision to refuse or suspend treatment shall be explained to an older person. A person shall not be encouraged or persuaded to relinquish his right to give informed consent. In the event the person wishes to do so, it will be explained to him that the treatment may not be given without his informed consent.
- d. The States Party pledge to institute and apply safeguards to ensure that informed consent is required for any medical treatment or intervention, and that this right be guaranteed to all, independently of their age, condition or treatment, and to develop and apply mechanisms to protect the rights of older persons whenever they are considered to be incapable of giving informed consent to any treatment or any other medical intervention, because of injury or chronic illnesses such as dementia, including heeding their previously expressed wishes.
- e. All treatment shall be recorded immediately in the person's clinical history, with an indication of whether said treatment is voluntary or not voluntary.
- f. An older person or his personal representative or any natural or legal person with a legitimate interest shall have the right to appeal any decision related to the treatment that that person may have received to the review body or other judicial body.

Article 11

Right to freedom and personal safety

- a. Older persons must be able to enjoy their right to freedom, whether they live alone, with family or other persons, or are staying in long-stay facilities. In order to assure the ambulatory freedom of persons who are in such facilities and are in a dependent state that does not allow them to move about alone, they shall be provided with the appropriate means, such as, for example, assigning a geriatric assistant to go out of the facility and to move about adequately within it.

Article 12

Right to freedom of expression and access to information

- a. Older persons have the right to freedom of expression and opinion, the right to seek, receive, and offer information and ideas, in equal conditions with other people, by means of forms of communication of their choosing, including those available at affordable cost, in the event they have some type of dependency.
- b. The States Party shall take all legislative, administrative, judicial, and other types of measures particularly concerning long-stay facilities in relation to:
 - 1. Inform older persons of their rights and laws that concern them.

2. Inform older persons of everything having to do with the rights, obligations, and regulatory frameworks of the facilities.
3. Receive press and have access to radio and television, and information in general through magazines or other publications, and to receive or buy articles for their daily life.
4. Have access to all technological information media, including social networks.

Article 13
Right to nationality and to freedom of movement

- a. The States Party shall recognize the right of older persons to freedom of movement, freedom to choose their residence and to hold a nationality, and also ensure that older persons:
 1. Have the opportunities and facilities they need to exercise this right.
 2. Have the right to acquire and change their nationality and may not be deprived of their own in an arbitrary way or for reasons of age.
 3. May not be deprived, for reasons of age, of their ability to obtain, possess and utilize documentation related to their nationality or other identity documents.
 4. May not be deprived, for reasons of age, of access to immigration processes needed to assure the exercise of the right of residence and freedom of movement.
 5. Are free to leave any country, including their own.
 6. May not be deprived arbitrarily or for reasons of age of the right to enter their own country.

Article 14
Right to privacy and intimacy

- a. No older person, regardless of his place of residence or his mode of living, shall be the subject of arbitrary or illegal interference in his private life, family, home, correspondence or any other type of communication, or of illicit attacks on his honor and reputation. Older persons shall have the right to be protected by the law from such interference or attacks.
- b. Older persons are entitled to have their right to sexual intimacy respected, as well as to maintain their privacy during bathing, or during institutionalization.

Article 15
Right to social security

- a. Older persons have the right to social security, which should include both contributory benefits and non-contributory insurance plans and benefits.

- b. Social security systems should include retirement benefits and other means of social protection in the event of disability, bereavement or other causes of loss of the means of subsistence for circumstances outside their will.
- c. The States Party shall ensure that, within available resources, all older persons receive a permanent minimum income sufficient for a dignified life.
- d. In the event they do not meet the requirements for receiving an old age pension, either because they had not worked or did not complete the required minimum periods of contributions, and they lack any other source of income, the States Party shall develop policies on non-contributory old age benefits or other economic assistance.
- e. Older persons are entitled to care and the States shall take measures designed to develop a comprehensive universal system that takes particular account of a gender perspective. They shall promote comprehensive social protection that grants protection in health, economy, promotion and coverage of social services, food security/safety, housing and education, and shall promote older persons being able to remain in their own homes and maintain their independence and autonomy.
- f. In planning this system, the protection of family life, the needs of the various forms of families, other forms of care, and the opinion of older persons should be taken fully into account.

Article 16
Right to work and in the workplace

- a. Older persons should have the opportunity to work or to have access to other income-producing possibilities.
- b. Discrimination and the setting of an upper age limit for hiring an older person for any job or employment is prohibited, except in those cases in which the nature of the job so requires.
- c. The trend toward equalizing the age and conditions of retirement for older men and older women, in accordance with social, cultural, and economic circumstances, is promoted.
- d. The States Party shall promote policies that take account of the characteristics of older workers, according to the working conditions and environment, as well as work hours and the organization of the jobs.
- e. The States should promote policies that prevent exclusion and promote the voluntary entry or re-entry of older persons into the labor market.
- f. Employment or occupation after the normal time of retirement should have the same guarantees and be remunerated with the same salary that applies to all workers.

- g. In the years prior to retirement, the States shall promote programs and measures that will facilitate a simple and gradual transition into retirement, with the participation of organizations representing employers and workers, and of other interested agencies, including the possibility of creating more flexible forms of retirement, or partial or gradual retirement.
- h. The States shall adopt measures and programs that recognize and promote the contribution that older women and men make by unremunerated work in the informal sector and in domestic work.
- i. The States shall regulate irregular or unstable forms of work, as well as the various forms of self-employment and domestic work, with a view to preventing abuse of older persons and guarantee them social coverage.

Article 17

Right to enjoyment of the highest attainable standard of physical and mental health

- a. Older persons have the right to enjoyment of the highest attainable standard of physical, mental, sexual and reproductive health without discrimination based on age or any other condition. Comprehensive policies to preserve their health, from health promotion, prevention of illness, comprehensive care and rehabilitation, to assistance for the terminally ill should be promoted. In order to give effect to this right, the States Party pledge to take the following measures:
 - 1. Assure equitable access to timely, quality comprehensive health services, including basic medicines for ongoing use, and social services, including long-term care, consistent with international human rights standards; as well as the creation and implementation of integrated health and social services.
 - 2. Formulate legal frameworks and implementation mechanisms for the protection of older persons in long-term care services.
 - 3. Encourage cooperation with States Parties to the present Convention, including the design of strategies and exchange of capacities and resources to execute their plans on health and ageing.
 - 4. Develop strategies that promote healthy personal and environmental behaviors throughout the life cycle in order to encourage active ageing.
 - 5. Strengthen prevention through self-care, [and] knowledge of the pathologies and active role of older persons in the treatment of chronic illnesses and other health problems.
 - 6. Establish services of quality for older persons in the process of strengthening primary care-based health systems.

7. Strengthen health workers' acquisition of skills for providing these services to older persons, as well as the training of specialized health professionals.
8. Conduct training for others involved in the health of older persons, taking into account their family ties and affective relationships.
9. Strengthen the technical capacity of the health authorities to follow up on and evaluate health care for older persons.
10. Promote the gathering and publication of the scientific evidence needed to adapt health interventions to national circumstances.
11. Support the social, economic, and psychological wellbeing of older persons infected with HIV/AIDS and STDs, those who suffer from serious communicable and non-communicable diseases and those who suffer from other illnesses that pertain to ageing. For that purpose, they should promote older persons' access to in-kind aid, affordable health services and loans, to enable them to meet the needs of their children and grandchildren affected by HIV/AIDS, STDs and serious communicable and non-communicable diseases.

Article 18
Right to education

- a. Older persons have the right to take part in educational programs at all levels throughout their life and to make use of their knowledge and experience to benefit younger generations.
- b. The States shall promote the development of educational programs, materials, and formats that are suitable for older persons and that reflect their preferences and needs, as well as the use of information technologies or new techniques, and shall foster education-for-health courses and self-care techniques.
- c. The States shall promote unstructured community-based programs for older persons that are geared to leisure, cultural and spiritual development, physical activity, and other forms of creative use of free time.
- d. The States shall facilitate access to and the active participation of older persons in formal and informal cultural institutions and activities, including volunteer activities.
- e. The States shall promote active policies to reduce illiteracy among older persons, and especially among women.
- f. The States shall promote access to education and training in new technologies by older persons, to minimize the generation gap and increase community integration.
- g. The States shall foster actions to promote the rights and empowerment of older persons by promoting continuing education processes.

- h. The States Party shall foster, through education, the transmittal of a dignified image of old age.
- i. The States shall promote training in gerontology and geriatrics at the undergraduate and graduate levels.
- j. The States Party commit to taking such legislative, administrative, and other measures as are necessary to reduce and progressively eliminate barriers and difficulties of access to educational goods and services in rural areas, particularly those related to information technology.

Article 19
Right to property

- a. Older persons have the right fully to exercise their right to property and not to be deprived of it for reasons of age.
- b. The States shall provide special protection for the property of older persons, especially against the abuse or occupation of their houses.
- c. Older persons have the right not to be deprived of their inheritance rights for reasons of age.

Article 20
Right to housing and a healthy environment

- a. Older persons should have the possibility of living in safe, healthy environments that can be adapted to their personal preferences and capacities, and their continually changing capacities.
- b. Public policies to promote the right of older persons to housing should take into account the need to build housing units that are architecturally adapted to the restricted mobility and physical disabilities of older persons.
- c. The States should guarantee the right of older persons to appropriate housing, particularly in crises, emergencies, displacements, or evictions.
- d. Access to credit should be guaranteed, in equality of conditions, without this undermining the self-sufficiency of the older person, and recognizing the priority of older persons in the assignment of housing and land.
- e. Older persons should be able to live in their own homes for as long as possible.
- f. Government policies on housing and access to land shall pay particular attention to the specific needs of older persons, particularly those who live alone, by means of rent subsidies, housing cooperatives, support for housing renovations and other pertinent measures.

- g. The States should guarantee security of tenancy [possession] and protection against forced evictions of older persons.
- h. Older persons have the right to a healthy environment that guarantees access to basic sanitation services, clean water and air, and that minimizes their exposure to pollution.

Article 21

Right to an appropriate standard of living, appropriate social and health services and accessibility

- a. Older persons have the right to an appropriate standard of living, as well as for their families, including food, water, housing, clothes, and appropriate health care.
- b. Health and social services should guarantee a progressive system of care, and provide special care to older persons in view of their specific needs and characteristics, promoting maintenance for as long as possible of the active and useful functions of these persons.
- c. Health and social services should be provided by specialized professionals.
- d. The States should promote the physical accessibility of older persons to basic health and social services. To that end, they shall take steps to make the buildings where these services are provided accessible.
- e. The States should guarantee older persons access to transportation services in urban and rural areas. For this purpose, they pledge:
 - a. To ensure that older persons who do not have sufficient income have regular urban and suburban transportation services free of cost.
 - b. To ensure that seats, properly identified with the appropriate sign, are reserved for older persons on urban and suburban public transportation.
 - c. Urban and suburban public transportation vehicles should be accessible for older persons with reduced mobility or some disability.

Article 22

Right to participation and engagement in the community

- a. Older persons have the right to social inclusion and participation in their community.
 - 1. The States shall take effective measures that are appropriate from an inter-generational and inter-cultural approach to ensure that older persons can fully enjoy these rights, removing prejudice and stereotypes.
 - 2. The States shall promote volunteer activities on behalf of older persons, particularly in long-stay facilities, and organizations with their participation.

Article 23
Right to participation in political and public life.

- a. Older persons have the right to participate actively in all of the political, economic, social, cultural and spiritual activities of the countries where they live, in accordance with their capacities, needs and preferences.
- b. Older persons have the right not to be deprived of their rights as citizens for reasons of age.
- c. Older persons have the right to vote and be given access to the voting place, with particular attention paid to those who require third parties in order to travel there.
- d. Older persons shall not be obliged to vote.
- e. Older persons shall be able to form their own movements or associations.
 - 1. The States Party shall encourage the formation of such movements or associations, respecting their freedom of initiative, and shall provide them with legal or financial support to carry out their activities.
 - 2. The States shall promote the participation of older persons in inter-generational activities with other population groups.
 - 3. The States Party shall ensure that older persons participate actively, through their representative associations or movements, in the development and application of legislative and policy measures that may directly affect their rights.
 - 4. The States shall promote the participation of older persons, through their representative associations or movements, in the planning, implementation, and evaluation of policies on social development and poverty reduction.
- f. The States shall promote the direct participation of older persons in the design and participation of government policies on ageing and the promotion of their rights.
- g. The States shall encourage older persons to serve the community, including in voluntary positions appropriate to their interests and capacities.
- h. The States shall promote the creation of public agencies specializing in older persons.

Article 24
Right to participation in cultural life

- a. Older persons have the right to participate in cultural life and to enjoy cultural, spiritual, and material artistic and literary works, as well as the world of the plastic and visual arts.
- b. The States Party shall take such legislative and administrative measures as may be necessary to guarantee older persons subsidies with which to access cultural goods and services that are not free.

- c. The States shall promote education programs in which older persons are the transmitters of knowledge, culture, and spiritual values.

Article 25
Right to recreation, leisure and sports

- a. The States Party shall develop social, cultural, and sports services, programs, and activities that are specifically designed for older people, especially those who are in long-stay facilities, in order to promote self-realization and prevent them from being isolated, depending on their own characteristics and preferences.
- b. Older persons should participate in the creation, management, and evaluation of such services, programs, or activities.
- c. The States Party shall promote active ageing programs for urban and rural older people, including actions geared to older persons with reduced mobility or some disability.

CHAPTER V
RIGHTS OF SPECIFIC GROUPS

Article 26
Affirmative measures

The States Party recognize that older persons, particularly those who are highly vulnerable, are subject to many forms of discrimination, and they will take, where necessary, affirmative measures of a legal, penal, administrative or other nature to combat the stigma of discrimination of which they are victims, and also to assure their full social, economic, educational, political, and cultural engagement.

Article 27
Rights of older women

- a. The States Party recognize that older women are subject to multiple discrimination, inasmuch as to their age is added the burden of gender-related social and cultural patterns, and shall take steps to assure them the full enjoyment of all their rights and fundamental liberties established in the present Convention.
- b. Older women should have special protection against violence and mistreatment. The States Party pledge:
 - 1. In cooperation with all sectors of society, to promote the eradication of all forms of violence against older women.
 - 2. Actively to promote the abolition of the rites of widowhood, and harmful traditional practices that may adversely affect the safety of older women.

Article 28
Rights of indigenous older persons

- a. The States shall take effective measures and, when appropriate, special measures, to assure continuous improvement in the economic and social conditions of indigenous older persons in accordance with the international instruments that protect the rights of indigenous peoples.
- b. The States shall take steps to enable older persons to fulfill their role of transmitting customs and strengthening cultural identity.
- c. Together with the indigenous peoples, the States should take immediate, effective steps to eliminate employment practices that exploit older persons belonging to indigenous peoples.

Article 29
**Rights of older persons who belong to ethnic, racial, national,
linguistic, religious and rural groups**

Older persons who belong to ethnic, racial, national, linguistic, rural, or religious groups shall be entitled to enjoyment of all their rights, without discrimination of any kind, and to measures that are in accordance with their cultural, linguistic, or religious particularities.

Article 30
Rights to different sexual orientations and gender identities

Older persons of different sexual orientations and gender identities shall have the right to enjoyment of all of their rights, without discrimination of any kind, and to measures that are in accordance with their particular needs.

Article 31
At-risk situations and humanitarian emergencies

- a. The States shall take special assistance measures to guarantee the safety and rights of older persons in situations of armed conflict, displacement and foreign occupation, in accordance with human rights norms, international humanitarian law, and the international law on refugees, including by providing physical and mental rehabilitation services for disabilities resulting from these situations.
 1. Prisoners of war shall have the right to special treatment because of their age.
 2. Older persons shall not be forced into work in prison camps.
 3. Older persons under the jurisdiction of foreign powers in situations of armed conflict or occupation shall be entitled to have their person, honor, family rights, convictions and religious practices, habits and customs respected, with special consideration for their age.
 4. In cases of internment, older persons shall be provided with buildings or camps that have appropriate hygiene and health conditions and that protect them against the

- rigors of the climate and the effects of war, taking into account their age and state of health.
5. Older persons have the right of asylum, without discrimination, addressing their special needs.
- b. The States shall include assistance to older persons in their disaster rescue plans.
 - c. The States shall give priority attention to the needs of older persons during reconstruction following emergencies or conflicts.

CHAPTER VI ACCESS TO JUSTICE

Article 32 Judicial guarantees

- a. All older persons have the right to be heard, with due guarantees and within a reasonable time, and in equal conditions, by a competent, independent, and impartial judge or court previously established in accordance with the law, in the substantiation of any criminal charge brought against them, or in the determination of their rights and obligations of a civil, employment, fiscal, or any other nature.
- b. The States Party should make reasonable adjustments to adapt judicial and administrative proceedings to the needs of older persons. To this end, they pledge:
 1. To guarantee the highest level of due diligence and reasonable time periods for handling requests for social benefits.
 2. To guarantee the right of older persons deprived of liberty to special programs and comprehensive care, including rehabilitation mechanisms for their re-entry into society.
 3. To promote appropriate training in the protection of the rights of older persons for those who work in the administration of justice, including police and prison personnel.
 4. To promote alternative conflict resolution mechanisms.
- c. To the extent possible, the States shall prefer alternatives to imprisonment or deprivation of liberty in cases of the criminal sentencing of adults.
- d. The States Party shall, in accordance with their domestic law, identify those public and, if applicable, private entities and institutions that are certified to bring action based on general, collective, individual, or homogeneous interests related to older persons.

Article 33

Judicial guarantees in the processes to determine the legal capacity of older persons

- a. Older persons are entitled to have their legal personality recognized. Older persons have legal capacity in the same conditions as other persons in all aspects of life. If necessary, appropriate means should be made available to enable older persons to exercise their legally recognized rights.
- b. Any and all restrictions on legal capacity must be properly substantiated, limited in time, subject to periodic review and applied solely to specific decisions in which a lack of capacity and the need for proxy consent has been determined.
- c. An older person whose legal capacity is at issue shall be entitled to be represented by an advocate [or defense attorney]. If he does not have such representation, one will be made available to him without charge to the extent that he has insufficient means to pay for such services. The advocate may not represent a long-stay facility nor its staff in the same proceedings, nor may he represent a member of the family of the older person whose capacity is at issue, unless the competent authority or the review body, if any, determines that there is no conflict of interest.
- d. Decisions on legal capacity and the need for a personal representative shall be reviewed at reasonable intervals via proceedings established by law.
- e. An older person whose legal capacity is at issue, his personal representative, if any, and any other interested person shall be entitled to appeal to a competent court the decision of the competent authority or review body, if any, concerning legal capacity and the need for a representative.

Article 34

Judicial guarantees of older persons who are institutionalized

- a. Like any other person, an older person has the right to appoint an advocate to represent him in all judicial or administrative proceedings related to his institutionalized status. If an older person does not obtain such services, an advocate shall be placed at his disposal without charge to the extent that the person does not have sufficient means to pay.
- b. An older person and his advocate may request and present, at any hearing, an independent opinion on his physical and mental health, and any other reports and oral, written or other type of evidence that is pertinent and admissible. Reports by professionals or interdisciplinary teams may also be presented, as may reports written by the competent bodies.
- c. If necessary, an older person shall be entitled to the assistance of an interpreter. Whenever such services are necessary and the person does not have them, they shall be provided to him without charge to the extent that the person does not have sufficient means to pay.

- d. In order to facilitate the handling of any complaint, review or appeal, the older person and his advocate shall be provided with copies of his patient file and all reports and documents to be presented, except in particular cases in which it is considered that revealing certain information would seriously harm the patient's health or would endanger the safety of third parties.
- e. All documents not provided to the older person must be provided to the patient's personal representative and advocate, provided this may be done in a confidential manner. Whenever any part of a document is not communicated to the person involved, he or his advocate shall be so informed, together with the reasons for that decision, which shall be subject to review by the review body or to judicial review if appropriate.
- f. An older person, his personal representative or his defense attorney shall have the right to participate in and be heard in all judicial or administrative proceedings.
- g. Older persons have the right to have appropriate proceedings available to them in order that they may review:
 - 1. Decisions on their institutionalization;
 - 2. Remaining in a long-stay facility;
 - 3. Their housing conditions.
- h. The States shall establish in law these procedures and the competent authority.

Article 35 Judicial protection

- a. All older persons have the right to a simple and prompt recourse or other effective recourse to a competent judge or court established by law, with due guarantees and within a reasonable time, for protection against acts that violate his human rights and fundamental freedoms.
- b. All older persons are entitled to effective judicial protection against any situation of violence or discrimination.

CHAPTER VII AWARENESS

Article 36

- a. The States recognize the authority, wisdom, productivity, and other important contributions of older persons to society as a whole, and foster affectionate treatment with love, respect, gratitude, dignity, and consideration.
- b. In cooperation with older persons' associations, educational institutions, the communications media and other civil society actors, the States shall make efforts to overcome the

stereotyped language and images of older persons in all spheres, and put forward an image of them as self-sufficient and productive persons who contribute to the economic, social, and cultural development of society.

- c. The States shall cooperate with the communications media and advertising agencies to promote a positive and realistic image of ageing, and eliminate stereotypes about older persons.
- d. The States Party shall set in place programs to educate the general public about the ageing process and about older persons. The participation of older persons and their associations or movements in the design or development of such programs shall be encouraged.
- e. The States shall promote inclusion of the subject of ageing in the curricula of formal education from an early age, and shall encourage the creation of specialized technical and professional training programs.

CHAPTER VIII MECHANISMS OF PROTECTION AND FOLLOW-UP ON COMPLIANCE WITH THE CONVENTION

Article 37 Presentation of regular reports

- a. In order to monitor the commitments undertaken in the present Convention, a Working Group shall be established to examine the regular reports from the States Party, to be composed of government representatives appointed by the States, and an independent expert appointed by the Secretary General of the Organization.
- b. The Working Group shall hold its first meeting within 90 days of the deposit of the tenth instrument of ratification.
- c. The States Party pledge to present to the first meeting of the Working Group a report on the measures they have taken to assure due respect for the rights set forth in the Convention. Subsequently, the reports shall be presented every four years.
- d. Reports prepared in accordance with the preceding paragraph shall include those measures that the States Party have taken in application of this Convention, and any progress that they have made in protecting the rights of older persons. The reports shall also discuss any circumstance or difficulty that may have affected the degree of compliance with the present Convention.
- e. The Working Group shall be the forum to examine progress made in the application of the Convention and to exchange experiences among States Party. The reports prepared by the Working Group shall give account of the debates and shall include information on the measures that the States Party have taken in application of this Convention, progress made

in the protection of the rights of older persons, the circumstances or difficulties they may have had in implementing the Convention, and the Working Group's conclusions, observations, and overall suggestions for progressive compliance with it.

- f. The Working Group shall prepare its own internal regulations, and shall adopt them by an absolute majority.

Article 38
System of individual petitions

- a. Any person or group of persons, or nongovernmental entity legally recognized in one or more member states of the Organization may present to the Inter-American Commission on Human Rights petitions presenting complaints of violation by a State Party of any of the articles of the present Convention, and the Commission shall consider them in accordance with the rules and procedural requirements for the presentation and consideration of petitions set forth in the American Convention on Human Rights and in the Statute and Rules of Procedure of the Inter-American Commission on Human Rights.
- b. When appropriate, in accordance with the provisions of Articles 51 and 61 to 69 of the American Convention on Human Rights, the case may be submitted by the Commission or by the interested States to the Inter-American Court of Human Rights for decision.

CHAPTER IX
GENERAL PROVISIONS

Article 39
Signature, ratification, entry into force

- a. The present Convention is open to signature by all member states of the Organization of American States.
- b. The present Convention is subject to ratification. The instruments of ratification shall be deposited in the General Secretariat of the Organization of American States.
- c. The present Convention shall enter into force on the thirtieth day following the date on which the second instrument of ratification shall have been deposited. For each State ratifying or acceding to the Convention after the second instrument of ratification has been deposited, it shall enter into force on the thirtieth day following the date on which said State deposited its instrument of ratification or accession.

Article 40
Accession

After its entry into force, the present Convention shall be open to accession by all member states that have not signed it. The instruments of accession shall be deposited in the General Secretariat of the Organization of American States.

Article 41
Reservations

The States may make reservations to the present Convention at the time of signature, ratification or accession, provided they are not incompatible with the objective and purpose of the Convention and concern one or more specific provisions.

Article 42
Denunciation

The present Convention shall remain in force indefinitely, but any of the States Party may denounce it. The instrument of denunciation shall be deposited in the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall cease to be in effect for the denouncing State, but shall remain in effect for the other States Party. Such denunciation shall not relieve the State Party of the obligations imposed on it by the present Convention with respect to any act or omission that occurred before the date on which the denunciation took effect.

Article 43
Notification by the Secretary General

The Secretary General of the Organization of American States shall notify the member states of the Organization and the States that have acceded to the Convention of the signatures and of deposits of instruments of ratification, accession and denunciation, as well as reservations, if any.

Article 44
Deposit

The original instrument of the present 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 to the Secretariat of the United Nations for registration and publication, in accordance with the provisions of Article 102 of the United Nations Charter.

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES
COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

Working Group on Protecting
the Human Rights of Older Persons

ANNEX II

OEA/Ser.G
CAJP/GT/DHPM-44/12
30 April 2012
Original: Spanish

COMPENDIUM OF PROPOSALS ON THE DRAFT INTER-AMERICAN CONVENTION ON
THE HUMAN RIGHTS OF OLDER PERSONS^{13/14/}

-
13. Includes the proposals and comments made by delegations, as reflected in documents CAJP/GT/DHPM-30/12 rev. 6 corr. 1 and CAJP/GT/DHPM-30/12 add. 1.
 14. This document will be enhanced with future contributions by delegations and will serve as a tool for negotiating the Draft Inter-American on the Human Rights of Older Persons, document CAJP/GT/DHPM-xx/12.

COMPENDIUM OF PROPOSALS ON THE DRAFT INTER-AMERICAN CONVENTION ON
THE HUMAN RIGHTS OF OLDER PERSONS

PREAMBLE

[CHAIR: Suggests deleting the numbering of the preambular paragraphs]

[URU: The delegation of Uruguay’s general comments on the Preamble may be found at the end of this section.]

[CHAIR: The signatory States to the present Convention (hereinafter, “the States Party”),

Recalling that the principles [CHAIR: inspired by ~~of~~] the Charter of the United Nations [CHAIR: and the different instruments of the inter-American system that] proclaim, justice and peace [CHAIR: in the world,] [MEX: are based] on recognition of the [ARG: dignity and inherent value and of] equal and inalienable rights of [MEX: all members of the human family all persons] [SLV: during the entire cycle of their lives];

[CHAIR: ~~Recognizing that in the Universal Declaration of Human Rights and the International Covenants on Human Rights, the United Nations recognized and proclaimed that all persons have the rights and freedoms set out in those instruments, without distinction of any kind. [SLV: Particularly for reasons of age];~~

Reaffirming that all human rights and fundamental liberties are universal, indivisible, interdependent and interrelated, and [CHAIR: the obligation of States to ensure] that older persons [CHAIR: ~~must be able to~~ can] exercise those rights fully without discrimination or violence, considering them as rights holders and not [CHAIR: as] passive objects of public policies [CHAIR: and assistance programs];

[CHAIR: ~~[SLV: Reaffirming that Recalling]~~ Considering the different instruments at the universal and regional levels that seek to ensure the full enjoyment of all human rights, such as] the American Convention on Human Rights, [CHAIR: “Pact of San José, Costa Rica,”] the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, “Protocol of San Salvador,” the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, “Convention of Belem do Pará,” [PER: ~~the Inter-American Convention~~], and the Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities, [CHAIR: among others,] [SLV: offer a framework for eradicating violence but do not recognize scenarios that are particularly applicable to older persons];

[CHAIR: ~~Taking into consideration the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the~~

~~Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families [SLV: which offer a general framework but do not address issues relating to the independence and autonomy of older people]];~~

~~[CHAIR: Recalling also, *inter alia*, the Additional Protocols to the Geneva Conventions of 1949 that refer, respectively, to victims of international and domestic armed conflict, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (adopted by United Nations General Assembly in Resolution 40/34 of November 29, 1985) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (adopted by the General Assembly in Resolution 43/173 of December 9, 1988);~~

[SLV: Suggests a new paragraph to replace the following two paragraphs]

[CHAIR: Suggests an alternative for the following two paragraphs]

~~[SLV: *Taking into consideration* the various programming instruments adopted in the United Nations that reflect concern over the special vulnerability of older persons and possible situations of more serious discrimination, such as the United Nations Principles for Older Persons (adopted by the General Assembly in Resolution 46/91 of December 16, 1991); the Proclamation on Ageing (adopted by the General Assembly in resolution A/RES/47/ of October 16, 1992); and also the Program of Action of the International Conference on Population and Development” (1994); the Political Declaration and Plan of Action of Madrid on Ageing of 2002, and the Durban Declaration and Program of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001);]~~

~~[SLV: *Taking into consideration* also the various regional efforts and instruments based on the United Nations guidelines, such as, *inter alia*, the Regional Strategy for the Implementation in Latin America and the Caribbean of the Madrid International Plan of Action on Ageing; the Declaration of Brasilia for the Latin American and Caribbean Region (2007); the Declaration of Commitment of Port of Spain of Plenipotentiaries, Organization of American States, OAS (2009); resolution 2455 on human rights and older persons, OAS (2009); the Plan of Action of the Pan American Health Organization/World Health Organization (PAHO/WHO on the Health of Older Persons, including Active and Healthy Ageing (2009) [PAHO];]~~

[ALT SLV: Recognizing that in spite of the number of human rights instruments that exist, there is no instrument that comprehensively gathers together the rights and demands of older people, in accordance with their needs and realities],

[ALT CHAIR: Recalling ~~*Taking into consideration*~~ the various programming instruments adopted in the United Nations] that reflect concern over the special vulnerability of older persons and possible situations of more serious discrimination, such as the United Nations Principles for Older Persons [CHAIR: (adopted by the General Assembly in Resolution 46/91 of December 16, 1991); the Proclamation on Ageing ([CHAIR: adopted by the General Assembly in resolution A/RES/47/ of October 16, 1992); and [CHAIR: also the Program of Action of the International Conference on Population and Development” (1994); the Political Declaration and [MEX: **International**] Plan of

Action of Madrid on Ageing [~~CHAIR: of (2002), together with] and the Durban Declaration and Program of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001); regional efforts and instruments based on the United Nations guidelines, such as the Regional Strategy for the Implementation in Latin America and the Caribbean of the Madrid International Plan of Action on Ageing (2003), the Declaration of Brasilia for the Latin American and Caribbean Region (2007), [CHAIR: and] the Declaration of Commitment of Port of Spain of Plenipotentiaries, Organization of American States, OAS (2009);~~

[CHAIR: *Reaffirming the commitment of the American States toward the human rights of older people, and the determination to eliminate all forms of discrimination, such as discrimination on the grounds of age, as reflected recently in the resolutions of the General Assembly of the Organization of American States of 2009, 2010, and 2011, and in the] Plan of Action of the Pan American Health Organization/World Health Organization [CHAIR: (PAHO/WHO) on the Health of Older Persons, including Active and Healthy Ageing [CHAIR: of (2009) [PAHO]; [End of the Chair's alternative for replacing the two previous paragraphs]*

Reaffirming their commitment to spare no effort to promote democracy, reinforce the rule of law, and promote the equality of [PER: men] and women, and to promote and protect human rights and fundamental liberties, including the right to development;

~~[CHAIR: *Reaffirming also the commitment to eliminate all forms of discrimination, inter alia, discrimination for reasons of age, recognizing that as they age, persons should enjoy a full life, in health, engagement, safety and with active participation in the economic, social, cultural and political spheres of their societies;*~~

[CHAIR: Suggests combining the two following paragraphs]

~~[CHAIR: *Recognizing that the ageing of the population is one of the greatest achievements of humanity, and that it is a demographic revolution that has repercussions in all spheres and dimensions of society and on public policies;*~~

~~[CHAIR: *Bearing in mind that the ageing of the population is very diverse, and that the world-wide trend towards longer life is a historic achievement that should be reflected in a re-adaptation of public policies, the drafting of national laws, the organization of society and the crafting of varied responses by the States to the changes in the age structure of the population;*~~

[ALT CHAIR: *Recognizing that [MEX: the trend in] the [MEX: heterogeneous] ageing of the population is one of the greatest achievements of humanity [MEX: , and that it is a demographic revolution] that has repercussions in all spheres and dimensions of society and of public policies [CHAIR, MEX: and that Bearing in mind that the ageing of the population is very diverse, and that the world-wide trend towards longer life is a historic achievement that]: should [MEX: therefore] be reflected in a re-adaptation of public policies, the drafting of national laws, the organization of society and the crafting of varied responses by the States to the changes in the age structure of the population;*

[SLV: **Recognizing that not all older people have the same possibilities of exercising their rights and that the disparity in their ageing processes is marked by the exclusion of that exercise.**]

~~[CHAIR: *Reaffirming* the commitment to address the topic of ageing and give it priority in all spheres of public policies and programs, and to assign and manage human, material and financial resources to ensure appropriate follow-up and evaluation of the measures put in place, differentiating between urban and rural areas and recognizing, among others, intergenerational, gender, race, and ethnic perspectives in the policies, programs and laws geared to the most vulnerable sectors of the population because of their economic and social condition and humanitarian emergency situations, such as armed conflict, natural disasters and forced displacement;]~~

[CHAIR: *Resolved* to include and give priority to the topic of ageing in all areas of public policy, and to allocate and manage the human, material, and financial resources to ensure appropriate monitoring and assessment of the special measures implemented;]

~~[CHAIR: *Convinced* that the particular vulnerability of older persons distinguishes them from other groups that are given special consideration and that the fact that the various international instruments on human rights are dispersed makes an annotated application difficult, which may cause a lack of protection; a specific effort at codification is therefore considered essential to assuring the realization of their civil, political, economic, social, and cultural rights, and the exercise of their free, active, and significant participation in their personal development;]~~

[ALT MEX: *Convinced* that the particular vulnerability of older persons distinguishes them from other groups that are given special consideration and that the fact that the various international instruments on human rights are dispersed makes an annotated application difficult, which may cause a lack of protection; a specific effort at codification **it is therefore considered essential to codify to assuring the realization of their civil, political, economic, social, and cultural rights of older persons into a single instrument in order to ensure their realization and to ensure** ~~and~~ the exercise of their free, active, and significant participation in their personal development;]

[CHAIR: *Recognizing* that the **particular vulnerability of older persons distinguishes them from other groups that are given special consideration, and that** there are stereotypes, and] social and cultural prejudices that warrant affirmative actions and awareness-raising in order to counteract them, since they view ageing as a disability per se, link it mainly to illness, loss and isolation, with which the older person himself also identifies; [CHAIR: ~~and that these ideas have with consequences for a damaging effect on~~ the social and community integration of older persons, ~~and on the full exercise of their citizen rights~~];

[ALT MEX: *Recognizing* that there are stereotypes, and social and cultural prejudices that warrant affirmative actions and awareness-raising in order to counteract them, **given that since they view ageing as a disability per se, link it mainly to illness, loss and isolation, with which the older person himself also identifies; and that these ideas have a damaging effect on they affect** the social and community integration of older persons, **and on** the full exercise of their citizen rights];

[CHAIR: *Recognizing* the need to bring about a change in paradigm to deal with the issues of age and ageing, leaving assistance-based approaches aside and progressing toward an outlook based on a rights approach that acknowledges the valuable current and potential contributions of older people to common wellbeing, cultural identity, community diversity, and significant steps forward in human, social, and economic development and in the eradication of poverty;]

[CHAIR: ~~*Recognizing*~~ *Convinced*] that efforts to promote, protect and give effect to the rights of older persons must be set in the framework of the construction of societies that are more inclusive, cohesive, and democratic, that safeguard equality and reject all forms of discrimination, [CHAIR: ~~including those related to age,~~] [MEX: ~~and that develop~~ CHAIR: MEX: ~~mechanisms for intergenerational solidarity and new forms of contributing to development at all ages,~~ [CHAIR: ~~and bearing in mind the diverse forms of the family;~~]

[CHAIR: ~~*Stressing*~~ that in addressing the challenges of ageing, some countries have developed different frameworks for promoting, protecting and giving effect to the rights of older persons and encouraging social inclusion, but that despite this, differences in situations and achievements among countries and subregions persist, as does a preponderance of charitable actions that do not take account of the need for a rights-based approach to social security, health and general social services policies;]

[ALT MEX: *Stressing* that in addressing the challenges of ageing, some countries have developed different frameworks for promoting, protecting, and giving effect to the rights of older persons and encouraging social inclusion, [MEX: ~~but that despite this,~~] differences in situations and achievements among countries and subregions persist, as does a preponderance of charitable actions that do not take account of the need for a rights-based approach to social security, health, and general social services policies;]

[CHAIR: ~~*Recognizing*~~ the need to shift the paradigm in order to address matters of old age and ageing, and leaving charity aside in favor of a rights-based approach that recognizes the valuable current and potential contributions of older persons to the common good, their contribution to cultural and community identity and to the diversity of their communities, and a significant advance in the human, social, and economic development of society and the eradication of poverty;]

[ALT MEX: *Recognizing* the need to [MEX: ~~shift the paradigm in order to~~] address matters of old age and ageing, [MEX: ~~from and leaving charity aside in favor of a human rights-based~~] approach that recognizes ~~the valuable current and potential contributions~~ of older persons to the common good, [MEX: ~~their contribution~~] to cultural and community identity and to the diversity of their communities [MEX: ~~, to and a significant advance in the~~] human, social, and economic development of society and to the eradication of poverty;]

Bearing in mind that ageing may produce disabilities [MEX: ~~and therefore dependency~~ that require specially designed services for comprehensive care, which requires rejecting the approach of merely treating the illness, which at times induces [PER: ~~a purely therapeutic approach therapeutic cruelty~~], in order to foster comprehensive social and health services [MEX: ~~that take into account the social determinants of health, and include for older persons~~ incorporate the idea of prevention and

minimizing ~~the~~ risks of dependency, [MEX: **in order to** ~~that~~ favor the quality of life of **older persons**, ~~and also curtail morbidity~~];

[CHI: *Recognizing that the development of a comprehensive system of long-term care services—institutional as well as family—and of prevention and health promotion is a vital area for public policy as a means of delaying for as long as possible the appearance of chronic diseases, dependency, and loss of autonomy.*]

[CHAIR: Suggests combining the following two paragraphs]

[CHAIR: ~~Supporting actively the incorporation of a gender perspective into all policies and programs that take into account the needs and experiences of older persons;~~]

[CHAIR: ~~Actively supporting~~ [PER: ~~also~~] ~~the need to bear in mind the added vulnerability of older persons who are victims of racism, xenophobia, machismo, homophobia, transgender phobia and any kind of treatment that makes them inferior/excludes/discriminates against them;~~]

[ALT CHAIR: *Supporting* actively the incorporation of a gender perspective into all policies and programs that take into account the needs and experiences of older persons, [CHAIR: and ~~Actively supporting~~ [PER: ~~also~~] the need to bear in mind the added vulnerability of older persons who are victims of racism, xenophobia, machismo, homophobia, transgender phobia and any kind of treatment that makes them inferior, [[CHAIR: ~~≠~~ excludes **them**, ~~≠~~ and/or discriminates against them];

[ALT MEX: *Actively supporting* [MEX: [PER: ~~also~~]] the need to bear in mind the [MEX: **situation of**] [PER: added] vulnerability of older persons who are victims of racism, xenophobia, machismo, homophobia, transgender phobia and any kind of [MEX: **discrimination** ~~treatment that makes them inferior/excludes/discriminates against them;~~]

Convinced of the importance of facilitating the formulation and enforcement of laws and programs to prevent the abuse, abandonment, negligence, and mistreatment of and violence against older persons, [CHAIR, MEX: ~~whether they use long stay services or live at home, as well as~~ [CHAIR: and] [MEX: ~~as well as~~ the need for ~~to create legal frameworks and~~] supervisory mechanisms [MEX: ~~that to~~] protect the human rights and fundamental liberties of older persons; and

Convinced also that a [CHAIR: broad, comprehensive ~~inter-American~~ Convention ~~to promote, protect, and assure the rights and dignity of older persons~~] will contribute significantly to reducing the dispersed nature of the rules [CHAIR: ~~unify and to unifying~~] the concepts, criteria, approaches [and] standards on the rights of older persons, and [CHAIR: ~~that, at the same time, will~~] encourage the creation of bodies to observe progress, [CHAIR: ~~facilitate~~ **facilitating** the ~~work of the States responsible for taking~~ **adoption of** domestic legislative and policy measures for ~~to safeguard the rights of older persons, and the work of the rights holders themselves and other interested parties, and will promote~~] the engagement and participation of older persons, with equal opportunities in [CHAIR: ~~all the civil, political, economic, social and cultural~~ fields ~~both in developing and developed countries~~, and ~~promote~~ **promoting**] active, successful ageing.

[ALT MEX: *Convinced* also that a broad, comprehensive [CHAIR, MEX: inter-American Convention to promote, protect, and assure the rights and dignity of older persons] will contribute significantly to reducing the dispersed nature of the rules [MEX: , **unify**] the concepts, criteria, approaches [MEX: **and**] standards on the rights of older persons, [MEX: **and** ~~CHAIR: that, at the same time, will~~] encourage the creation of [MEX: **oversight** bodies, ~~to observe progress, facilitate~~ **facilitating** the work of the States responsible for taking] the adoption of [MEX: **national domestic**] legislative and policy measures [MEX: ~~for~~] to safeguard the rights of older persons, [MEX: ~~and the work of the rights holders themselves and other interested parties, and will~~ promote] the engagement and participation of older persons, with equal opportunities in all the civil, political, economic, social, and cultural fields both in developing and developed countries, promoting active, successful ageing.

[CHAIR: **Have agreed to enter into this Inter-American Convention on the Human Rights of Older Persons (hereinafter “the Convention”)**]

[URU: **General comments on the preamble:**

- **As for the preamble to the Draft Convention, Uruguay supports the general content of the provisions, considering that they represent an essential guide for interpreting the Convention, in keeping with Article 31 (General rule of interpretation) of the 1969 Vienna Convention on the Law of Treaties.**
- **The following preambular paragraphs in particular may be cited as an example as they are deemed to contain the best practices and trends on aging: paragraph (j) (principle of nondiscrimination); paragraph (k) (present population aging trends); paragraph (l) (diversity of such aging); paragraph (m) (cross-cutting focus of public policies on aging); paragraph (n) (particular vulnerability of this swath of the population); and paragraph (r) (shifting the paradigm to address matters of old age and aging).**
- **Uruguay also supports paragraph (w) of the preamble, bearing in mind the potential role of the Inter-American Convention in the future unification of concepts, criteria, and standards pertaining to the rights of older persons.]**

CHAPTER I

[CHAIR: **PURPOSE,] SCOPE OF APPLICATION [CHAIR: ,] AND DEFINITIONS**

Article 1

[CHAIR: **Purpose and scope**] of application

The purpose of the [CHAIR: ~~present~~] Convention is to promote, protect, and assure full enjoyment, in equality of conditions, of all the human rights and fundamental liberties of all older persons, without distinction of any kind, [CHAIR: **together with** ~~PER: to promote by promoting~~] respect for their inherent dignity and [PER: ~~to promote~~] their full [CHAIR: **inclusion, integration, and participation in** ~~into~~ society].

[CHAIR: **To this end, the States Party shall take into account the role and contribution of older people to community development, shall raise the profile of the situation of**

vulnerability they face, and shall ensure protective tools through positive actions, as provided for in the Convention.]

[SLV: Each state shall determine in its laws the age at which an individual is to be considered an older person, save that in no case may that age be in excess of 70 years.]

[CHAIR, MEX: ~~For the purposes of the present Convention, “older person” shall be understood as a person sixty years old or more.~~] [MEX: suggests including this paragraph in Article 2]

The provisions of the [CHAIR: ~~present~~] Convention shall apply in the public and private spheres of the member states. [SLV: For those states that do not define such an age,] [CHAIR: “Older person” shall be taken as meaning any person aged sixty years or over].

[URU: General comments on Article 1:

- It was deemed necessary to accept as a position the apparently emerging definition of an “older person” as someone aged 60 or older.
- Although there is no legally binding international treaty defining what is meant by “older person,” adopting the over-60 concept will make it possible to include a particularly vulnerable swath of the population.
- For Uruguay, an “older person” is above 65 and, consequently, economic transfers begin at that age. However, the definition in Article 1 of the Draft inter-American Convention is deemed to be more appropriate.]

Article 2 Definitions

[CHAIR: Suggests numbering the definitions]

[URU: Supports the definitions in Article 2 of the Draft Convention because it believes they reflect new trends toward viewing aging as a process and old age as a social construct that delimits the final stage of life.]

[CHAIR: For the purposes of ~~the this~~ Convention], the following shall be understood as:

[MEX: Suggests including the following paragraph derived from Article 1)

[MEX: “Older person”: For the purposes of this Convention, an older person shall be taken as meaning any person sixty years old or older]

- a. [CHI: “Individual ageing”: [SLV: ~~is understood as~~] [CHAIR: ~~the~~ Process] that begins at birth and ends with death, and that entails biological, physiological, and psychosocial changes with varying consequences. Individual ageing is part of a person’s life cycle and is therefore determined by the contexts in which the individual has lived, his strategies for response and adaptability, and the results of

those strategies. [SLV: ~~(Chile)~~] Development and ageing should be understood as simultaneous processes that are ongoing throughout life, in which gains, losses and compensations come together and are associated with ongoing interaction between the subject and his environment.

- b. [CHI: “Demographic or population ageing”: [CHAIR: ~~Population ageing refers to the Process~~] of demographic change in society, characterized by growth in the proportion of older individuals with respect to younger people.]
- c. “Old age” [MEX: or “Adulthood”]: [CHAIR: ~~PER: is defined as a Social~~] construct that describes the last stage of life. [SLV: ~~It is found in the majority of peoples, although it is not a universal and is not applicable to all human organizations.~~] This stage involves a set of biological, psychological, and social processes, which, although given meaning by each culture, takes on characteristics particular to this human group.

[CHI: “Life Cycle”: human beings pass through stages such as infancy, childhood, puberty, adolescence, and adulthood. Infancy comes at birth, then comes childhood, until puberty appears. Adolescence comes afterwards and then the processes of adulthood and older adulthood].

[CHAIR: ~~“Stages of life”: are defined as socially stipulated moments when the subject [SLV: is expected to take takes] on various responsibilities [SLV: or require various specific demands] toward his society. Infancy, adolescence, adulthood, [SLV, PER: and or] old age were created and had meaning in different cultures and moments of history, in terms of specific needs or demands. [SLV: Each society [PER: culturally] determines the stage of old age according to longevity, economic and educational resources, lifestyles, etc.]~~

- d. “Active ageing”: [CHAIR: ~~defined by WHO as the Process~~] of optimizing opportunities for physical, social and mental health throughout life, in order to expand healthy life expectancy, productivity, and quality of life in old age.
- e. “Discrimination”: means any distinction, exclusion, restriction or preference based on [SLV: ~~race, color, ethnicity, sex, age, [PER: sexual orientation,] language, religion, political or any other type of opinion, national or social origin, economic position, migrant, refugee or displaced person status, place of birth, stigmatized infectious or contagious condition, disability or any other~~] social condition that has the purpose or effect of annulling or restricting the recognition, enjoyment or exercise, in equality of conditions, of human rights and fundamental liberties in the political, cultural, economic, social, or any other sphere of public and private life.

[ALT CHAIR: Any distinction, exclusion, restriction or preference based on race, color, ethnicity, sex, age, [PER: ~~sexual orientation,~~] language, religion, political or any other type of opinion, national or social origin, economic position, migrant, refugee or displaced person status, place of birth, stigmatized infectious or

contagious condition, disability or any other [**CHAIR: social**] condition that has the purpose or effect of [**CHAIR: hindering**, annulling, or restricting the recognition, enjoyment or exercise, in equality of conditions, of human rights and fundamental liberties in the political, cultural, economic, social, or any other sphere of public and private life.]

f. “Age discrimination”: [**CHAIR: is understood as Any**] distinction, exclusion, or restriction based on age that has the effect or purpose of [**CHAIR: hindering**, hampering,] or annulling the recognition, enjoyment, or exercise of [**MEX: a person’s**] human rights and fundamental freedoms.

g. “Multiple discrimination”: [**CHAIR: means Any**] distinction, exclusion, restriction or preference suffered by an older person based on two or more factors or characteristics of the person, [**CHAIR: such as race, color, ethnicity, sex, age, [PER: sexual orientation,] language, religion, political or other type of opinion, national or social origin, economic position, migrant, refugee [PER: or displaced] person status, place of birth, stigmatized infectious or contagious condition, disability or any other social condition** described in sections [**ARG: (d) and (e) and (f)**] of this article, intended to or with the effect of hindering, hampering, or annulling the recognition, enjoyment, or exercise of their human rights and basic freedoms].

[**ALT MEX: Multiple discrimination**”: means any distinction, exclusion, restriction or preference [**MEX: suffered by towards**] an older person based on two or more factors [**MEX: or characteristics of the person,**] such as race, color, ethnicity, sex, age, sexual orientation, language, religion, political or other type of opinion, national or social origin, economic position, migrant, refugee or displaced person status, place of birth, [**MEX: stigmatized**] infectious or contagious condition, disability, or any other [**MEX: social**] condition.

h. “Affirmative measures”: [**CHAIR: are Special actions of protection or promotion by states on behalf of the rights of**] older persons in order to contribute to the elimination of social, legal, institutional, or even physical barriers that prevent them from enjoying or benefitting from substantive equality as compared to other sectors of the population.

[**ALT MEX: “Affirmative measures**”: are [**MEX: special actions or strategies geared towards** of protection or promotion on behalf of older persons in order to contribute to the elimination of eliminating] social, legal, institutional [**MEX: or even and** physical barriers that prevent **older persons them** from enjoying **their rights on equal terms relative to** or benefitting from substantive equality as compared to] other sectors of the population. [**MEX: They are generally temporary in nature and are based on the political will to eliminate discrimination against older persons**].

i. “Protection measures”: are appropriate, effective actions to prevent all types of violence and mistreatment of older persons in any sphere in which they occur

~~[CHAIR: , with particular emphasis on those who live in long-term care services, adaptive housing and assisted living residences, in order to secure the independence of older persons, [SLV: including] the freedom to make their own choices and preserve their individual autonomy];~~

[ALT MEX: “Protection measures”: are appropriate, effective actions to prevent all types of violence and mistreatment of older persons in any sphere in which they occur, with particular emphasis on those who live in long-term care services, adaptive housing and assisted living residences, in order to secure the independence of older persons, [SLV: including] the freedom to make their own choices and preserve their individual autonomy];

- j. “Reasonable adjustments”: ~~[CHAIR: shall be understood as~~ Necessary and appropriate ~~changes and adaptations]~~ that do not impose [PER: any ~~]~~ disproportionate or undue burden, when required in a particular case, to assure older persons of the enjoyment or exercise, in equal conditions with other people, of all human rights and fundamental freedoms;

[ALT MEX: Reasonable adjustments”: shall be understood [MEX: as] necessary and appropriate adaptations that do not [MEX: impose involve] a disproportionate or undue burden, when required in a particular case, to assure older persons of the enjoyment or exercise, in equal conditions with other people, of [MEX: ~~all~~] human rights and fundamental freedoms;

- k. [SLV: “Abuse or mistreatment of older persons” shall be defined as any action, series of actions, or lack of appropriate action that produces physical or psychological harm and that takes place within a relationship of trust.]

- l. [CHAIR: “Access to justice”: The main guarantee of all [ARG: ~~other~~] rights and basic freedoms of older people, covering access to the administration of justice itself, a duly grounded ruling issued after due process, and the right of execution of the sentence. It also covers all affirmative actions and good practices that serve to raise the profile of older people and guarantee them awareness, exercise, and defense of their rights through attention and preferential treatment in the processing of administrative or judicial cases, and the securing of priority, understandable justice that affords immediate and effective protection.]

- m. “Abandonment or negligence”: is defined as any failure or omission in performing certain actions or leaving unprotected a person who depends on the care provided [SLV: by the family or] by a long-stay facility, the private sector or family members [SLV: that have , and for whom this type of facility or actors have some legal or moral obligation of care]. Negligence or abandonment may be intentional or unintentional.

[ALT CHAIR: “Abandonment or negligence” [CHAIR: ~~is defined as~~ Any] failure or omission in performing certain actions or leaving unprotected a person who depends on the care provided by a long-stay facility, the private sector or family members for whom this type of facility or actors have some legal or moral obligation. Negligence or abandonment may be intentional or unintentional.]

[ALT MEX: “Abandonment or negligence”: is defined as ~~any~~ **the** failure or omission ~~in performing certain actions~~ or leaving unprotected ~~a~~ **an older** person who ~~depends on~~ **needs** the care provided **by the family or** by a **public or private** long-stay facility, the private sector or family members **that have a** ~~and for whom this type of facility or actors have some~~ legal or moral obligation **to the older person**. Negligence or abandonment may be intentional or unintentional.

- n. “Physical abuse or mistreatment”: is defined as any action [SLV, ARG: **or omission**] that causes physical harm or injury, physical coercion [SLV, ARG: ~~such as preventing the free movement of a person without appropriate justification~~]. Abuse or physical mistreatment may take the form of blows, pushing, force-feeding, tying up, forced restraint in bed, burns, sexual abuse [PER: **considers that sexual abuse should be addressed/defined in a separate paragraph**], [or] incorrect postures that adversely affect disability or cause wounds.

[ALT CHAIR: “Physical abuse or mistreatment”: [CHAIR: ~~is defined as~~ Any] action that causes physical harm or injury, physical coercion, such as preventing the free movement of a person without appropriate justification. ~~Abuse or physical mistreatment may take the form of blows, pushing, force-feeding, tying up, forced restraint in bed, burns, sexual abuse~~ [PER: **considers that sexual abuse should be addressed/defined in a separate paragraph**], [or] incorrect postures that ~~adversely affect disability or cause wounds.~~]

- o. “Psychological abuse or mistreatment”: [CHAIR: ~~is defined as~~ Any] action [SLV, ARG: **or omission**] that causes psychological harm, [PER: ~~such as causing stress, fear, anguish, and anxiety, or feelings of indignity~~ **dignity** in an older person ~~with insults.~~] [SLV: **This kind of abuse includes denying visiting rights, preventing communications, or isolating older persons from others.**]

[MEX: suggests consolidating paragraphs n and o]

[ALT MEX: “**Physical and/or psychological** abuse or mistreatment” of older persons: is defined as any] action, set of actions, **or omission**, ~~or the lack of proper action~~ that causes psychological **and/or** physical harm **to an older person**. ~~and which occurs in a relationship of trust.~~ [PER: **this paragraph is repeated on the next page**] ~~“Economic abuse or exploitation”: is defined as the exploitation of the assets of a person, fraud or swindling an older person, deceit or theft of his money or property.~~

- p. “Institutional abuse or mistreatment”: [**CHAIR: Physical or psychological abuse or mistreatment that is ~~is that~~**] exercised by institutions that care for older persons [**ARG: and, in particular, that is carried out as a result of practices that are admitted by or provided for in habitual internal procedures**].

[**ALT MEX: “Institutional abuse or mistreatment”**: is **any action, set of actions, or omission ~~that is exercised~~**] by institutions that care for older **that causes psychological and/or physical harm**].

- q. “Family abuse and mistreatment”: is that exercised by [**PER: families**].

[**ALT MEX: “Family abuse and mistreatment”**: **any action, set of actions, or omission**, exercised ~~by~~ the family **of an older person, that causes psychological and/or physical harm**].

- r. “Community and social abuse and mistreatment”: [**MEX: any action, set of action, omission, or discrimination, exercised by society, which causes physical, psychological, or moral harm to ~~is exercised by society~~ [ARG: in discriminating against]**] older persons.

- s. “Institutionalized older person”: [**CHAIR: ~~is a~~ [SLV: Older] person**] [**SLV: aged sixty or more**] who lives in a [**SLV: substitute group**] home [**CHI: or temporary or permanent public or private health assistance institution**] where [**SLV: ~~in addition to board and lodging,~~**] he receives care and assistance with his daily living activities [**SLV: ~~and monitoring of his state of health~~**].

[**ALT MEX: “Institutionalized older person”**: is a person aged sixty or more who lives in a **health care institution or** group home where, in addition to board and lodging, he receives care and assistance **in ~~with~~** his daily **living** activities and monitoring of his state of health.

- t. [**CHAIR: “Prior and informed**] consent”: [**CHAIR: ~~is consent obtained~~ Expression of freely** will, without threats or undue ~~persuasion~~ **pressure**, that an older person gives prior to any treatment or intervention by public or private institutions,] after having [**CHAIR: been given ~~the person in question appropriate,~~ comprehensible relevant** information in a **clear and easily understandable way form and in language that he understands**].

[**ALT MEX: “Free and informed consent”**: is consent **given freely by an older person ~~obtained freely,~~** without threats or ~~undue~~ **persuasion pressure**, ~~after having given the person in question appropriate,~~ having all the available, relevant, and comprehensible information **for decision-making that affects him ~~in a form and in language that he understands~~**].

[**CHAIR, MEX: “Palliative care”**: ~~refers to the active, total care of patients whose illness is not responding to curative treatment. Central to palliative care is the control~~

~~of pain, other symptoms and social, psychological and spiritual problems, in other words, it involves meeting the needs of the ill person. Palliative care [SLV: is interdisciplinary in application, and includes the patient, his family, and his environment. [SLV: Palliative care affirms life and considers death as a normal process; it does not hasten nor delay death.] It is administered in order to maintain the best possible quality of life up until death.]~~

[ALT ARG: “Palliative care”: refers to the active, total care of patients whose illness is not responding to curative treatment in order to improve their quality of life before death. Central to palliative care is the control of pain, of other symptoms, and of the social, psychological, and spiritual problems of the older person. It is interdisciplinary in application and includes the patient, his environment, and his family. It affirms life and considers death as a normal process, neither hastening nor delaying it.]

[CHAIR: ~~“Economic exploitation”: refers to exploitation of a person’s assets, fraud, or swindling an older person, deceit or theft of his money or property.]~~

[ALT MEX: “Economic abuse or exploitation”: is defined as ~~exploitation of a person’s assets, fraud, or swindling~~ **or theft of the financial resources or property** of an older person, **or the exploitation of his assets without his consent** ~~deceit or theft of his money or property.]~~

[CHAIR: ~~“Sexual exploitation”: refers to any sexual act that is performed [PER: for economic gain] against the will of the [PER: older] person.]~~

[ALT MEX: “Sexual **abuse or** exploitation”: refers to any sexual act that is performed against the will of the **older** person.]

[CHAIR: ~~“Long stay facility”: is a [SLV: substitute group] home that, in addition to room and board [PER: and laundry], offers personal care services and health monitoring, along with social services, and nursing and/or medical services.]~~

[ALT MEX: “Long-stay facility”: is a **health care or** group home that offers, ~~in addition to~~ room and board, ~~offers~~ personal care, ~~services~~ and health monitoring, ~~along with social services,~~ and nursing and/or medical services.]

[CHAIR: ~~“Review Body”: is a body generally established under national law and duly enabled to take decisions regarding, *inter alia*, admissions, remaining in a long-stay facility, legal capacity, review of legal capacity and proxy consent.]~~

[ALT MEX: “Review Body”: is a **national** body ~~generally~~ established ~~under national law and duly enabled~~ to take decisions regarding, *inter alia*, admissions, **and** remaining in a long-stay facility, **as well as** legal capacity, review of legal capacity and proxy consent **of older persons.**]

~~[CHAIR, SLV: “Legal representative” or “legal proxy”: is a person who under the law has the duty to represent the interests of an older person who is incapable of taking decisions in a particular area, or to exercise specific rights on behalf of the person.]~~

~~[CHAIR: Personal representative or “personal [SLV: guardian proxy]”: is any person named by means of a selection process [SLV: in advance by the individual, or he may be a person who is related by blood or marriage to the person who does not have the capacity under law or by a procedure established by law for the adoption of decisions on behalf of the older person, when he/she has lost his ability] to take decisions. [SLV: The appointment of such a representative shall not mean the complete loss of autonomy, but instead his or her appointment to make decisions commensurate with that loss and shall be subject to subsequent evaluation and oversight.]~~

~~[ALT MEX: Personal representative or “personal proxy”: is a family member or any person named by the older person means of a selection process in advance by the individual, who gives him the trust and responsibility to support him in his daily activities and in making certain decisions or he may be a person who is related by blood or marriage to the person who does not have the capacity to take decisions.]~~

- u. **[SLV: Autonomy: the ability to decide and give statements on the exercise of freedoms and rights, including matters of both private and public life. The enjoyment of autonomy shall be understood as an essential element for the exercise of human rights. All programs for older persons shall strengthen autonomy as a means for the exercise of the human rights of older persons.]**
- v. **[SLV: Independence: The ability to pursue actions or activities of everyday life or of a more instrumental nature without requiring assistance from another person.]**

CHAPTER II GENERAL PRINCIPLES AND GENERAL CLAUSE ON LIMITATIONS

Article 3 General principles

General principles that apply to ~~[CHAIR: all clauses of this~~ **the** Convention:

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 3]

~~[CHAIR: Valuing the role of older persons and of their contribution to the community.]~~

[**ALT MEX: Recognizing** ~~Valuing~~ the role of older persons and of their contribution to the community.]

[**CHAIR:** ~~Full and effective participation and social inclusion of older persons and their engagement in the community.~~]

[**ALT MEX:** Full and effective participation, ~~and~~ social inclusion **and development** of older persons ~~and their engagement in the community.~~]

Respect [**CHAIR: by the States Party**] for full exercise of [**CHAIR: ~~the~~ all the human rights of older people**], equality of opportunities, [**CHAIR: the right of nondiscrimination, the inherent dignity of humankind,**] the independence of older persons, [**CHAIR: and including** the freedom to make their own choices, and **to** preserve their individual autonomy, with equity and social justice, **and intergenerational solidarity**].

[**ALT MEX:** Respect for full exercise of their rights, equality of opportunities, the inherent dignity, the independence of older persons, including the freedom to make their own **decisions** ~~choices~~, and **to** preserve their individual autonomy, with equity and social justice].

[**CHAIR:** ~~The need to make the failure to protect older persons visible and ensure, by positive actions of the States, appropriate protection, [PER: as well as and also] awareness of an active view of ageing and the construction of societies that are more inclusive, cohesive and democratic, and that safeguard equality and reject all forms of discrimination, including those related to age.~~]

[**CHAIR:** ~~The need for comprehensive social protection to ensure pertinent, coordinated interventions that drive economic and social development, based on respect and social and community solidarity that will strengthen responsibilities and obligations of mutual support among persons of different generations in the economic, social, [PER: cultural,] and emotional fields.~~]

[**SLV: The preservation of autonomy and independence: The use of care and intervention programs for older persons must have the central goal of allowing older adults to preserve the maximum level of autonomy and independence and their family, community, and social integration.**]

[**URU: Supports the principles listed in Article 3 of the Draft Convention. It must be borne in mind that the recently-formed Institute for the Older Adult in Uruguay has included among its priorities and objectives the social inclusion of elder persons, the need to build awareness of their vulnerability, and the advisability of developing comprehensive social protection, leaving behind the welfare focus of recent years.**]

Article 4 General clause on limitations

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 4]
[SLV: Suggests deleting this article]

Nothing in the present Convention shall affect provisions of the laws of a State Party or of international law ~~[CHAIR: in force in that State]~~ that provide for a greater exercise of the rights of older persons.

None of the human rights and fundamental liberties recognized or existing in the States Party shall be restricted or derogated ~~[CHAIR, MEX: in the present Convention]~~ in accordance with ~~[MEX: the law constitution]~~, conventions ~~[MEX: , and covenants, laws,]~~ regulations or ~~[MEX: customs, on the pretext arguing that [CHAIR: certain said those] rights or liberties are not recognized in the [CHAIR: present] Convention or [MEX: that they are recognized therein] to a lesser extent.~~

~~[CHAIR: The provisions of the present Convention shall apply to all parts of federal States without limitation or exception.]~~

The requirements and scope of the regulations, restrictions and the suspension of rights and guarantees established in the ~~[CHAIR: present]~~ Convention shall be governed according to the provisions of the pertinent parts of the American Convention on Human Rights.

[URU: Believes this provision plays a catalyzing role in the recognition of the human rights of older persons and also constitutes a standard to support the elimination of policies that restrict this sector of the population.]

CHAPTER III GENERAL DUTIES OF THE STATES PARTY

[URU: The delegation of Uruguay's general comments on Chapter III may be found at the end of the chapter.]

Article 5

The States Party shall respect the rights set out in the ~~[CHAIR: present]~~ Convention and shall assure its application to all older persons subject to its jurisdiction, **[CHAIR: without discrimination of any kind, including the following commitments: [CHAIR, MEX: independently of race, color, sex, language, religion, political or other type of opinion, social, national ethnic or indigenous origin, socio-economic position, disability, sexual orientation, gender, [PER: gender identity,] geographic area of residence, or any other condition.]**

- k. **[CHAIR: The States party shall refrain from acts or practices that are incompatible with the principles and purposes of the Convention, and shall**

ensure that public officials and institutions act in accordance with its provisions, making such reasonable adjustments as are required for that purpose.]

[CHAIR: Suggests combining paragraphs (b) and (g)]

1. ~~[CHAIR: The States Party shall take all pertinent legislative, administrative, and other measures to give effect to the rights recognized in the present Convention, including the creation of networks of protection to give them effect.]~~

[ALT CHAIR (Paragraphs b & g): The States Party shall take all [CHAIR: ~~pertinent~~ legislative, administrative, **budgetary**, and **any** other measures] to give effect to the rights [CHAIR: ~~recognized set forth~~ in the present Convention, ~~including the creation of networks of protection~~ [CHAIR, MEX: ~~to give them effect~~] [CHAIR: and to facilitate [PER: active] ageing in the community by reducing vulnerability and dependency during old age.]

- m. ~~[CHAIR: The States party shall refrain from acts or practices that are incompatible with the present Convention, and shall ensure that public officials and institutions act in accordance with its provisions, making such reasonable adjustments as are required for that purpose.]~~

- n. ~~[CHAIR: The States Party shall take steps to the full extent of their available resources [SLV: and, when necessary, in the framework of international cooperation,] to ensure the full realization of the economic, social, political, educational, and cultural rights of older persons, without prejudice to those obligations called for in the present Convention that apply immediately under international law.]~~

[ALT MEX: The States Party shall take steps to the full extent of their available resources and, when necessary, in the framework of international cooperation, to ensure the full ~~exercise realization~~ of the economic, social, **cultural, civil, and** political, ~~educational, and cultural~~ rights of older persons, without prejudice to those obligations called for in the present Convention that apply immediately under international law.]

- o. The States Party [CHAIR: ~~commit to developing~~ **shall develop and keep up-to-date**] systems for the production and analysis of information and statistical data on the situation of older persons, broken down by age cohorts [PER: **, ethnic groups** and ~~by different other~~] categories [CHAIR: ~~and to keep them systematically up to date~~].

- p. The particular needs shall be differentiated [MEX: ~~according to race, color, sex, language, religion, social, national, ethnic or indigenous origin, socio-economic position, disability, [PER: sexual orientation, gender equality, gender identity,] geographical area of residence, state of health and any other condition,~~] **without discrimination** in policies and programs for older persons, including those that will

be implemented in situations of humanitarian emergency, natural disasters, and **[PER: internal forced migrations]** ~~forced displacement.~~

[ALT CHAIR: In policies and programs for older persons, including those intended to address situations of humanitarian emergencies, disasters, and [PER: internal forced migrations forced displacement], consideration shall be given to the particular needs of all persons on account of their race, sex, language, religion, or any other condition.]

- q. ~~**[CHAIR: The States Party shall take all legislative, budgetary, administrative, and other types of measures to facilitate [PER: active] ageing in the community and to strengthen preventive actions to reduce vulnerability and dependence in old age.]**~~

[ALT MEX: The States Party shall take all legislative, budgetary, administrative, and other types of measures aimed at strengthening to facilitate ageing in the community and to strengthen preventive actions to reduce the situation of vulnerability and foster independence dependence in old age.]

- r. The States Party shall support the strengthening of academic centers, scientific societies, and cooperative networks **[PER: in on the area of]** **[ALT MEX: focused on]** population, ageing and development **[CHAIR: issues , to conduct studies on old age and ageing]**.
- s. The States Party shall hold consultations and shall actively cooperate with older persons, through the organizations that represent them, in the drafting and application of **[MEX: laws and]** policies **[CHAIR: that will give effect to designed to enforce [ALT MEX: to implement]** the present Convention, and on other matters related to older persons.
- t. The States Party shall develop and publish, with the support and participation of civil society organizations for the defense and promotion of the rights of older persons, the regular reports **[MEX: to which reference is made mentioned]** in Article 37 **[CHAIR: of the present Convention]**.
- u. **[CHAIR: The States Party shall promote training programs in geriatrics and gerontology for all individuals who work with older people.]**

[SLV: Proposes a chapter on the shared duties of families, communities, and the state]

[URU: General comments on Chapter III:

- **Uruguay supports the innovative position set forth in the Draft Inter-American Convention concerning public policies.**
- **With regard to Article 5.a, it does not support the proposal to eliminate “gender identity.” Discrimination on the basis of gender identity is recognized in the domestic law of Uruguay and is addressed and reflected in the main**

international human rights instruments. For older persons, this form of discrimination heightens the vulnerability such persons already face in their aging; it therefore fits the concept of multiple discrimination.

- Likewise, Uruguay does not support the proposal to eliminate “sexual orientation” and “gender identity,” for the same reasons, that is, because multiple discrimination is involved.]

**[SLV: PROPOSED CHAPTER
JOINT RESPONSIBILITY OF FAMILIES, SOCIETY,
AND THE STATE TOWARD OLDER PEOPLE**

- a. Families are the chief guarantor of the wellbeing of older adults, particularly when they are directly responsible for their care. Each State shall determine the degree of the relationship up to which that responsibility is assumed. Should the State make no such determination, relatives up to the fourth degree by blood and the second by marriage shall be considered directly responsible.
- b. Societies, through their public and private institutions, shall be responsible for providing older adults and their families with support networks and at-home intervention programs, and for promoting the integration of older people into the lives of their families and communities.
- c. States shall ensure that families and communities, together with state institutions, work to strengthen mechanisms for promoting the inclusion of older persons into their communities and families, along with their autonomy and independence.
- d. For the purposes of this Convention, joint responsibility shall be taken to exist between families, society, and the State in the promotion of the wellbeing of older adults and the exercise of their rights.]

**CHAPTER IV
PROTECTED RIGHTS**

**Article 6
Equality and non-discrimination for reasons of age**

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 6]

[CHAIR: Suggests combining the two following paragraphs]

[URU: The delegation of Uruguay’s general comment on Article 6 may be found at the end of the article.]

~~[CHAIR: The States Party shall take appropriate legislative and other types of measures to prohibit all forms of discrimination against older persons, which shall include appropriate sanctions for any person, [PER: public or private] organization or private company that discriminates on the grounds of age.]~~

[ALT MEX: The States Party shall take appropriate legislative and other types of measures to **prevent and eliminate** ~~prohibit~~ all forms of discrimination against older persons, ~~which shall include~~ **including** appropriate **applicable** sanctions for any person, organization or **public or private institution** ~~company~~ that discriminates on the grounds of age.]

~~[CHAIR: In order to promote equality and eliminate discrimination, the States Party shall take all pertinent measures to ensure that [SLV: actions allowing the exercise of rights reasonable adjustments] are made.]~~

[ALT CHAIR: In order to promote and ensure equality and to eliminate discrimination **on age grounds**, the States Party shall take all **legislative and other** measures **to prohibit all forms of discrimination against older persons, including appropriate sanctions for all persons and [PER: public or private] organizations that discriminate on the grounds of age.**]

The States [CHAIR: Party] shall take special priority measures for the protection of older persons, with particular consideration for situations of multiple discrimination [CHAIR: , and they shall take relevant actions to ensure that the appropriate reasonable adjustments are made].

Specific affirmative measures [MEX: whose purpose is to ~~, or differences in treatment that may be necessary to accelerate or~~]achieve [MEX: ~~de facto~~ equality of conditions for older persons and their full integration into society shall not be considered discriminatory under the [CHAIR: ~~present~~] Convention.

The States [CHAIR: Party] shall [MEX: **devote special attention to and**] develop [MEX: **specific policies for** ~~specific approaches in their policies on ageing to~~] older persons who are [MEX: **highly**] vulnerable and those who [MEX: **face** ~~are victims of~~] [CHAIR: multiple forms of discrimination], [SLV: **particularly toward** ~~including~~] women, disabled persons, [PER: **the needs of each gender** [MEX: **persons of sexual orientation other than heterosexual** ~~persons of different sexual orientations or gender identities.~~] migrant persons, persons living in poverty or social exclusion, persons of African descent and persons belonging to indigenous peoples, homeless persons, persons in prison and persons belonging to traditional peoples, [CHAIR: **and others**].

The States Party shall take effective measures to review national, [PER: **regional**,] and local government policies, and to amend, derogate or annul laws and provisions that are discriminatory by reason of age, or whose application may have the effect of discriminating against older persons.

[CHI: States Party shall **prohibit any discrimination in older persons' access to and adequate participation in the economic and financial system, ensuring effective protection against discrimination on this ground.**]

[URU: General comment on Article 6:

- Emphasis should be placed on the importance of Article 6, in which the States Party are to adopt measures to prohibit discrimination against older adults. As ample reports show, discrimination against older persons is a reality in all states of the Hemisphere, so that including this article is timely and appropriate.]

Article 7

Right to life [SLV: ~~independence, autonomy~~] and dignity at the end of life

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 7]

[SLV: Believes that the rights of independence and autonomy should be separated, since they represent different concepts and, hence, different rights]

[URU: The delegation of Uruguay's general comment on Article 7 may be found at the end of the article.]

~~[CHAIR: Older people have an inherent right to life, which implies the right to decide their life plans, to self-realization, and to the pursuit of an autonomous and independent life.]~~

~~[CHAIR: The States Party [CHAIR: reaffirm the inherent right to life of all human beings and] shall take all measures necessary to guarantee effective enjoyment of [CHAIR: that the right to life] by older persons in equal conditions with others.]~~

[ARG: The States Party shall adopt all measures necessary to ensure older people's effective enjoyment of the right of life, in equal conditions with others. The right to life of older persons includes the right to decide on their life plan, to self-realization, and to live an independent and autonomous life.]

[ALT MEX: The States Party reaffirm the inherent right to life of all human beings and shall take all measures necessary to guarantee effective enjoyment of that right ~~of by~~ older persons in equal conditions with **other segments of the population** ~~others~~.]

e. ~~[SLV, ARG: Older persons have the right to decide on their life plan, self-realization and to live an independent life.]~~

[ALT MEX: Older persons have the right to **personal autonomy, freedom in decision-making, and** ~~decide on their life plan~~, self-realization, and to live an independent life.]

f. ~~[SLV: The States [CHAIR: Party] shall promote programs or actions that strengthen the autonomy of older persons, taking into account their vulnerability, fragility and/or their degree of dependence, and foster the maintenance and development of their capacities and potential, also taking into account the strengthening of family ties, their affective relationships and the various forms of the family.]~~

[ALT MEX: The States **Party** shall promote programs or actions that strengthen the autonomy of older persons, ~~taking into account their vulnerability, fragility and/or their degree of dependence,~~ **given their situation of vulnerability**, fostering the maintenance and development of their capacities and potential, also taking into account the strengthening of family **and social ties and** their affective relationships and the various forms of the family.]

- g. The States Party shall offer equitable access to palliative care, [ARG: ~~nutritional~~ support to **ensure their comprehensive attention**], measures to prevent isolation [CHAIR: ~~and to~~ appropriately manage problems related to the fear of death, the terminally ill, allowing them to avoid pain, [PER: **an excessively therapeutic approach** ~~cruelty~~] [ARG: ~~and to die with dignity~~].

[ALT ARG, CHI: The States Party shall offer equitable access to palliative care, support to ensure their comprehensive attention, measures to prevent isolation, to appropriately manage problems related to the fear of death, with the controlling of pain, avoiding [PER: **an excessively therapeutic approach** ~~cruelty~~].

[ALT MEX: The States Party shall offer equitable access to **healthcare services** palliative care, ~~nutritional support to ensure their comprehensive attention,~~ measures to prevent isolation and **support to foster the psychological wellbeing of older persons.** ~~appropriately manage problems related to the fear of death, the terminally ill, allowing them to avoid pain, therapeutic cruelty and to die with dignity~~].

[URU: General comment on Article 7:

- Uruguay cannot support the proposal to replace “cruelty” with “an excessively therapeutic approach.” It should be borne in mind that, in the health context, the concept of therapeutic cruelty refers to actions that demonstrate an intent to harm, which is what this provision is meant to address.]

[SLV: Proposes a new article on the rights of independence and autonomy]

[SLV: Proposed article
Right of independence and autonomy

- a. Older people have the right to take decisions regarding their lives, to be respected as individuals, particularly when in a home or substitute residence, to decide on their life plans, and to self-realization. A disability shall not be used as the sole reason for depriving older persons of their right to make decisions.
- b. Older people have the right to be allowed to pursue independent lives and to be afforded access to mechanisms enabling them to exercise their rights directly.
- c. States shall promote programs or actions to strengthen the autonomy and independence of older people, taking into account their vulnerability, fragility, and/or level of dependence, encouraging the maintenance and development of their capabilities and

potential, and also taking into account the strengthening of family ties, relationships based on bonds of affection, and the different forms families can adopt.]

Article 8

Right to physical, mental, emotional safety, [CHAIR: and safety of their inheritance, ~~and not to suffer mistreatment~~]

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 8]

[CHAIR: Suggests placing the second paragraph first]

[URU: for the reasons given earlier, Uruguay cannot support the proposal to eliminate “sexual orientation” and “gender identity”]

[CHAIR: Older persons have the right to live lives free of violence [SLV: , abuse,] ~~and mistreatment of a physical, sexual or psychic nature~~ ~~mistreatment~~]; emotional or financial abuse; exploitation in the workplace, and any form of abandonment or negligence [MEX: ~~that causes avoidable harm~~]. [CHAIR: relocated second paragraph]

Older persons have the right to [CHAIR: ~~be able to~~] live with dignity and safety, to receive dignified treatment that avoids infantilizing them [SLV: ~~independently of race, color, sex, language, religion, political or other type of opinion, social, national, ethnic or indigenous origin, economic position, disability, [PER: sexual orientation, differences due to gender, gender identity,] or any other condition, and to be valued independently of their economic contribution.~~]

[ALT CHAIR: Older persons have the right to [CHAIR: ~~be able to~~] live with dignity and safety, to receive dignified treatment that avoids infantilizing them, independently of race, color, sex, language, religion, political or other type of opinion, social, national, ethnic or indigenous origin, economic position, disability, [PER: sexual orientation, differences due to gender, gender identity,] or any other condition, and to be valued independently of their economic contribution [CHAIR: to society].

[ALT MEX: Older persons have the right to ~~be able to~~ live with dignity and safety, to receive dignified treatment, ~~that avoids infantilizing them, independently of race, color, sex, language, religion, political or other type of opinion, social, national, ethnic or indigenous origin, economic position, disability, [PER: sexual orientation, differences due to gender, gender identity,] or any other condition,~~ and to be valued independently of their economic contribution.]

~~Older persons have the right to live lives free of violence [SLV: , abuse,] and mistreatment of a physical, sexual or psychic nature; emotional or financial abuse; exploitation in the workplace, and any form of abandonment or negligence that causes avoidable harm.~~

The States Party shall act [MEX: ~~with due diligence~~] to prevent, investigate, sanction, and make amends for violence against older persons. To this end, they pledge:
[CHAIR: Suggests changing numbers to letters]

- a. To take legislative or other types of measure to prevent, stop, and punish acts of violence, mistreatment, abuse, exploitation or abandonment of older persons.
- b. ~~[MEX: Produce information for the purpose of developing risk assessments of possible situations of violence, in order to~~ To develop prevention **diagnostics and policies against violence**].
- c. To promote ~~[MEX: the creation of]~~ support services to address cases of violence, mistreatment, abuse, exploitation, and abandonment of older persons.
- d. To establish mechanisms for ~~[MEX: prevention and]~~ supervision, and strengthen judicial mechanisms in order to prevent ~~[MEX: family violence of any kind]~~ against older persons.
- e. To sensitize ~~[MEX: those public officials]~~ responsible for ~~[MEX: administering justice and law enforcement agencies,]~~ ~~[MEX: those responsible for social workers, and healthcare personnel services, and civil society as a whole about the different forms of importance of respecting the human rights of older persons and of preventing]~~ violence, mistreatment, abuse, exploitation and abandonment ~~of older persons, and ways of identifying and preventing them~~].
- f. ~~[MEX: Take steps to train caregivers or~~ **To train]** personnel responsible for ~~[MEX: attending to and caring for]~~ older persons, whether in institutionalized care services or at home, in order to ~~[MEX: provide optimal treatment and to]~~ prevent actions or practices of violence and mistreatment ~~[MEX: ; and also practice due diligence to prevent avoidable harm, pain, or illness]~~.
- g. **[SLV: Adopt measures for attention and work with family carers and nonprofessional persons performing in-home care tasks, in order to reduce occurrences of violence in the home.]**
- h. To promote ~~[MEX: accountability on the part of caregivers or professionals, such that they must report alleged cases of mistreatment to the appropriate body complaints mechanisms for cases of violence against older persons]~~.

[CHAIR: The States Party shall act with due diligence to ensure full respect for the human rights and dignity of older] persons in [SLV: public and private long-stay facilities or substitute homes, be they public or private] [CHAIR: shall be guaranteed full respect of their human rights and dignity. For this purpose, the States Party shall act with due diligence], and shall:
[CHAIR: Suggests changing numbers to letters]

- a. Establish an appropriate regulatory framework for the operations of public and private facilities that provide care for older persons.

[ARG: Suggests splitting the following paragraph into two]

- b. Take concrete steps that will enable them to look at and verify the situation of older persons in these facilities as it concerns the enjoyment of the human rights protected by the [**CHAIR: present** Convention, ~~and also to~~] ~~ensure that they have specialized personnel who can prevent actions or practices of violence, such as: threats of abandonment; physical or psychological abuse or mistreatment; economic exploitation; force-feeding of older persons; restraint in bed, or intentional neglect in hydration, nutrition or palliative care that could cause harm or aggravate the existing condition and]~~
- c. [**ARG: Ensure that those institutions**] have specialized personnel who can prevent [**ARG: institutionalized** actions or practices ~~of violence, such as that admit mistreatment~~], threats of abandonment; physical or psychological abuse or mistreatment; economic exploitation; force-feeding of older persons; restraint in bed, or [**ARG: intentional**] neglect in hydration, nutrition or [**ARG: palliative**] care that could [**ARG: intentionally or otherwise**] cause harm or aggravate the existing condition.

[**ALT MEX: Paragraphs b and c:** Take concrete steps that will enable them to **monitor** ~~look at and verify~~ the situation of older persons in ~~these~~ **public and private** facilities **to ensure full respect for** ~~as it concerns the enjoyment of~~ the human rights protected by the present Convention, ~~and also to~~ ensure that **the institutions** ~~they~~ have specialized personnel who can **provide optimal and comprehensive care; and can** prevent actions or practices of violence, such as: ~~threats of~~ abandonment; physical or psychological abuse, ~~or~~ mistreatment; economic exploitation, ~~or force-feeding of older persons; restraint~~ **or omissions** in bed, ~~or intentional neglect in hydration, nutrition or palliative care that could harm an older person. cause harm or aggravate the existing condition.~~

- d. [**MEX: Establish mechanisms to** ~~Determine procedures and precise competencies that give responsibility to specialized authorities in order to~~ ensure that internments are reviewed and that [**PER, MEX: older**] persons may fully exercise their rights during their institutionalization, including exercising the right to leave. An independent, impartial and interdisciplinary review body could be created, advised by the government and civil society.
- e. [**CHAIR: The people** ~~Those~~] in charge of governmental and nongovernmental facilities that care for older persons, and professionals in them, are civilly and, if appropriate, criminally liable for acts they may commit against older persons, without prejudice to corresponding administrative sanctions.

[**ALT MEX: Establish the necessary legislation for those** ~~Those~~ in charge of **public and private** ~~governmental and nongovernmental~~ facilities that care for older persons, and professionals in them, are civilly and, if appropriate, criminally liable for acts they may commit against older persons. ~~without prejudice to corresponding administrative sanctions~~].

Article 9
Right not to be subjected to torture nor to cruel, inhuman
or degrading treatment or punishment

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 9]

[CHAIR: Older persons have the right not to ~~No older person shall~~ be submitted to torture or other cruel, inhuman or degrading treatment or punishment. In particular, [CHAIR: no person ~~no one~~] shall be submitted to medical or scientific experiments without his [CHAIR: prior] free and informed consent.

[CHAIR: The States shall take all measures of a legislative, administrative, judicial, or other nature [MEX: ~~that will be effective~~] in preventing older persons [ARG, MEX: ~~in equal conditions with others,~~] from being submitted to torture or other cruel, inhuman, or degrading treatment or punishment.] [CHAIR: this paragraph was in the third position]

The States Party shall take measures to eliminate [CHAIR: ~~the following~~ practices in **contravention of this provision, such as:**] isolation; harassment; malnutrition; abusive use of therapeutic treatment, and other cruel, inhuman, or degrading treatment to which older persons may be submitted.

[CHAIR: suggests placing this paragraph second]

[CHAIR: ~~The States shall take all measures of a legislative, administrative, judicial, or other nature that will be effective in preventing older persons in equal conditions with others, from being submitted to torture or other cruel, inhuman, or degrading treatment or punishment.~~]

Article 10
Right to give [CHAIR: ~~PER: prior~~] free, informed [PER: prior] consent

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 10]

[URU: The delegation of Uruguay's general comments on Article 10 may be found at the end of the article.]

Older persons have the right to take decisions freely and to accept or reject, voluntarily and without coercion, any treatment, or medical or scientific interventions or experiments, whether physical or mental. [CHAIR: ~~Measures to guarantee that older persons understand the treatment they will receive shall be promoted.~~]

[ALT MEX: Older persons have the right to take decisions freely and to accept or reject, voluntarily and without coercion, any treatment, or medical or scientific interventions or experiments, whether physical or mental. Measures to guarantee [MEX: **access to necessary information and**] that older persons [MEX: **sufficiently**] understand ~~the treatment they will receive shall be promoted~~ **any decision affecting them.**]

[MEX: **Public or private institutions shall not administer** ~~No medical treatment shall be administered~~] to a person in a long-stay institution [MEX: **without the free and informed consent of an older person or of his personal representative** ~~his informed consent, that of his personal representative or that of the person appointed by the older person for that purpose.~~]

Older persons [ARG: ~~Peru: in full use of their faculties~~] have the right to refuse to receive treatment or to suspend it. [CHAIR: ~~The consequences of that his decision to refuse or suspend treatment shall be explained to an older person. A person shall not be encouraged or persuaded to relinquish his right to give informed consent. In the event the person wishes to do so, it will be explained to him that the treatment may not be given without his informed consent.~~]

[ALT MEX: Older persons have the right to refuse to receive treatment or to suspend it **and to receive information on** ~~the possible~~ consequences of **that his** decision. **Older persons cannot waive their right to refuse or suspend treatment** shall be explained to an older person. A person shall not be encouraged or persuaded to relinquish his right to give **free and** informed consent. ~~In the event the person wishes to do so, it will be explained to him that the treatment may not be given without his informed consent.~~]

The States Party pledge to institute and apply safeguards to ensure that [MEX: **older persons** ~~se-ajia~~ **exercise**] [CHAIR: **prior** ALT MEX: **free and**] informed consent [MEX: ~~is required~~] for any medical [MEX: **decision,** treatment or] intervention [MEX: ~~and that this right be guaranteed to all, independently of their age, condition or treatment, and to develop and apply mechanisms~~] to protect the rights of older persons whenever **decision-making responsibility falls to a family member or personal representative** ~~they are considered to be incapable of giving~~ [CHAIR: **prior**] informed consent to any treatment or any other medical intervention, ~~because of injury or chronic illnesses such as dementia, including heeding their previously expressed wishes.~~

[CHAIR: In particular, the States Party shall adopt legislative, administrative, or any other measures to uphold the following provisions:]

- a. [CHAIR: The relevant public or private institutions shall explain to older persons the consequences of their decision to refuse or suspend a treatment].
- b. [CHAIR: No person shall be urged or persuaded to renounce his right to give his informed consent. Should a person wish to do so, it shall be explained to him that the treatment cannot be administered without his informed consent].
- c. [CHAIR: Information parameters shall be established for the relevant public and private institutions, to ensure that older persons understand the treatments they are about to undergo].
- d. [CHAIR: No medical treatment shall be administered to a person in a long-stay institution without his informed consent, that of his personal representative, or that of the person designated by the older person for the purpose].

- e. All treatment [**ARG: and the required consent**] shall be recorded immediately in the person's clinical history [**ARG, MEX: ~~with an indication of whether said treatment is voluntary or not voluntary~~**].
- f. An older person or his personal representative or any natural or legal person with a legitimate interest shall have the right to appeal any decision related to the treatment that that person may have received to the review body or other judicial body.

[URU: General comments on Article 10:

- It is not deemed appropriate for the title to include “prior” as a modifier of “consent,” which, by definition, must be given in advance of any decision. In Uruguay, the Ministry of Public Health requires that public and private institutions abide by the principle of prior consent.
- As for Article 10.c, the expression “in full use of their faculties” presents some problems. The concept must be defined; and there must also be proof that older persons have acted in this fashion. For those reasons, Uruguay is not in a position to support this proposal.
- As for Article 10.d, line three, the use of generic language is suggested. Uruguay therefore proposes: “That this right be guaranteed for all older persons, regardless... .”]

Article 11

Right to freedom and [**CHAIR: to**] personal safety

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 11]

Older persons must [**MEX: be able to**] enjoy their right to freedom, [**MEX: regardless of the family or social environment in which they function**] ~~whether they live alone, with family or other persons, or are staying in long-stay facilities. In order to assure the ambulatory freedom of persons who are in such facilities and are in a dependent state that does not allow them to move about alone,~~ [**MEX: These being older persons who are in a public or private facility, effort will be made facilitate**] [**ALT CHAIR: the States party shall promote policies to facilitate**] the appropriate means, such as, for example, assigning a geriatric assistant to go out of the facility and to move about adequately within it.

[**ALT CHI: Older persons must be able to enjoy their right to freedom, whether they live alone, with family or other persons, or are staying in long-stay facilities. In order to assure the ambulatory freedom of persons who are in such facilities and are in a dependent state that does not allow them to move about alone,**] [**CHI: there should be protocols on the facility's internal and external movement**] [**CHAIR: the States party shall promote policies to facilitate**] the appropriate means, such as, for example, assigning a geriatric assistant to go out of the facility and to move about adequately within it.

[CHI: The States Party shall guarantee the full and effective exercise of the rights and freedoms of older persons residing in long-stay facilities.]

**Article 12
Right to freedom of expression and access to information**

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 12]

Older persons have the right to freedom of expression and opinion, the right to seek, receive, and offer information ~~[MEX: and ideas,]~~ in equal conditions ~~[MEX: with other people, by means of forms of communication of their choosing, including those available at affordable cost, in the event they have some type of dependency]~~.

The States Party shall take all ~~[CHAIR: legislative, administrative, judicial, and other types of measures~~ **necessary to ensure the effective exercise of this right, particularly concerning long-stay public and private facilities]** in relation to:

[ALT MEX: The States Party shall promote ~~take all~~ legislative, administrative, judicial, and other types of measures, particularly concerning **older persons in** long-stay facilities ~~in relation to:]~~

[CHAIR: Suggests changing numbers to letters]

- a. Inform older persons of their rights and **[MEX: of the legal and regulatory framework applying to the facility and older persons who receive care therein** ~~laws that concern them.]~~
- b. ~~[MEX: Inform older persons of everything having to do with the rights, obligations, and regulatory frameworks of the facilities.]~~
- c. **[MEX: Receive press and have access to radio and television, and information in general through magazines or other publications, and to receive or buy articles for their daily life.**
- h. ~~[MEX: Have access to all technological information media, including social networks.]~~
- i. **Promote family and social interaction for older persons who are under the care of an institution.**
- j. **[CHI: Ensure privacy and freedom of worship for temporarily or permanently institutionalized persons.**

Article 13
Right to nationality and to freedom of movement

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 13]

[CHAIR: Older persons have ~~The States Party shall recognize~~ the right ~~of older persons~~] to freedom of movement, freedom to choose their residence and to hold a nationality. [CHAIR: To ensure the effective enjoyment of these rights, the States Party shall design measures to ~~and also~~] ensure that older persons:

[CHAIR: Suggests changing numbers to letters]

- a. [CHAIR: Are assured ~~Have~~] the opportunities and facilities they need to exercise this right.
- b. Have the right to acquire and change their nationality and may not be deprived of their own in an arbitrary way [MEX: ~~or for reasons of age.~~]
- c. May not be deprived [MEX: ~~for reasons of age,~~] of their ability to obtain, possess and utilize documentation related to their nationality or other identity documents.
- d. [MEX: Are guaranteed their ~~May not be deprived, for reasons of age, of~~] access to immigration processes needed to assure the exercise of the right of residence and freedom of movement.
- e. Are free to leave any country, including their own.
- f. May not be deprived arbitrarily or for reasons of age of the right to enter their own country.

Article 14
Right to privacy and intimacy

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 14]

[CHAIR: Older persons shall have the right ~~No older person,~~ regardless of ~~his~~ **their** place of residence or **their** mode of living, ~~not to shall~~ be the subject of arbitrary or illegal interference in [CHAIR: ~~their his~~] private life, family, home, correspondence or any other type of communication, [ARG: ~~or and liable to or~~] illicit attacks on [CHAIR: ~~their his~~] honor and reputation [CHAIR: , and ~~Older persons shall have the right~~ to be protected by the law from such interference or attacks. [CHI: With respect to older persons residing in long-stay facilities, these rights should be especially safeguarded.

[ALT MEX: No older person, regardless of **family environment in which he functions,** ~~his place of residence or mode of living,~~ shall be the subject of arbitrary or illegal interference in his private life, family, home, correspondence or any other type of communication, or of illicit attacks on

his honor and reputation. Older persons shall have the right to be protected by the law from such interference or attacks.]

Older persons are entitled to ~~[CHAIR: have their right to~~ their sexual intimacy and to] ~~as well as to~~ maintain their privacy during bathing or **[PER: in the various activities of life in an institution during institutionalization.]**

~~[ALT MEX: Older persons are entitled to have their right to sexual intimacy and privacy during bathing and during institutionalization respected, as well as to maintain their privacy during bathing, or during institutionalization.]~~

[CHAIR: States Party shall design the measures necessary to guarantee these rights, particularly at public and private long-stay facilities.]

Article 15

Right to social security ~~[CHAIR: and to care]~~

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 15]

[URU: The delegation of Uruguay's general comments on Article 15 may be found at the end of the article.]

Older persons have the right to social security, which should include both contributory benefits and non-contributory insurance plans and benefits.

[CHAIR: Suggests combining the following paragraph with the fourth paragraph]

~~[CHAIR: Social security systems should include retirement benefits and other means of social protection in the event of disability, bereavement or other causes of loss of the means of subsistence for circumstances outside their will.]~~

[CHAIR: Older persons have the right to care and to comprehensive social protection that recognizes protection in health, economy, promotion and coverage of social services, food security, housing, and education, working to ensure that older people can remain in their [PER: own] homes and maintain their independence and autonomy.]

The States Party shall ensure that, within available resources, all older persons receive a permanent minimum **[PER: income pension or other financial subsidy]** sufficient for a dignified life. **[CHAIR: Social security systems shall include retirement benefits and other means of social protection in the event of disability, bereavement, or other causes of loss of the means of subsistence for circumstances outside their will.]**

[ALT MEX: The States Party shall promote ensure, within available resources, that all older persons receive a permanent income minimum sufficient for a dignified life.]

[CHAIR: The States Party shall develop policies containing noncontributory old-age benefits or other forms of economic assistance for older persons in] the event they do not meet the requirements for receiving an old age pension, either because they had not worked or did not complete the required minimum periods of contributions, and they lack any other source of income ~~**[CHAIR: , the States Party shall develop policies on non-contributory old age benefits or other economic assistance].**~~

[ALT ARG (combining the two previous paragraphs): Social security systems shall include retirement benefits and other means of social protection in the event of disability, bereavement, or other causes of loss of older people's means of subsistence for circumstances outside their will; as well as in the event that they do not meet the requirements for receiving an old age pension, either because they had not worked or did not complete the required minimum periods of contributions, and they lack any other source of income. The States Party shall ensure that, within available resources, all older persons receive a permanent minimum ~~**[PER: income pension or other financial subsidy]**~~ sufficient for a dignified life.]

~~**[ALT MEX: In the event they older persons do not meet the requirements for receiving receive**~~ an old age pension, ~~either because they had not worked or did not complete the required minimum periods of contributions,~~ and they lack any other source of income, the States Party shall ~~develop policies on~~ **promote the implementation of** non-contributory old age benefits or other economic assistance].

~~**[CHAIR: Older persons are entitled to care and**~~ The States **Party]** shall take measures designed to develop a comprehensive universal system that takes particular account of a gender perspective. ~~**[CHAIR: They shall promote comprehensive social protection that grants protection in health, economy, promotion and coverage of social services, food security/safety, housing and education, and shall promote older persons being able to remain in their [PER: own] homes and maintain their independence and autonomy.]**~~

[ALT MEX: The States Party should take measures designed to guarantee the right to care and to the development of a comprehensive universal system that takes into account a gender perspective. ~~Older persons are entitled to care and the States shall take measures designed to develop a comprehensive universal system that takes particular account of a gender perspective.~~ They shall promote comprehensive social protection that grants protection in health, economy, promotion and coverage of social services, food security/safety, housing and education, and shall promote older persons being able to remain in their own homes and maintain their independence and autonomy.]

In planning ~~**[CHAIR: this system**~~ **their social [ARG: protection security] policies, the States Party shall take fully into account]** the protection of family life, the needs of the various forms of families, other forms of care, and the opinion of older persons.

[ARG: Suggests including in this article the following four paragraphs, which were originally in Article 21]

[ARG: The States Party shall facilitate and promote ~~should promote~~ the accessibility of older persons to basic health and social services.]

[ARG: Health and social services shall be provided by specialized professionals and shall be intended to ~~Health and social services shall~~ guarantee a progressive system of care and to provide special care to older persons in view of their specific needs and characteristics, promoting maintenance of [CHI: their autonomy and dependency ~~the active and useful functions of these persons~~ for as long as possible.]

[ARG: Health and social services shall take into account in-home care programs, day centers, and long-stay residences, ~~and they shall be provided by professionals trained in geriatrics and gerontology.~~

[ARG: Health and social services shall be provided by specialized professionals.]

[URU: General comments on Article 15:

- **Although the Peruvian proposal for sub-article (b) is grammatically correct, it does not necessarily reflect actual practice and law in other countries. In other words, particularly in the case of Uruguay, social security benefits are determined not only by the death of the husband of a married woman but also by the death of the common-law husband. It is suggested that broader language be used to reflect these other types of families.**
- **As for Article 15.c, Uruguay suggests amending the Peruvian proposal to read “economic transfer,” a concept counterposed to welfarism and denoting the state’s responsibility to make contributions to older persons in response to their specific needs.]**

Article 16

Right to work and in the workplace

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 16]

[URU: The delegation of Uruguay’s general comment on Article 16 may be found at the end of the article.]

Older persons should have the opportunity to work **[CHAIR: and/or to have free access to other ~~income-producing possibilities~~ forms of obtaining income.]**

[ALT MEX: Older persons should have the opportunity to work and pursue activities that enable them ~~or to have access to other income-producing possibilities of obtaining to obtain~~ income.]

[CHAIR: Age-based labor discrimination and the setting of an upper age limit for hiring an ~~older~~ person] for any job or employment is prohibited, except in those cases in which the nature of the job so requires.

[CHAIR: **The States Party shall promote the** trend toward equalizing the age and conditions of retirement for older men and older women, in accordance with social, cultural, and economic circumstances, ~~is promoted~~].

[CHAIR: **Suggests combining the following two paragraphs**]

The States Party shall promote policies that take account of the characteristics of older workers, according to the working conditions and environment, as well as work hours and the organization of the jobs. [CHAIR: **Similarly, they shall**] promote policies that prevent exclusion and promote the voluntary entry [PER: **and or**] re-entry of older persons into the labor market.

Employment or occupation after the normal time of retirement should have the same guarantees and be remunerated with the same salary that applies to all workers [CHAIR: **for similar tasks and responsibilities**].

[CHAIR: ~~In the years prior to retirement,~~ The States **Party** shall promote programs and measures **for the years prior to retirement**] that will facilitate a simple and gradual transition into retirement, with the participation of organizations representing employers and workers, and of other interested agencies, including the possibility of creating more flexible forms of retirement, or partial or gradual retirement.

The States [CHAIR: **Party** shall adopt measures and programs that recognize and promote the contribution that older **persons** ~~women and men~~] make by unremunerated work in the informal sector and in domestic work.

[CHAIR: The States **Party**] [MEX: shall regulate ~~irregular or unstable forms of~~ work [MEX: **for older persons**], as well as the various forms of self-employment and domestic work, with a view to preventing abuse of older persons and [CHAIR: guarantee ~~them~~ **adequate**] social coverage.

[URU: **General comment on Article 16:**

- **Article 16.b deserves special consideration: “Discrimination and the setting of an upper age limit for hiring an older person for any job or employment is prohibited, except in those cases in which the nature of the job so requires.”**
- **This provision runs counter to Uruguayan labor and administrative law, which stipulates minimum ages for admission to a career or post (foreign service, the military, public service, etc.). Consequently, Uruguay proposes removing this provision.]**

Article 17

Right to enjoyment of the highest attainable standard of physical and mental health

[CHAIR: **Suggests deleting the numbering of the paragraphs in Article 17]**

[CHAIR: **Suggests splitting the following paragraph into two]**

[URU: The delegation of Uruguay's general comments on Article 17 may be found at the end of the article.]

~~[CHAIR: Older persons have the right to enjoyment of the highest attainable standard of physical, mental, [PER: and sexual and reproductive] health without discrimination based on age or any other condition. [CHAIR: The States Party shall establish comprehensive policies to for] [PER: preserve their health, from] health promotion, prevention of illness, comprehensive care and rehabilitation, [MEX: and even assistance for the terminally ill [CHAIR: should be promoted]. In order to give effect to this right, the States Party pledge to take the following measures]:~~

[CHAIR: Older persons have the right to enjoyment of the highest attainable standard of physical, mental, [PER: and sexual and reproductive] health without discrimination based on age or any other condition.]

[CHAIR: The States Party shall establish cComprehensive policies to for] [PER: preserve their health, from] health promotion, prevention of illness, comprehensive care and rehabilitation, [MEX: and even assistance for the terminally ill [CHAIR: should be promoted]. [CHAIR: Among the measures intended In order to give effect to this right, the States Party pledge to: take the following measures]:

[CHAIR: Suggests changing numbers to letters]

- a. Assure equitable access to timely, quality comprehensive health services, **[CHAIR: to including]** basic medicines for ongoing use, and to social services, including long-term care **[ARG: , to] [CHAIR: prostheses, technical aids, and support products,]** consistent with international human rights standards; as well as the creation and implementation of integrated health and social services.
- b. Formulate legal frameworks and implementation mechanisms for the protection of older persons in long-term care services.
- c. Encourage **[CHAIR: regional cooperation with States Parties to the present Convention]**, including the design of strategies and exchange of capacities and resources to execute their plans on health and ageing.
- d. Develop strategies that promote healthy personal and environmental behaviors throughout the life cycle in order to encourage active ageing.
- e. Strengthen **[PER: the promotion and]** prevention through self-care and knowledge of the pathologies and **[PER: the informed opinion active role]** of older persons in the treatment of chronic illnesses **[CHI: or dependency]** and other health problems.
- f. Establish services of quality for older persons **[ARG: in the process of by]** strengthening primary care-based health systems.

- g. Strengthen health workers' acquisition of skills for providing these services to older persons, as well as the training of specialized health professionals [**CHAIR: in geriatrics and gerontology**].
- h. [**PER: Build the capacities of** ~~Conduct training for~~] others involved in the health of older persons, [**ARG: taking into account including**] their family ties and affective relationships.
- i. Strengthen the technical capacity of the health authorities to follow up on and evaluate health care for older persons.
- j. Promote the gathering and publication of the scientific evidence needed to adapt health interventions to national circumstances.
- k. Support the social, economic, and psychological wellbeing of older persons infected with [**CHAIR: diseases such as**] [**PER: tuberculosis,**] HIV/AIDS [**MEX: and STDs, sexually-transmitted diseases, and**] those who suffer from serious communicable and non-communicable diseases [**MEX: and those who suffer from other illnesses that pertain to ageing.**] For that purpose, [**MEX: the States Party they**] should promote older persons' access to [**PER: in-kind aid in the form of food and medicines**], affordable health services [**ARG: and loans**], to enable them to meet the needs of their children and grandchildren affected by [**PER: tuberculosis,**] HIV/AIDS, STDs and serious communicable and non-communicable diseases.
- l. [**CHAIR: Older persons shall have the right to receive care in their homes, in order to avoid or delay institutionalization for as long as is possible and appropriate.**]

[**URU: General comments on Article 17:**

- As for Article 17 (Right to enjoyment of the highest attainable standard of physical and mental health), section (a), Uruguay does not support the proposal to delete the word "reproductive," since this does not reflect reality. It should be recalled that men remain able to reproduce in old age.
- As for Article 17.a.2, it is suggested that the word "short" be inserted to provide for both short-term and long-term care services. The reason is that there is a category of care, called "intermediate," that is by definition transitional, such as for persons who become dependent because of a short-term illness or physical disability (for example, older adults who have a hip fracture or temporary physical illness).
- Concerning Article 17.a.6, Uruguay believes it is more appropriate to speak of healthcare systems based on the principles that govern primary care for older persons. These principles (information, participation, promotion, etc.) are what should guide clinical care. It is therefore suggested that the words "on the principles of," be added, so that the phrase will read "health systems based on the principles of primary care."

- **As for Article 17.a.11, fifth line, Uruguay suggests deleting the word “aid,” since it would incorporate the welfarism concept, which has been replaced, at least in Uruguay, by that of “economic transfers.” The latter entails the responsibility and obligation of the state to provide responses to this population group.]**

Article 18 Right to education

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 18]

Older persons have the right to **[CHAIR: access and]** take part in educational programs at all levels **[MEX: throughout their life]** and to make use of their knowledge and experience to benefit younger generations.

[ALT CHI: States should promote ongoing and continuous lifelong education processes.]

[CHAIR: In order to ensure the effective exercise of the right of education of older persons, the States Party shall:]

- k. **[CHAIR: ~~The States shall~~ Promote]** the development of educational programs, materials, and formats **[MEX: that are suitable for older persons and that reflect their preferences and needs]**, as well as the use of information technologies or new techniques, and shall **{MEX: foster include}** education-for-health courses and self-care techniques.
- l. **[CHAIR: ~~The States shall~~ Promote]** unstructured community-based programs for older persons that are geared to leisure, cultural **[MEX: and spiritual]** development, physical activity, and other forms of creative use of free time.
- m. **[CHAIR: ~~The States shall~~ Facilitate]** access to and the active participation of older persons in formal and informal cultural institutions and activities, including volunteer activities.
- n. **[CHAIR: ~~The States shall~~ promote Design and implement]** active policies to reduce illiteracy among older persons, and especially among women.
- o. **[CHAIR: ~~The States shall~~ Promote]** access to education and training in new technologies by older persons, to minimize the generation gap and increase community integration.
- p. **[CHAIR: ~~The States shall~~ Foster]** actions to promote the rights and empowerment of older persons by promoting continuing education processes.

- q. ~~[CHAIR: The States shall Foster]~~, through education, the transmittal of a dignified image of old age.
- r. ~~[CHAIR: The States shall Promote]~~ training in gerontology and geriatrics ~~[PER: at the in undergraduate and graduate levels studies]~~.
- s. ~~[CHAIR: The States Party commit to taking]~~ **Take** such legislative, administrative, and other measures as are necessary to reduce and progressively eliminate barriers and difficulties of access to educational goods and services in rural areas, particularly those related to information technology.

Article 19 Right to property

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 19]

Older persons have the right fully to exercise their right to property and not to be deprived of it for reasons of age ~~[CHAIR: ; similarly, they have the right to the effective enjoyment of inheritance rights]~~.

~~[CHAIR: The States Party]~~ shall provide special protection for the property of older persons, especially against the abuse or occupation of their houses.

~~[ALT MEX: The States shall establish the legal and administrative mechanisms needed for older persons to have effective means of exercising their right to property and to prevent abuse or illegal disposal of their property provide special protection for the property of older persons, especially against the abuse or occupation of their houses.]~~

~~[CHAIR: Older persons have the right not to be deprived of their inheritance rights for reasons of age.]~~

Article 20 Right to housing and a healthy environment

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 20]

Older persons ~~[CHAIR: should have the possibility of living]~~ **have the right to live** in safe, healthy environments that can be adapted to their personal preferences and capacities, and their continually changing capacities.

[CHAIR: Suggests placing the last paragraph second]

~~[CHAIR: Older persons have the right to a healthy environment that guarantees access to basic sanitation services, clean water and air, and that minimizes their exposure to pollution.]~~

Public policies to promote the right of older persons to housing [~~CHAIR: should~~ **shall**] take into account the need to build [~~PER: or adapt~~] housing units that are architecturally [~~PER: tailored adapted~~] to the restricted mobility and physical disabilities of older persons [~~CHAIR: , and to guarantee older persons the option of living in their own homes for as long as is possible~~].

The [~~CHAIR: States Party should~~ **shall design and implement measures intended to**] guarantee the right of older persons to appropriate [~~CHI: , accessible, and adapted~~] housing, particularly in crises, emergencies, [~~URU: including emergency situations,~~] [~~PER: internal migration displacements,~~] or evictions [~~URU: related to these situations~~].

[~~CHAIR: The States Party shall design and implement measures intended to guarantee access to credit should be guaranteed,~~ in equality of conditions, without ~~this~~] undermining the self-sufficiency of the older person, [~~MEX: and recognizing the priority~~] of older persons in the assignment of housing and land.

[~~CHAIR: Older persons should be able to live in their own homes for as long as possible.~~]

Government policies on housing and access to land shall pay particular attention to the specific needs of older persons, particularly those who live alone, by means of rent subsidies, housing cooperatives, support for housing renovations and other pertinent measures.

[~~CHAIR: The States Party~~] should guarantee [~~PER: security of tenancy [possession] and~~] protection against forced evictions of older persons.

[~~CHAIR: Older persons have the right to a healthy environment that guarantees access to basic sanitation services, clean water and air, and that minimizes their exposure to pollution.~~]

Article 21 Right to an appropriate standard of living, appropriate social and health services and [~~CHAIR: physical~~] accessibility

[~~CHAIR: Suggests deleting the numbering of the paragraphs in Article 21~~]

Older persons have the right to an appropriate standard of living, [~~PER, MEX: as well as for their families,~~] [~~ARG: including which shall include~~] food, water, housing, clothes, and appropriate health care [~~ARG: , social services, leisure, and the full enjoyment of the other rights protected by this Convention~~].

[~~CHAIR: Suggests combining the two following paragraphs~~]

[~~ARG (move to Article 15): Health and social services should~~ [~~CHAIR: be provided by specialized professionals and be intended to~~] guarantee a progressive system of care, and provide special care to older persons in view of their specific needs and characteristics, promoting maintenance for as long as possible of the active and useful functions of these persons.]

~~[ARG (move to Article 15): [CHAIR: Health and social services should be provided by specialized professionals.]]~~

~~[ARG (move to Article 15): [CHAIR: Health and social services shall take into account in-home care programs, day centers, and long stay residences, and they shall be provided by professionals trained in geriatrics and gerontology.]]~~

~~[ARG (move to Article 15): The States [CHAIR: Party should shall facilitate and] promote the physical accessibility of older persons to basic health and social services. To that end, they shall take steps to make the buildings where these services are provided accessible.]~~

[CHI: Full access for older persons, on an equal footing, to the physical environment, information and communications, and priority attention in public and private services, in urban and rural areas.]

[ALT ARG: The States Party shall promote the adoption of measures to make public places, spaces, cities, and buildings physically accessible, and to foster the development of communication and cultural accessibility that is appropriate for older persons.]

The States [CHAIR: Party shall ~~should~~] guarantee older persons access to transportation services in urban and rural areas. For this purpose, they pledge:

[CHAIR: Suggests changing numbers to letters]

- d. To ensure that older persons who do not have sufficient income have regular urban and suburban transportation services free of cost [PER: and/or at a discount].
- e. To ensure that seats, properly identified with the appropriate sign, are reserved for older persons on urban and suburban public transportation.
- f. Urban and suburban public transportation vehicles should be accessible for older persons with reduced mobility or some disability.

Article 22

Right to [CHAIR: inclusion,] participation, and engagement in the community

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 22]

Older persons have the right to social inclusion [CHAIR: , ~~and~~ participation, **and engagement**] in their community.

The States [CHAIR: Party shall **design and implement** ~~take~~] effective measures that are appropriate from an inter-generational and inter-cultural approach to ensure that older persons can fully enjoy these rights, removing prejudice and stereotypes.

The States [**CHAIR: Party**] shall promote volunteer activities on behalf of older persons, particularly in long-stay facilities, and organizations with their participation.

[CHI: The States Party should guarantee the full and effective exercise of the rights and liberties of older persons resident in long-stay facilities.]

Article 23 Right to participation in political and public life

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 23]

[CHAIR: Suggests combining the two following paragraphs]

Older persons have the right to [~~CHAIR: participate actively~~ **participation in the political and public lives** ~~in all of the political, economic, social, cultural and spiritual activities~~] of the countries where they live, [~~MEX: in accordance with their capacities, needs and preferences~~] **[CHAIR: , and not to be]** deprived of their rights as citizens for reasons of age.

~~[CHAIR: Older persons have the right not to be deprived of their rights as citizens for reasons of age.]~~

Older persons have the right to vote [~~MEX: freely~~] and be given access to the voting place, with particular attention paid to those who require third parties in order to travel there.

~~[MEX: Older persons shall not be obliged to vote.]~~

Older persons [~~CHAIR: shall be able~~ **have the right to freely** form their own movements or associations. **In order to ensure the exercise of this right, the States Party pledge to:]**

[CHAIR: Suggests changing numbers to letters]

- a. [~~CHAIR: The States Party shall~~ Encourage] the formation of such movements or associations, respecting their freedom of initiative, and [~~CHAIR: shall provide them with~~] legal [~~PER: or financial~~] support to carry out their activities.
- b. [~~CHAIR: The States shall~~ Promote] the participation of older persons in inter-generational activities with other population groups.
- c. [~~CHAIR: The States Party shall~~ Ensure] that older persons participate actively, through their representative associations or movements, in the development and application of legislative and policy measures that may directly affect their rights.
- d. [~~CHAIR: The States shall~~ Promote the participation of older persons, through their representative associations or movements, **[CHI: for the purpose of influencing ~~in~~]** the planning, implementation, and evaluation of policies on social development and poverty reduction.

- e. ~~[CHAIR: The States shall]~~ Promote **and encourage** the direct participation of older persons in the design and participation of government policies on ageing and the promotion of their rights.
- f. ~~[CHAIR: The States shall]~~ Encourage older persons to serve the community, including in voluntary positions ~~[MEX: appropriate to their interests and capacities.]~~
- g. ~~[CHAIR: The States shall]~~ Promote the creation of public agencies specializing in older persons.

Article 24

Right to participation in ~~[CHAIR: social and]~~ cultural life

~~[CHAIR: Suggests deleting the numbering of the paragraphs in Article 24]~~

Older persons have the right to participate in ~~[CHAIR: social and]~~ cultural life and to enjoy cultural, spiritual, and material artistic and literary works, as well as the world of the plastic and visual arts.

The States Party shall ~~[MEX: foster take]~~ ~~[CHAIR: the such]~~ legislative and administrative measures ~~as may be necessary~~ to guarantee older persons ~~[MEX: subsidies]~~ **[PER: or special rates]** with which to access cultural goods and services that are not free.

The States ~~[CHAIR: Party]~~ shall promote education programs in which older persons are the transmitters of knowledge, culture, and spiritual values.

Article 25

Right to recreation, leisure, and sports

~~[CHAIR: Suggests deleting the numbering of the paragraphs in Article 25]~~

The States Party shall develop social, ~~[CHAIR: cultural, recreational, leisure,]~~ and sports **[CHI: tourism]** services, programs, and activities **[CHI: , gymnasiums, inclusive courtyards, bike paths, etc.]** that are ~~[MEX: specifically]~~ designed for older people, ~~[CHAIR: especially in particular for]~~ those who are in long-stay facilities, in order to promote self-realization and prevent them from being isolated ~~[MEX: depending on their own characteristics and preferences.]~~

Older persons **[PER: who are living in an institution may should]** participate in the creation, management, and evaluation of such services, programs, or activities.

~~[CHAIR: The States Party shall promote active ageing programs for urban and rural older people, including actions geared to older persons with reduced mobility or some disability.]~~

**CHAPTER V
RIGHTS OF SPECIFIC GROUPS**

**Article 26
Affirmative measures**

The States Party recognize that older persons, particularly those who are highly vulnerable, are subject to many forms of discrimination, and they will take, ~~where necessary,~~ **[CHAIR: all necessary measures to ensure the full exercise of the right to equality and nondiscrimination [ARG: , and to ensure the full exercise of all the rights enshrined in this Convention.] To that end, they shall implement]** affirmative measures of a legal, penal, administrative, **[CHAIR: and any ~~or~~]** other nature to combat the stigma of discrimination of which they are victims, and also to assure their full social, economic, educational, political, and cultural engagement **[ARG: and the recognition of their rights]**.

**Article 27
Rights of older women**

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 27]

The States Party recognize that older women are subject to multiple discrimination **[CHAIR, MEX: ~~inasmuch as to their age is added the burden of gender-related social and cultural patterns, and shall take steps~~ and that they must receive special protection against violence or mistreatment; they therefore pledge to adopt all measures necessary]** to assure ~~them~~ the full enjoyment of all **their** rights and fundamental liberties established in the **[CHAIR: ~~present~~]** Convention.

~~**[CHAIR: The States Party Older women should have special protection against violence and mistreatment. The States Party also pledge:**~~

[CHAIR: Suggests changing numbers to letters]

- a. In cooperation with all sectors of society, to promote the eradication of all forms of violence against older women.
- b. Actively to promote the abolition of the rites of widowhood, **[CHI: that violate the fundamental rights of older persons] [MEX: ~~and harmful traditional practices and]~~** that may adversely affect the safety of older women.
- c. **[PER: To eliminate all administrative and/or financial practices that discriminate against older widows.]**

Article 28
Rights of indigenous older persons

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 28]

The States [CHAIR: Party] shall take effective measures and, when appropriate, special measures, to assure continuous improvement in the economic and social conditions of indigenous older persons in accordance with the international instruments that protect [MEX: their ~~the~~ rights of indigenous peoples.]

The States [CHAIR: Party] shall take steps to enable [CHAIR: indigenous] older persons to fulfill their role of transmitting customs and strengthening cultural identity.

[MEX: ~~Together~~ In coordination and consultation] with the indigenous peoples, the States [CHAIR: Party] should take immediate, effective steps to eliminate employment practices that exploit older persons belonging to indigenous peoples.

Article 29
**Rights of older persons who belong to ethnic, racial, national,
linguistic, religious, and rural groups**

Older persons who belong to ethnic, racial, national, linguistic, rural, or religious groups shall be entitled to enjoyment of all their rights, without discrimination of any kind [CHAIR: ~~and to measures that are in accordance with their cultural, linguistic, or religious particularities~~].

[ALT MEX: Older persons who belong to ethnic, racial, national, linguistic, rural, or religious groups shall ~~be entitled to enjoyment of~~ enjoy all their rights **and fundamental freedoms**, without discrimination of any kind ~~and to measures that are~~ in accordance with their cultural, linguistic, or religious ~~particularities~~ **identity**].

[CHAIR: The States Party shall adopt the necessary measures, in accordance with their cultural, linguistic, or religious particularities, **to guarantee the effective enjoyment and exercise of all their rights.**]

[ARG: Suggests deleting Article 30]

Article 30
Rights to different sexual orientations and gender identities

(PER: Suggests replacing this paragraph with an inclusive text.) Older persons of different sexual orientations and gender identities shall have the right to enjoyment of all of their rights, without discrimination of any kind, and to measures that are in accordance with their particular needs.

~~[ALT MEX: All Older persons of different sexual orientations and gender identities shall have the right to enjoyment of~~ **enjoy** all of their rights **and fundamental freedoms**, without discrimination of any kind, ~~and to measures that are in accordance with their particular needs.]~~

[URU: On Article 30, two comments are in order. First, Uruguay cannot accept the Peruvian proposal to delete the paragraph, for the reasons previously given regarding the sexual orientation and gender identity of older persons. Second, it does not understand the suggestion to replace this paragraph with an “inclusive” text.]

Article 31

At-risk situations and humanitarian emergencies

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 31]

The States **[CHAIR: Party]** shall take special assistance measures to guarantee the safety and rights of older persons in situations of armed conflict, displacement and foreign occupation, in accordance with human rights norms, international humanitarian law, and the international law on refugees, including by providing physical and mental rehabilitation services for disabilities resulting from these situations.

Prisoners of war shall have the right to special treatment because of their age **[CHAIR: ; consequently:]**

[CHAIR: Suggests changing numbers to letters]

- a. ~~[MEX: Older persons shall not be forced into work in prison camps.]~~
- b. Older persons under the jurisdiction of foreign powers in situations of armed conflict or occupation shall be entitled to have their person, honor, family rights, convictions and religious practices, habits, and customs respected **[MEX: ~~with special consideration for their age.~~]**
- c. In cases of internment, older persons shall be provided with **[MEX: ~~buildings or camps that have~~]** appropriate hygiene and health conditions and that protect them against the rigors of the climate and the effects of war **[MEX: ~~taking into account their age and state of health.~~]**
- d. Older persons have the right of asylum, without discrimination, addressing their **[MEX: ~~particular special~~]** needs.

The States **[CHAIR: ~~shall include assistance to older persons~~ Party shall adopt priority assistance measures to ensure the integrity and rights of older persons in situations in their disaster rescue and rehabilitation plans].**

The States **[CHAIR: Party]** shall give priority attention to the needs of older persons during reconstruction following emergencies or conflicts.

**CHAPTER VI
ACCESS TO JUSTICE**

**Article 32
Judicial guarantees**

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 32]

[CHAIR: ~~All~~ Older persons have the right **to due process,**] to be [PER: **listened to in their own language heard**], with due guarantees and within a reasonable time, and in equal conditions, [CHAIR: **understood as the recognition of their right to preferential treatment by reason of their age**] by a competent, independent, and impartial judge or court previously established in accordance with the law, in [PER: ~~the substantiation of~~] any criminal charge brought against them, or in the determination of their rights and obligations of a civil, employment, fiscal, or any other nature.

[CHAIR: The States Party ~~should~~ **shall** make reasonable adjustments **and adopt affirmative actions intended**] to adapt judicial and administrative proceedings to the needs of older persons. To this end, they pledge:

[ALT CHI: **The States Party shall take all judicial, budgetary, administrative, and other types of measures to ensure easy access to justice, regardless of whether they lives in their own homes or in long-stay residences.**]

[CHAIR: Suggests changing numbers to letters]

- a. To guarantee [CHAIR: ~~the highest level of due diligence and preferential treatment to reduce reasonable time periods for handling requests for social benefits~~ **the time taken to decide any legal case involving an older person**].
- b. To guarantee the right of older persons deprived of liberty to special programs and comprehensive care, including rehabilitation mechanisms for their re-entry into society.
- c. To promote appropriate training in the protection of the rights of older persons for those who work in the administration of justice, including police and prison personnel.
- d. To promote alternative conflict resolution mechanisms.

To the extent possible, the States [CHAIR: **Party**] [MEX: shall ~~prefer~~ **consider the possibility of using**] alternatives to imprisonment or deprivation of liberty in cases of the criminal sentencing of [PER: ~~older persons adults~~].

The States Party shall, in accordance with their domestic law, identify those public and, if applicable, private entities and institutions that are certified to bring action based on general, collective, individual, or homogeneous interests related to older persons.

Article 33
Judicial guarantees in processes to determine [CHAIR: or suspend]
the legal capacity of older persons

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 33]

~~[ARG: Older persons are entitled to have their legal personality recognized.]~~ Older persons have legal capacity in the same conditions as other persons in all aspects of life. If necessary, appropriate means should be made available to enable older persons to exercise their legally recognized rights.

Any and all restrictions on legal capacity must be properly substantiated, **[CHAIR: based on legal parameters,]** limited in time, subject to periodic review and applied solely to specific decisions in which a lack of capacity and the need for proxy consent has been determined.

An older person ~~[CHAIR: whose legal capacity is at issue]~~ **involved in proceedings to determine his legal capacity** shall be entitled to be represented by an advocate [or defense attorney] **[CHAIR: and to be provided with, [PER: and, if necessary, a translator]]**. If he does not have such representation, one will be made available to him without charge to the extent that he has insufficient means to pay for such services. The advocate may not represent a long-stay facility nor its staff in the same proceedings, nor may he represent a member of the family of the older person whose capacity is at issue, ~~unless the competent authority or the review body, if any, determines that there is no conflict of interest.~~

Decisions on legal capacity and the need for a personal representative shall be reviewed at reasonable intervals via proceedings established by law. **[ARG: Even after appointing a representative, an older person may assert his right to be heard, and the judge shall also take into account his previously expressed wishes.]**

An older person whose legal capacity is at issue, his personal representative, if any, and any other ~~[CHAIR: interested]~~ **person with a direct, personal, and legitimate interest** shall be entitled to appeal to a competent court the decision of the competent authority or review body, if any, concerning legal capacity and the need for a representative.

Article 34
Judicial guarantees of older persons who are institutionalized

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 34]

[URU: The delegation of Uruguay's general comment on Article 34 may be found at the end of the article.]

[CHAIR: ~~Like any other person,~~ An older person has the right to appoint an advocate to represent him in all judicial or administrative proceedings related to his institutionalized status. If an older person does not obtain such services, an advocate shall be placed at his disposal [MEX: ~~without charge to the extent that the person does not have sufficient means to pay .~~]

[CHAIR: The States Party shall establish the regulations necessary to ensure the following:]

- a. An older person and his advocate may request and present, at any [CHAIR: ~~hearing venue~~], an independent opinion on his physical and mental health, and any other reports and oral, written or other type of evidence that is pertinent and admissible. Reports by professionals or interdisciplinary teams may also be presented, as may reports written by the competent bodies.
- b. If necessary, an older person shall be entitled to the assistance of an interpreter. [MEX: ~~Whenever such services are necessary and the person does not have them, they shall be provided to him without charge to the extent that the person does not have sufficient means to pay .~~]
- c. [ARG: ~~In order to facilitate the handling of any complaint, review or appeal, the older person and his advocate shall be provided with copies of his patient file and all reports and documents to be presented, except in particular cases in which it is considered that revealing certain information would seriously harm the patient's health or would endanger the safety of third parties.~~]
- d. [CHAIR: ~~All documents not provided to the older person must be provided to the patient's personal representative and advocate, provided this may be done in a confidential manner. Whenever any part of a document is not communicated to the person involved, he or his advocate shall be so informed, together with the reasons for that decision, which shall be subject to review by the review body or to judicial review if appropriate.~~]
- e. An older person, [CHAIR: ~~his personal representative or his defense attorney~~ or the person he designates,] shall have the right to participate in and be [PER, MEX: ~~be listened to heard~~] [CHAIR: ~~, with all guarantees of due process,~~] in all judicial or administrative proceedings [CHAIR: ~~, in accordance with the applicable rules of procedure~~] [ARG: ~~, even when he has appointed a representative~~].

- f. ~~[CHAIR: Older persons [PER: in the exercise of their faculties] have the right to have appropriate proceedings available to them in order that they may review:~~
- ~~4. Decisions on their institutionalization;~~
 - ~~5. Remaining in a long stay facility;~~
 - ~~6. Their housing conditions.]~~
- g. ~~[CHAIR: The States shall establish in law these procedures and the competent authority.]~~

[CHAIR: The States shall establish in law the appropriate procedures and the competent authority so that older persons [PER: in the exercise of their faculties] [ALT ARG: suggests deleting the PER proposal] have the right to review decisions on their institutionalization, assignment to a long-stay facility, and their housing conditions.] [CHI: guaranteeing full respect for their human rights and their dignity].

[URU: As for the paragraph 34.g, we cannot support the Peruvian proposal because, as noted earlier, it is difficult to determine when older persons are acting in the exercise of their faculties.]

[CHAIR: This article shall in no way be interpreted as restricting the right of older persons of access to and participation at all venues related to the determination of their legal capacity, and to enjoy access to all information related to such proceedings.]

Article 35 Judicial protection

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 35]

[URU: The delegation of Uruguay's general comments on Article 35 may be found at the end of the article.]

[CHAIR: ~~All~~ Older persons have the right to [PER: preferential treatment and] simple and prompt recourse or other effective recourse to a competent judge or court established by law, with due guarantees and within a reasonable time, for [CHAIR: guaranteeing them prompt resolution, enabling them to participate in all venues, and protecting them ~~protection~~ against acts or omissions] that violate his human rights and fundamental freedoms.

[CHAIR: The States Party shall establish the measures necessary to guarantee ~~All~~ older persons ~~are entitled their right~~] to [PER: preferential treatment [CHAIR: and to] enjoy] effective judicial protection against any situation of violence or discrimination.

[URU: General comments on Article 35:

- First, this provision would be very hard to implement. It would be extremely difficult for each state that ratifies the Convention to ensure that older persons

are granted the right to “simple and prompt recourse” to a competent judge or court, solely by virtue of their age.

- Second, Peru’s proposal for “preferential treatment” can be interpreted as affirmative action that could not be guaranteed at the judicial level; under the Constitution of the Eastern Republic of Uruguay, all persons are equal before the law.
- Third, this Article 35, which establishes specific judicial protection for older persons, should be read jointly with Article 38 (System of individual petitions). If we were to accept the language of the Convention’s most recent draft, noncompliance would enable legal action to be lodged with the inter-American system, which seems inconsistent with judicial reality in the various states of the inter-American system.

CHAPTER VII AWARENESS

Article 36

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 36]

The States [CHAIR: Party shall] recognize the [PER: experience authority], wisdom, productivity, and other important contributions of older persons to society as a whole, and [CHAIR: they shall] foster [PER: dignified, affectionate treatment with love, [ARG: love,] respect, gratitude, dignity,] and consideration.

[ALT MEX: The States shall recognize the authority, wisdom, productivity, and ~~other important contributions~~ contribution of older persons to society as a whole, and foster dignified, respectful, dignifying, and consideration affectionate treatment with love, gratitude,].

In cooperation with older persons’ associations, educational institutions, the communications media and other civil society actors, the States [CHAIR: Party] shall make efforts to overcome the stereotyped language and images of older persons in all spheres, and put forward [CHI: ~~an~~ a positive image of them of older persons, whether they are self-sufficient or of reduced capacity, as self-sufficient and productive] persons who contribute to the economic, social, and cultural development of society.

The States [CHAIR: Party] shall cooperate with the communications media and advertising agencies to promote a positive [MEX: and realistic image , from a human rights perspective as well, of ageing, to and] eliminate [MEX: discriminatory] stereotypes about older persons.

[ALT CHI: The States Party shall collaborate with the media, which are a key platform for promoting new images and roles of ageing and old age, including, in turn, on the core basic education curriculum, positive images of ageing, by promoting intergenerational dialogue .

The States Party shall set in place programs to educate the general public about the ageing process and about older persons. The participation of older persons and their associations or movements in the design or development of such programs shall be encouraged.

The States **[CHAIR: Party]** shall promote inclusion of the subject of ageing in the curricula of formal education from an early age, and shall encourage the creation of specialized technical and professional training programs.

[ALT CHI: The States should promote, through education, a dignified image of ageing throughout the life cycle.]

CHAPTER VIII MECHANISMS OF PROTECTION AND FOLLOW-UP ON COMPLIANCE WITH THE CONVENTION

Article 37 Presentation of regular reports

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 37]

[URU: The delegation of Uruguay's general comments on Chapter VIII may be found at the end of the chapter.]

In order to monitor the commitments undertaken in the present Convention, a **[PER: permanent]** Working Group shall be established to examine the regular reports from the States Party, to be composed of government representatives appointed by the States **[CHAIR: Party]** and ~~an independent expert~~ a **Secretary** appointed by the Secretary General ~~of the Organization~~.

The **[PER: permanent]** Working Group shall hold its first meeting within 90 days of the deposit of the tenth instrument of ratification **[CHAIR: , at which time it shall determine its plan of action and submit it for approval by the General Assembly]**.

The States Party pledge to present to the first meeting of the **[PER: permanent]** Working Group a report on the measures they have taken to assure due respect for the rights set forth in the Convention. Subsequently, the reports shall be presented every four years.

Reports prepared in accordance with the preceding paragraph shall include those measures that the States Party have taken in application of this Convention, and any progress that they have made in protecting the rights of older persons. The reports shall also discuss any circumstance or difficulty that may have affected the degree of compliance with the present Convention.

The **[PER: permanent]** Working Group shall be the forum to examine progress made in the application of the Convention and to exchange experiences among States Party. The reports prepared by the **[PER: permanent]** Working Group shall give account of the debates and shall include information on the measures that the States Party have taken in application of this Convention,

progress made in the protection of the rights of older persons, the circumstances or difficulties they may have had in implementing the Convention, and the Working Group's conclusions, observations, and overall suggestions for progressive compliance with it.

The **[PER: permanent]** Working Group shall prepare its own internal regulations, and shall adopt them by an absolute majority.

[CHAIR: The Secretary of the permanent Working Group shall perform all secretarial functions of the permanent Working Group, including convening the meetings described in this article; gathering, systematizing, and publishing the States Party's reports; and other tasks and activities entrusted by the permanent Working Group, particularly those addressing the provisions of Chapter VII.]

[URU: General comments on Article 37:

- **Uruguay supports the two mechanisms envisioned, i.e., periodic reporting and a system of individual petitions.**
- **Nevertheless, a few comments are in order. On reporting, Peru's proposal would make the working group (to which the reports are to be addressed) "permanent." It is unclear whether such permanency applies to its membership. This monitoring body should be guided by the principle of rotating membership, so that the best experts may serve in the mechanism.**
- **As for the system of individual petitions, Uruguay considers it extremely important that the rights of older persons be justiciable, and so it supports the present text.]**

Article 38 System of individual petitions

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 38]

Any person or group of persons, or nongovernmental entity legally recognized in one or more member states of the Organization **[CHAIR: of American States]** may present to the Inter-American Commission on Human Rights petitions presenting complaints of violation by a State Party of any of the articles of the present Convention, and the Commission shall consider them in accordance with the rules and procedural requirements for the presentation and consideration of petitions set forth in the American Convention on Human Rights and in the Statute and Rules of Procedure of the Inter-American Commission on Human Rights.

When appropriate, in accordance with the provisions of Articles 51 and 61 to 69 of the American Convention on Human Rights, the case may be submitted by the Commission or by the interested States to the Inter-American Court of Human Rights for decision.

CHAPTER IX GENERAL PROVISIONS

Article 39 Signature, ratification, entry into force

[CHAIR: Suggests deleting the numbering of the paragraphs in Article 39]

The **[CHAIR: present]** Convention is open to signature by all member states of the Organization of American States **[CHAIR: , and by states that are not members of the Organization that wish to adhere to its principles and provisions]**.

The **[CHAIR: present]** Convention is subject to ratification. The instruments of ratification shall be deposited in the General Secretariat of the Organization of American States.

The **[CHAIR: present]** Convention shall enter into force on the thirtieth day following the date on which the second instrument of ratification shall have been deposited. For each State **[CHAIR: Party]** ratifying or acceding to the Convention after the second instrument of ratification has been deposited, it shall enter into force on the thirtieth day following the date on which said State **[CHAIR: Party]** deposited its instrument of ratification or accession.

Article 40 Accession

After its entry into force, the **[CHAIR: present]** Convention shall be open to accession by all member states that have not signed it. The instruments of accession shall be deposited in the General Secretariat of the Organization of American States.

Article 41 Reservations

The States **[CHAIR: Party]** may make reservations to the **[CHAIR: present]** Convention at the time of signature, ratification or accession, provided they are not incompatible with the objective and purpose of the Convention and concern one or more specific provisions.

Article 42 Denunciation

The **[CHAIR: present]** Convention shall remain in force indefinitely, but any of the States Party may denounce it. The instrument of denunciation shall be deposited in the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall cease to be in effect for the denouncing State, but shall remain in effect for the other States Party. **[CHAIR: Such The denunciation of the Convention]** shall not

relieve the State Party of the obligations imposed on it by the [**CHAIR: present**] Convention with respect to any act or omission that occurred before the date on which the denunciation took effect.

Article 43 Notification by the Secretary General

The Secretary General of the Organization of American States shall notify the member states of the Organization and the States that have acceded to the Convention of the signatures and of deposits of instruments of ratification, accession and denunciation, as well as reservations, if any.

Article 44 Deposit

The original instrument of the [**CHAIR: present**] 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 to the Secretariat of the United Nations for registration and publication, in accordance with the provisions of Article 102 of the United Nations Charter.

[PER: Recommendations:

- **Consideration should be given to the older person's right to care, when he or she is fragile or dependent.**
- **Families should be first in line for providing food support for their older members.**
- **The State must facilitate minimum assistance to older persons living in extreme poverty.**
- **We suggest avoiding as far as possible the term "sexual orientation," as it is not defined in the Peruvian Constitution.]**

[ECU: Ecuador considers it essential that said Draft Convention take into account, as cross-cutting criteria, the specific differences between urban and rural areas, gender inequities, ethnicity, culture, and the differences proper to individuals, communities, peoples, and nationalities.]

[CHI: Recommendations:

- **We suggest that Chapter VI establish general principles and each State's obligations to ensure proper access to justice and effective and timely defense of the rights of institutionalized older persons.**
- **We also consider it necessary to take into consideration the situation of older persons who are deprived of freedom and suffer from some form of dementia.**
- **We suggest that, in the specific case of clinical decisions, the traditional definition of competence assessed by a doctor be understood as if "the patient can properly understand and recognize how information received during the consent process applies**

to his case.” An individual’s competence in clinical decisions pertains to a specific decision at a specific moment.

- States should take action to eliminate age-based assets abuse and work discrimination, especially against older men.
- In the case of a non-competent patient, from a bioethics standpoint, the following order of surrogates is traditionally proposed:
 1. advance statement or directive
 2. morally-valid surrogate decisions (by family, friends, special court-appointed defenders, tutors, etc).
 3. the doctor
 4. ethics committee
 5. the court]

ANNEX III

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES
COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

OEA/Ser.G
CAJP/GT/DHPM-33/12 rev. 3
3 May 2012
Original: Spanish

Working Group on Protection of the
Human Rights of Older Persons

DRAFT RESOLUTION

PROTECTING THE HUMAN RIGHTS OF OLDER PERSONS^{15/}

(Presented by the Chair at the meeting of the Working Group held on April 16, 2012,
and considered at the meeting held on April 26, 2012)

THE GENERAL ASSEMBLY,

RECALLING resolution **AG/RES 2654 (XLI-O/11)**, “**Protecting the Human Rights of Older Persons,**” adopted at the fourth plenary session of the General Assembly, held on June 7, 2011; (new paragraph)

TAKING NOTE of the presentations and recommendations made by member states, experts from the academic sector and civil society, and international organizations, at the meeting of the Working Group on diagnosis and evaluation, held on November 11, 2011 and February 22, 2012, respectively; (new paragraph)

-
15. Canada reserves its position on the need to prepare a draft inter-American convention for the promotion and protection of the rights of older people, pending the results of the discussions of the United Nations Open-Ended Working Group on Ageing as regards a recommendation for addressing the needs of this vulnerable group. Canada is very concerned at the possibility of an international duplication of efforts in this area and believes it would be prudent to await a clarification from the United Nations Open-Ended Working Group on Ageing regarding any shortcomings that may exist in the international rights framework in this area and what other instruments might be needed, if any, before the OAS considers the relative usefulness of continuing with the preparation of an inter-American convention. Canada urges the OAS to focus on strengthening the effectiveness of the instruments that already exist in this field, instead of embarking of new and possibly redundant processes without first clearly identifying a need.

TAKING INTO ACCOUNT the contributions of the Pan American Health Organization (PAHO) included in resolutions CD49.R15 (2009), “Plan of Action on the Health of Older Persons including Active and Healthy Aging”; and CD50.R8 (2010), “Health and Human Rights, adopted by PAHO’s Directing Council”; as well as the contributions of the Economic Commission for Latin America and the Caribbean (ECLAC), in particular the Regional Strategy for the Implementation in Latin America and the Caribbean of the Madrid International Plan of Action on Ageing of 2003 and the Brasilia Declaration (2007); and the document “Guidelines for a Convention on the Rights of Older Persons”;

TAKING INTO ACCOUNT:

The installation of the Working Group on Protecting the Human Rights of Older Persons, at the meeting of the Committee on Juridical and Political Affairs on September 22, 2011, pursuant to the mandate in resolution AG/RES. 2654 (XLI-O/11); (new paragraph)

The “Report on the Situation of Older Persons in the Hemisphere and the Effectiveness of Binding Universal and Regional Human Rights Instruments with Regard to Protection of the Human Rights of Older Persons” (CAJP/GT/DHPM-14/11 rev. 1), agreed upon by the Working Group at its meeting on December 2, 2011 and presented to the Permanent Council on December ... , 2011, pursuant to the mandate in resolution AG/RES. 2654 (XLI-O/11); (new paragraph)

The mandate articulated by the Heads of State and Government at the Sixth Summit of the Americas regarding “progress in strengthening protection of the human rights and fundamental freedoms of older persons by promoting public policies, programs, and services, thereby safeguarding their dignity, their physical, mental, social well-being and their quality of life, taking into account efforts being undertaken at the inter-American level to prepare a legally-binding instrument to protect the rights of older persons and the consideration of the

issue at the international level”; (new paragraph) [ad referendum of the delegations of Ecuador and Nicaragua]

The presentation of the preliminary draft inter-American convention on the human rights of older persons to the Permanent Council on April 26, 2012, pursuant to the mandate in resolution AG/RES. 2654 (XLI-O/11); (new paragraph)

Complementary efforts underway at the United Nations and its agencies to effectively identify and address the particular needs of older persons, including considering, as appropriate, the feasibility of further legal instruments and measures regarding the rights of older persons; and

[CHAIR: ~~To adopt the proposed preliminary~~ The] draft Inter-American Convention on the human rights of older persons [CHAIR: and the Compendium of Proposals, ~~and its addenda, which was~~] [CHAIR: presented to the Permanent Council in May 2012 as documents CAJP/GT/DHPM-37/12 and CAJP/GT/DHPM-44/12, respectively, [CHAIR: ~~and to use it as~~], [CHAIR: ~~and~~ which shall be used as] the basic documents to begin the [CHAIR: formal] process of negotiation aimed at preparing the inter-American convention on the human rights of older persons. (new paragraph)

[CHAIR: CONVINCED of] the advisability of it being possible, in the framework of the Organization of American States (OAS), to add value to existing efforts and to meet a need that is not being addressed elsewhere,

RESOLVES:

1. ~~To adopt the proposed preliminary draft Inter-American Convention on protecting the human rights of older persons as the basic document to begin the process of negotiation aimed at preparing the inter-American convention on protection of the human rights of older persons; (new paragraph).~~ (paragraph moved to the preambular section)

1. To request [CHAIR: the Permanent Council to extend the mandate of] the Working Group on the Human Rights of Older Persons, [CHAIR: so that it can conduct], with technical support from the Department of Social Development and Employment, [CHAIR: ~~in its capacity as technical secretariat to coordinate~~] the process of formal negotiation of the draft inter-American convention on the human rights of older persons and [CHAIR: seek to] present it for adoption by the OAS General Assembly at its forty-third regular session. Account will be taken, during said process, of the contributions of national representatives and experts from academia [CHAIR: ~~and~~ civil society, and other social actors,] as well as from international organizations and specialized agencies, among other important stakeholders that the Working Group considers relevant. (new paragraph)

2. To urge member states, in collaboration with civil society, to take additional actions to make older persons, their families and caregivers, as well as other relevant stakeholders, aware of their rights and responsibilities, so as to safeguard the dignity and the physical, mental and social well being of older persons.

3. To encourage the Pan American Health Organization (PAHO) and the Economic Commission for Latin America and the Caribbean (ECLAC) to continue their cooperation with the General Secretariat of the Organization of American States (OAS), member states, experts from the academic sector, civil society, and international organizations to promote regional cooperation, *inter alia*, by identifying best practices for designing public policies that address the specific needs of older persons in the Hemisphere within the context of universal and regional human rights instruments.

4. To request the Permanent Council to report to the General Assembly at its forty-~~third second~~ regular session on the implementation of this resolution. Execution of the activities envisaged in this resolution will be subject to the availability of financial resources in the program-budget of the Organization and other resources.