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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Impact of the coronavirus disease (COVID-19) on the enjoyment of all human rights by older persons

Note by the Secretary-General

The Secretary General has the honour to transmit to the General Assembly the report of the Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahler, in accordance with Human Rights Council resolution [42/12](#).

* [A/75/150](#).



Report of the Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahler

Summary

In the present report, the Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahler, examines the impact of the coronavirus disease (COVID-19) on the enjoyment of all human rights by older persons. The COVID-19 pandemic has put a spotlight on the human rights protection challenges facing older persons in societies around the world. While the infection spreads among persons of all ages, older persons and those with underlying medical conditions are at higher risk of serious illness and death from COVID-19. Symptomatic individuals in their seventies are 20 times more likely to require hospitalization than young adults, and case fatality rates suggest a notable increase in risk after the age of 60, with progressively worse outcomes at older ages. As the pandemic spreads in developing countries, the needs of older persons may also differ, and severe disease and mortality rates for older persons may increase even further if fragile health and social protection systems are overwhelmed. The impact on older persons has broader consequences, with prolonged lockdowns affecting the social and economic well-being of older persons, especially those living alone.

To inform a human rights-based approach to older persons in the context of COVID-19, there continues to be an urgent need for disaggregated data, which was the focus of the former Independent Expert's thematic report to the Human Rights Council ([A/HRC/45/14](#)). This need will remain valid as States tackle prevention and the ongoing response to the spread of the pandemic.

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I. Introduction

1. The Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahler, is pleased to submit her first report to the General Assembly since assuming the mandate in May 2020. In accordance with Human Rights Council resolution [42/12](#), by which the Council extended the mandate of the Independent Expert according to the terms set out by the Council in its resolution [33/5](#), the Independent Expert oversees the realization and fulfilment of the human rights of older persons. The mandate includes strengthening the realization of the human rights of older persons, closing protection gaps and providing advice on ways to strengthen the protection of the human rights of older persons.

2. In discharging the mandate, the Independent Expert is requested, *inter alia*, to assess the implementation of national, regional and international standards relevant to the rights of older persons and to identify, exchange and promote good practices relating to the promotion and protection of these rights; and to report on developments, challenges and protection gaps in the realization of the rights of older persons. In this context, it is important to stress the need to raise awareness of the challenges in the realization of the human rights of older persons and of the positive contribution of older persons to society, as well as the need to provide them with information about their human rights.

3. In accordance with the mandate, the Independent Expert will engage in dialogue and consult with States and other relevant stakeholders, including United Nations agencies, funds and programmes, regional human rights mechanisms, national human rights institutions, older persons, civil society organizations and academic institutions, and work in close cooperation with States, assisting them when requested, in order to foster the implementation of measures that contribute to the promotion and protection of the rights of older persons.

4. The Independent Expert is committed to integrating a gender and disability perspective throughout the work of the mandate and to addressing multiple, intersecting and aggravated forms of discrimination faced by older persons. Devoting herself to this task, she will work in close coordination with the Open-ended Working Group on Ageing, other special procedures and subsidiary organs of the Human Rights Council, relevant United Nations bodies and the treaty bodies, complementing their work in a meaningful and targeted manner with the aim of strengthening the protection of the human rights of older persons.

5. The Independent Expert would like to take this opportunity to thank the previous mandate holder for her constructive work in discharging the newly established mandate, which laid an important basis for future experts. The past thematic reports give guidance on important topics, such as older persons in emergency situations, social exclusion, automation and robotics, autonomy and care, violence, abuse and neglect, the right to an adequate standard of living and participation.

6. The Independent Expert's comprehensive thematic report to the Human Rights Council in 2016 ([A/HRC/33/44](#)), requested by the Council in its resolution [24/20](#), was of particular importance. It provided an assessment of the situation of older persons based on information collected during the reporting period (June 2014 to June 2016), contained an analysis of human rights protection gaps and best practices, assessed the human rights implications of the implementation of the Madrid International Plan of Action on Ageing, 2002, and highlighted the areas in which more in-depth analysis and continued monitoring of developments were required to ensure the promotion and protection of the human rights of older persons.

7. In the report, the Independent Expert stressed that the lack of a comprehensive and integrated international legal instrument for the promotion and protection of the rights and dignity of older persons has significant practical implications given that: (a) existing regulations do not cohere, let alone conceptualize regulatory principles to guide public action and the policies of Governments; (b) general human rights standards do not consider the recognition of rights in favour of older persons; (c) it is difficult to clarify the obligations of States with respect to older persons; (d) procedures for monitoring human rights treaties generally ignore older persons; and (e) current instruments do not make the issues of ageing visible enough, which precludes the education of the population and with it, the effective integration of older persons.

8. In the same report, the Independent Expert noted the progress achieved to date, including that the cross-regional consensus had been consolidated and that the discussions in New York had gained new impetus and direction through the cross-fertilization of the various mechanisms and the findings in the comprehensive thematic report of the Independent Expert in 2016.

II. Activities of the Independent Expert

9. During the reporting period, the former Independent Expert, Rosa Kornfeld-Matte, visited China, from 25 November to 3 December 2019 (see A/HRC/45/14/Add.1), and New Zealand, from 2 to 12 March 2020 (see A/HRC/45/14/Add.2). She expressed her appreciation to the Governments of those countries for their cooperation before, and the fruitful and constructive dialogue during and after, her visits.

10. Pursuant to General Assembly resolution 72/144, the Independent Expert addressed and engaged in an interactive dialogue under the agenda item entitled “Social development” on 1 October 2019. She shared her main findings and made recommendations to assist States and other stakeholders in designing and implementing appropriate and effective frameworks to ensure the promotion and protection of the rights of older persons in emergency situations.

11. In her statement marking the thirtieth International Day of Older Persons, on 1 October 2019, the Independent Expert called on everyone to stand up for older persons’ rights. She stressed that older persons – unlike women, children, persons with disabilities and migrants or refugees – are not protected by a specific universal human rights instrument, and noted that the absence of a dedicated legal instrument for older persons may explain the lack of attention to the specific challenges faced by older men and women in the global policy framework, including the Sustainable Development Goals, which guide the actions of the United Nations on the ground. She emphasized that it was essential for the implementation of the Sustainable Development Goals to be grounded in the international human rights framework to ensure the inclusiveness and sustainability of the gains over time.

12. On 30 September and 1 October 2019, the Ministry of Labour and Social Affairs of Czechia convened an international conference on the human rights of older persons and invited the Independent Expert to participate in a panel discussion on violence, abuse, maltreatment and neglect. The conference brought together some 150 participants in two interactive panel discussions on implementation and regulatory shortcomings and was informed by previous reports and recommendations of the Independent Expert.

13. From 5 to 7 November 2019, the Independent Expert participated in a workshop on the theme “Legal, ethical and social implications of ageing: towards an

international legal framework to advance the human rights and health of older persons”. The Brocher Foundation in Geneva brought together an interdisciplinary group of scholars and senior representatives from international organizations and Geneva-based institutions to consider how to advance questions pertaining to health and human rights and harness synergies in a potential legal instrument on older persons, and to consider alternative treaty body monitoring mechanisms to inform the Open-Ended Working on Ageing.

14. On 18 November 2019, the Independent Expert gave a briefing to the intergovernmental Working Group on Ageing of the Economic Commission for Europe on findings and recommendations with regard to older persons in humanitarian emergency situations. The briefing informed Policy Brief No. 25 on older persons in emergency situations.

15. On 17 and 18 December 2019, the Independent Expert participated in the first ever Global Refugee Forum, which was held in Geneva. The engagement provided an opportunity to further disseminate the findings and recommendations of the report of the Independent Expert on older persons in emergency situations ([A/HRC/42/43](#)) to the expert constituency of the Forum, with a view to providing a basis for concrete pledges to promote and protect the human rights of forcibly displaced older persons as part of efforts to build more inclusive societies.

16. On 21 January 2020, the Independent Expert participated, with the International Telecommunication Union and the Inter-Agency Group on Ageing, in a webinar focused on information and communications technologies and older persons. This was an opportunity for the Independent Expert to further disseminate her findings and share specific recommendations regarding the potential of and the risks associated with progressing digitalization from a human rights angle.

17. In the context of the coronavirus disease (COVID-19) outbreak, the Independent Expert issued a call to exercise solidarity and better protect older persons. She expressed her deep concerns that decisions regarding the allocation of scarce medical resources may be made solely on the basis of age and urged for triage protocols to be developed and followed to ensure that such decisions are based on medical needs and the best scientific evidence available. The Independent Expert further deplored the deep-rooted ageism that the pandemic has brought to the fore.

18. The impact of COVID-19 has also marked the initial activities of the new Independent Expert, Claudia Mahler, who assumed her functions on 1 May 2020. During a webinar organized by the NGO Committee on Ageing on 12 May, she engaged in a conversation with the United Nations High Commissioner for Human Rights regarding ways to promote the rights of older persons during these challenging times and how to move from debate to action. The webinar included 500 participants from around the globe, and the Permanent Representatives of Chile and of Slovenia, in their respective capacities as Chairs of the Group of Friends of the Human Rights of Older Persons in New York and in Geneva, delivered statements at the opening and closing of the event.

19. On 21 May 2020, the Independent Expert participated as a panellist in a webinar on palliative care and COVID-19. She stressed the need for urgent and sustainable responses to improve palliative care for older persons and emphasized the obligation of States to prevent pain and suffering, which could amount to cruel, inhuman or degrading treatment. She was also a panellist in a webinar entitled “Protecting the rights of older persons during the COVID-19 pandemic”, organized by the United Nations Population Fund (UNFPA) on 27 May 2020, in which she outlined the priority issues she intended to address during the COVID-19 pandemic and stressed the necessity to move the rights of older persons to the centre of the political and policy arenas.

20. Considering the regional dimension, the Independent Expert, on 5 June 2020, participated as a panellist in a web talk convened by the African civil society Stakeholder Group on Ageing on the impact of COVID-19 on the human rights of older persons. In her statement, she focused on the importance of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa as a normative framework that provides guidance to help to address the key challenges of this health pandemic.

21. In her media statement on World Elder Abuse Awareness Day, on 15 June 2020, the Independent Expert urged Governments and the international community to exercise global solidarity and step up action to effectively prevent and protect older persons from physical and psychological abuse, including neglect. On the same day, the Independent Expert produced a video statement at the request of the Red Cross of Serbia as part of a wider campaign to raise awareness on elder abuse. In her statement, she focused on verbal abuse in the press and on social media and called for joint action towards a more inclusive society. To commemorate World Elder Abuse Awareness Day, the Independent Expert took part as a panellist in a webinar entitled "The impact of COVID-19 on violence, abuse and neglect of older persons", which was organized jointly by the NGO Committee on Ageing and International Network for the Prevention of Elder Abuse on 16 June.

22. On 22 June 2020, the Independent Expert was a keynote speaker in the webinar series hosted by the Global Alliance of National Human Rights Institutions on the role and experiences of national human rights institutions in protecting and promoting the rights of older persons in COVID-19 responses and recovery. The Independent Expert highlighted how the pandemic had exposed existing protection gaps at the national and international levels and provided a few options for bridging those gaps in the future, including working collaboratively with key stakeholders, such as national, regional and global human rights institutions.

23. On 6 July 2020, the Independent Expert delivered a keynote speech at a round table on the theme "Protection of the rights of older people", which was organized in cooperation with the Committee on Social Policy and Protection of Veterans' Rights of the Verkhovna Rada of Ukraine and the Ukrainian national news agency, Ukrinform. In her speech, she informed the participants about the mandate and the work of the Open-ended Working Group on Ageing.

24. On 7 July, together with the President of the International Longevity Centre in Brazil, Alex Kalache, the Independent Expert gave opening remarks at a side event during the high-level political forum on sustainable development entitled "Sustainable Development Goal delivery for older persons and persons with disabilities post COVID-19", which was organized by the stakeholder groups on ageing and of persons with disabilities with the support of the Department of Economic and Social Affairs. During the discussion, experts provided national examples of learnings from COVID-19 to accelerate inclusive Sustainable Development Goal delivery.

25. In order to obtain information from a broad geographical base for her report, the Independent Expert issued a call for submissions from States, civil society organizations, national human rights institutions, academics and individuals. A call for submissions¹ was made jointly with a number of other mandate holders who have also dedicated their forthcoming reports to the impact of COVID-19, and the inputs can be found on the dedicated web pages of the participating mandate holders. The inputs submitted exclusively in response to the call for contributions of the Independent Expert² can be found on the website of the mandate holder. Given the

¹ See www.ohchr.org/EN/HRBodies/SP/Pages/Joint-questionnaire-COVID-19.aspx.

² See www.ohchr.org/EN/Issues/OlderPersons/IE/Pages/callCovid19.aspx.

short time frame for collecting inputs and the continuing impact of the virus, the Independent Expert may dedicate future reports to the subject.

III. Impact of the coronavirus disease (COVID-19) on the human rights of older persons

26. Older persons are the most heterogeneous of all age groups and cannot be defined through a single age limit. Older persons need to be defined as a social construct based on custom, practice and their role in the community. The pandemic has had very broad effects on older persons: they have been denied health services; they have been physically and socially isolated; and they have been the victims of ageist attitudes. Despite being such a diverse group, older persons have been labelled as vulnerable and branded as burdens to societies. The pandemic has made very evident the urgent need to combat stigma and age discrimination.

27. In his policy brief on the impact of COVID-19 on older persons,³ the Secretary-General raised awareness of the “untold fear and suffering for older people” caused by the pandemic and expressed his concerns regarding the human rights of older persons in that context. He highlighted the higher fatality rate of older persons and the high risks they face with regard to access to and delivery of health care. He warned of cases of neglect and abuse in institutions and care facilities, as well as the overall increase in age discrimination, which leads to trauma and stigma. He drew attention to the fact that the social protection and health systems in the developing world are already fragile and stressed the importance of including older persons in humanitarian and emergency action plans. He stated that the contributions of older persons to the crisis response as health workers and caregivers needed to be recognized. He urged societies to step up efforts to support older persons and to preserve their rights and dignity at all times. As the Secretary-General stressed, the pandemic has highlighted the lack of access of older persons to multiple rights, and national and international legal frameworks must therefore be improved.

28. A total of 146 Governments signed a statement in support of the policy brief of the Secretary-General.⁴ In an unprecedented show of political support, the Governments pledged to fully promote and respect the dignity and rights of older people and to mitigate the negative impacts during and after the COVID-19 pandemic on their health, lives, rights and well-being. The Governments expressed their solidarity and their concerns over ageism, including age discrimination and the stigmatization of older persons, which further aggravate their vulnerabilities. The Governments also showed their willingness to collaborate with partners and key stakeholders to support and launch global and national targeted responses to address the needs and rights of older persons and to work together towards a more inclusive, equitable, resilient and age-friendly worldwide society.

29. The pandemic has not only shed light on the barriers preventing older persons from fully enjoying their human rights, but has also shown that older persons are left behind. It has made visible protection gaps that will need to be addressed beyond the response and recovery stages. It has also highlighted the need not only for urgent action from Governments in response to numerous challenges, but also for preventive measures. In order to alleviate some of the negative economic impacts caused by the pandemic, as at 12 June 2020, 195 countries had introduced or adapted social protection programmes, with 68 countries targeting them to older persons, including

³ United Nations, “Policy brief: the impact of COVID-19 on older persons”, May 2020.

⁴ United Nations, Department of Economic and Social Affairs, “146 Member States support the Secretary-General’s policy brief on COVID-19 and older persons”, 12 May 2020.

through increased pensions, in-kind support, the advance and safe delivery of pensions, cash transfers and the expansion of pension coverage.⁵

Ageism and age discrimination

30. According to the World Health Organization (WHO), most people infected with the COVID-19 virus will experience mild to moderate respiratory illness and recover without requiring special treatment. While the virus affects people of all ages, older persons and people with weaker immune systems, including those with underlying medical problems such as cardiovascular disease, diabetes, chronic respiratory disease and cancer, are more likely to develop serious illness.⁶

31. Discrimination on the basis of age has occurred during the pandemic. Under article 11 of the International Covenant on Economic Social and Cultural Rights, State parties recognize the right of everyone to an adequate standard of living, including adequate food, clothing and housing. Discriminatory provisions, such as age limits on access to health care and support, education, an adequate standard of living, social protection and financial services, are common practice and therefore frequently considered legitimate (see A/74/186). While discrimination on the basis of age is not referred to explicitly as prohibited behaviour in either the Covenant or the Universal Declaration of Human Rights, “the prohibition of discrimination on the grounds of ‘other status’ could be interpreted as applying to age”.⁷ However, the absence of age as a clear ground for discrimination reveals a gap in the international human rights framework. As a result, many national anti-discrimination laws fail to address age-related discrimination in a holistic manner.

32. During the pandemic, ageist attitudes have become visible in the form of verbal abuse and negative images targeting older persons in the media and public debates around the globe. The pandemic has drastically amplified prevalent ageism, which results also from the portrayal of older persons as unproductive and as burdens to societies. These intergenerational resentments, which have become evident during the pandemic, often result in a breach of basic human rights and attacks against the human dignity of older persons.⁸ According to WHO: “Those responsible for infectious disease outbreak response should ensure that all individuals are treated fairly and equitably regardless of their social status or perceived ‘worth’ to society. They should also take measures to prevent stigmatization and social violence.”⁹

Right to the highest attainable standard of health

33. Article 12 of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone, including older persons, to the enjoyment of the highest attainable standard of physical and mental health. During a pandemic, when resources are stretched and limited, access to health may be crucial to ensure the right to life and may prove a significant challenge when State parties need to take steps to prevent, treat and control epidemic diseases. Under article 2 of the Covenant, States parties undertake to achieve the rights recognized in the Covenant, to the maximum of their available resources, without discrimination of any kind, including

⁵ Input to questionnaire received from HelpAge International.

⁶ World Health Organization (WHO), coronavirus disease (COVID-19) web page. Available at www.who.int/health-topics/coronavirus#tab=tab_1.

⁷ Committee on Economic, Social and Cultural Rights, general comment No. 6 (1995) on the economic, social and cultural rights of older persons, paras. 11–12.

⁸ See Office of the United Nations High Commissioner for Human Rights, “‘Unacceptable’ – United Nations expert urges better protection of older persons facing the highest risk of the COVID-19 pandemic”, 27 March 2020; and United Nations, “Policy brief: the impact of COVID-19 on older persons”.

⁹ WHO, *Guidance for Managing Ethical Issues in Infectious Disease Outbreaks* (WHO, 2016).

age discrimination. Governments may therefore need at times to determine and justify their budgetary priorities. In this regard, States parties, as duty bearers, must ensure that public health policies have no discriminatory or ageist policies against older persons. In its general comment No. 14 (2000) on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights set out the conditions under which States parties will have to carry out their obligations with respect to the right to health, including ensuring accessibility in four dimensions: non-discrimination, physical accessibility, economic accessibility and information accessibility. The Committee also stressed that the “right to treatment includes the creation of a system of urgent medical care in cases of ... epidemics ... and the provision of disaster relief and humanitarian assistance”.

34. The human right to health requires that medical care be accessible to all people, but a number of efforts in response to COVID-19, including lockdowns and physical distancing, are aimed at preventing the increase of patients in need of ventilators from overwhelming health-care systems. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health noted in a previous report that “under the right-to-health framework, health facilities, goods and services should be made available ... in sufficient quantity. In many cases, older persons are affected by selective unavailability because of rationing of medical care, i.e. allocation and prioritization of health resources, which often results in de-prioritizing older persons for health treatment” (A/HRC/18/37, para. 25).

35. During life-threatening pandemics such as COVID-19, the access of older persons to medical treatments and health care is hindered. In developing countries, weak health systems or health care requiring out-of-pocket expenditure leave millions of people, especially those in the poorest groups, without access to basic care.

36. The pandemic has shown that, in practice, hospitals introduce a triage approach in response to insufficient resources. Triage procedures needed in such situations must be in line with human rights tenets. Withholding or refusing the provision of medical treatment on the basis of an age limit or social worth is implicitly prohibited under international human rights law. In one particular case, triage was performed taking into account two ethical considerations, namely, the likelihood of short-term survival with the support of the scarce resources and intensive care services and the likelihood of long-term survival. With this categorization, children and adults up to 49 years of age were assigned the highest priority, while older persons aged from 60 to 85 were regarded as lower priority.¹⁰

37. In response to the extraordinary circumstances during the pandemic, and so as not to overwhelm emergency health-care services responding to critical care patients suffering from respiratory problems caused by COVID-19, a number of elective health-care services were put on hold.¹¹ The temporary suspension of health services not related to the COVID-19 response has serious consequences for patients with underlying health conditions, including older persons with physical and mental conditions and impairments, in particular those with dementia and those who rely on medical services for treatment and support to live their daily lives autonomously. States must ensure that medical services, which are crucial for the continued healthy living of older persons, are available on a non-discriminatory basis, even during lockdowns. To ensure the smooth delivery of reduced health services during emergency situations, older persons should be provided with related information that is easy to understand and accessible.

¹⁰ Elizabeth Lee Daugherty Biddison and others, “Too many patients – a framework to guide statewide allocation of scarce mechanical ventilation during disasters”, *Contemporary Reviews in Critical Care Medicine*, vol. 155, No. 4 (April 2019).

¹¹ Input to questionnaire received from Humanity and Inclusion.

38. The mandate received information that, during the pandemic, some older persons had waived their right to intensive care treatment without having been fully informed. Withholding treatment to a patient without obtaining the person's full and informed consent is not in line with human rights law. According to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, which is the only legally binding instrument at the international level addressing human rights in the field of biomedicine, "when because of an emergency situation the appropriate consent cannot be obtained, any medically necessary intervention may be carried out immediately for the benefit of the health of the individual concerned". The Committee on Bioethics of the Council of Europe stated that the principle of equity of access to health care should be upheld even when resources are scarce, as they have been in the context of COVID-19. Article 3 of the Convention "requires that access to existing resources be guided by medical criteria, to ensure namely that vulnerabilities do not lead to discrimination in the access to health care".¹²

39. In order to achieve the full realization of the right to health, States must adopt and implement national health policies¹³ or strategies and plans of action based on an assessment of the needs of older persons. Such assessments should be adapted to the needs of older persons and be carried out in consultation with, and with the full participation of, older persons. Older persons living in institutions or alternative settings or at home should not be left behind.¹⁴

Autonomy and care

40. While the International Covenant on Economic Social and Cultural Rights refers to health policy guidelines with "a comprehensive view, ranging from prevention and rehabilitation to the care of the terminally ill"¹⁵ and to "the importance of an integrated approach, combining elements of preventive, curative and rehabilitative health treatment ... aimed at maintaining the functionality and autonomy of older persons; and attention and care for chronically and terminally ill persons, sparing them avoidable pain and enabling them to die with dignity",¹⁶ there is to date no dedicated article that regulates the right to long-term and palliative care. In the United Nations Principles for Older Persons, Governments are encouraged to incorporate the 18 principles into their national programmes. Under the section headed "Independence", principle 6 states that older persons should be able to reside at home as long as possible. Should this not be possible, according to principle 14, under the section headed "Care", older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives. The former Independent Expert dedicated a thematic report to the subject of autonomy and care (A/HRC/30/43), and in her comprehensive report, she laid out crucial care requirements and needs and referred to gaps in the international legal framework governing the human rights of older persons (A/HRC/33/44, paras. 32–50), which have been accentuated in the context of the virus.

¹² Council of Europe, Committee on Bioethics, "Statement on human rights considerations relevant to the COVID-19 pandemic", Strasbourg, 14 April 2020.

¹³ See input to questionnaire received from Nsindagiza, Rwanda.

¹⁴ AGE Platform Europe, "COVID-19 and human rights concerns for older persons", 1 April 2020.

¹⁵ Committee on Economic, Social and Cultural Rights, general comment No. 6 (1995), para. 34.

¹⁶ Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), para. 25.

41. During the pandemic, it has been evident that care homes have not been prioritized in security and preventive strategies to contain the spread of the virus, despite the highest proportion of fatalities attributed to COVID-19 being among older persons. According to guideline 4 of the WHO *Guidance for Managing Ethical Issues in Infectious Disease Outbreaks*, “particular consideration must be given to individuals who are confined in institutional settings, where they are highly dependent on others and potentially exposed to much higher risks of infection than persons living in the community”. In some cases, discrimination was evident in the different medical treatment applied to care home staff compared with the treatment of residents, as well as the insufficient provision of personal protection equipment to care home staff. During lockdowns, older persons were prohibited from leaving their rooms in some care institutions and thus could not maintain ties with their families or even their social networks within the institutions, which in turn negatively affected their physical, mental and psychological health. Other shocking reports included older persons being left to die in institutions with neither the necessary medical treatment or palliative care, nor ultimately the chance to say goodbye to or even see their family and friends.¹⁷

42. Outside care institutions, many older persons have also lacked access to services owing to the absence of networks, insufficient information and support caused by lockdown situations, and the lack of financial resources for social, support and care services. The pandemic has also magnified the lack of inclusion of older persons in some communities and in emergency measures in general.

43. Despite discouraging information regarding older persons both inside and outside residential care homes, there were some positive signs and good practices. In Austria, the Federal Ministry of Social Affairs issued recommendations to residential care homes in which it emphasized the need for balance between the right to health and the right to social contact, and made it clear that residents could enter public spaces, as could the general public, because such deprivation of movement could constitute illegal deprivation of liberty.¹⁸ Various civil society organizations provided neighbourhood support systems for services to older persons, including food shopping, pharmacies, dog walking and emotional support through window concerts and virtual visits.¹⁹ Young Power in Social Action distributed older person-specific hygiene kits in Rohingya camps and provided biopsychosocial and age-sensitive health services to Rohingya and host communities.²⁰

44. While information regarding the actual impact of COVID-19 is still being collected and is incomplete owing to the pandemic being at various stages worldwide, reports show that up to half the deaths in Europe occurred in long-term care facilities.²¹ Another report on care homes, which collected evidence on individuals directly or indirectly affected by COVID-19, concluded that, based on data from 26 countries, the share of all COVID-19 deaths that were care home residents was 47 per cent on average. In some cases in which the number of COVID-19 deaths was relatively low, the share of those deaths among care home residents was above 70 per cent, which is proportionately high.²²

¹⁷ United Nations, “Policy brief: the impact of COVID-19 on older persons”.

¹⁸ Input to questionnaire received from the Austrian Ombudsman Board.

¹⁹ Input to questionnaire received from Bundesarbeitsgemeinschaft der Senioren-Organisationen, Germany.

²⁰ Young Power in Social Action, “YPSA’s ‘COVID-19 emergency response’ project in Chakoria, Cox’s Bazar”. Available at <http://ypsa.org/2020/05/ypsascovid-19-emergency-response-project-in-chakoria-coxs-bazar>.

²¹ Council of Europe, Commissioner for Human Rights, “Lessons to be drawn from the ravages of the COVID-19 pandemic in long-term care facilities”, 20 May 2020.

²² The reports are available at <https://ltccovid.org/international-reports-on-covid-19-and-long-term-care/>.

Palliative care

45. States must ensure that good-quality palliative care is available, acceptable and accessible and enable timely access to information about existing options for palliative care, support and services. Palliative care is an obligatory and integral part of the full realization of the right of everyone to the highest attainable standard of physical and mental health. The WHO, in its *Guidance for Managing Ethical Issues in Infectious Disease Outbreaks*, calls for efforts to ensure that no patients are abandoned, and one way to do so is to ensure that adequate resources are directed towards providing supportive and palliative care. However, there is currently no normative framework governing the right to palliative care in the international legal framework.

46. In many countries, palliative care is neither recognized as a medical speciality, nor addressed in national legal frameworks. The response to the COVID-19 pandemic has sharply brought to the fore the urgent need for an international normative framework governing the need to provide palliative care in a non-discriminatory manner to meet the increasing demand, as well as the importance of improving patient awareness, the accessibility of services and training for health-care professionals.

Impact of isolation

47. In order to respond to the spread of the virus, Governments have adopted a series of prevention and containment measures, including extensive testing, contact tracing, the closure of public and private facilities and businesses, stay-at-home orders and quarantine measures.

48. While these policies and regulations have affected the population at large, very often regulations were justified as necessary to protect older persons and persons with underlying conditions who are at increased risk if they contract the virus. The stay-at-home orders issued in many countries have disproportionately affected older persons facing conflicts in families or in institutions. Lockdown measures have increased the risk of violence, abuse and neglect for older persons. Older women in particular have been targets of violence during the crisis.²³

49. As a result of stay-at-home orders, many older persons were and are still living in isolation. In many countries, older persons have been subjected to stricter physical distancing measures than other population groups. Strict isolation rules have put older persons at an increased risk of neglect owing to the lack of access to medical or social care and other types of support services necessary to live independently. The independence and financial status of older persons have also been negatively affected when they have been forced to stay away from work without the possibility to telework.

50. At the height of the pandemic, when official monitoring in some care homes was interrupted to focus on controlling the spread of the virus, the prohibition of regular visits from friends and family removed a crucial informal monitoring mechanism and provided an entry point for violence, abuse and neglect. The situations in care facilities that were not monitored because of lockdowns and physical distancing measures remain unknown.²⁴ In some States, a ban on all visits could be waived only at the discretion of the manager, for example, if the resident or the visitor was in the final stages of life or if the only way to alleviate a resident's

²³ Input to questionnaire received from HelpAge International.

²⁴ Input to questionnaire received from the Commission on Human Rights of the Philippines.

anxiety was with a visit. In another State, a “no visitors” policy was applied to 15,000 nursing homes across the country.²⁵

51. The neglect of older residents has had tremendous negative outcomes, with some dying²⁶ as a result of being left in isolation without basic services and care, including proper hydration and nutrition and appropriate sanitary measures.²⁷

Right to live without violence, abuse or neglect

52. Expressions of online discrimination targeting older persons often create a climate of exclusion, intolerance and hostility. Unregulated expressions of abuse against older persons online can increase the risk of human rights violations and abuses against them offline. Negative comments can severely affect the physical and mental health of older persons, promote negative images or, in the worst cases, lead to older persons experiencing violence, abuse and neglect. Verbal abuse clearly occurs when older persons face old-age discrimination. Verbal abuse usually occurs not in isolation but in tandem with mental, psychological, physical, sexual or financial abuse.

53. Derogatory comments in the media are a direct attack against the dignity of older persons. Policies based on ageist attitudes cannot be tolerated. Governments must monitor and implement measures to avoid ageist approaches that could lead to older persons experiencing abuse, violence and neglect. Data on experiences of violence, abuse, maltreatment and neglect in later life are largely missing during the crisis, with monitoring systems halted because of lockdown measures. Violence, abuse and neglect remain largely invisible because demographic and health surveys generally exclude from their remit women aged 50 and over and men aged 55 or 60 and over, despite their potential to fill informational gaps. This has to change in order to be able to gather comprehensive data to develop and establish needs-based preventive measures.

Right to information

54. Older persons have the right to be well informed about public affairs, including in times of emergencies. The right of access to information entails that older persons have easy, prompt, effective and practical access to information. Equal access to information is important, especially in the context of emergency situations such as the pandemic. It is essential that information about COVID-19 be compiled and made available in accessible and, if necessary, multilingual formats.²⁸

55. The barriers faced by older persons to community engagement, whereby they may not be able to gain access to information about protecting themselves and receiving relevant services, can aggravate the exclusion or marginalization experienced by some older persons. Such barriers include language barriers, especially among speakers of minority languages or older persons with high levels of illiteracy, or lack of access to technologies.²⁹ Learning programmes and alternative ways of reaching older persons with no digital skills need to be developed. Programmes adapted to the learning approaches of older persons without the skills to

²⁵ Input to questionnaire received from Human Rights Watch.

²⁶ See, for example, inputs to questionnaire received from Liberation Rights, United Kingdom of Great Britain and Northern Ireland, and the Coalition of Caregivers and Advocates for the Elderly, Liberia.

²⁷ Input to questionnaire received from the International Longevity Centre, Canada.

²⁸ Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression.

²⁹ United Nations, Department of Economic and Social Affairs, “Issue brief: older persons and COVID-19”, April 2020.

use new communications technologies should be made available. Older persons from low socioeconomic and educational backgrounds and of higher age should be taken into account during the development of the curricula of lifelong learning programmes.

56. Digital exclusion significantly impedes the access of older persons to essential information regarding the pandemic and related health and socioeconomic measures. Low digital literacy rates, unequal power relations within households that may deny older persons' access to mobile telephones, hearing and visual impairments, and cognitive impairments, such as dementia, may effectively exclude older persons from information on COVID-19 and support services (see [A/HRC/42/43](#), para. 74). Older persons who live alone, in care homes, in rural or remote areas or in areas lacking connectivity might have limited access to information distributed through new technologies because of a lack of access to devices and limited digital skills and assistance. For older persons in less developed countries and those living in emergency situations or precarious conditions, such as refugee camps, informal settlements and prisons, difficulties in gaining access to information and technological challenges may be exacerbated. Working with communities and using a variety of formats, such as radio broadcasts, print notifications and text messages, may ensure that critical information reaches older persons regarding measures to protect themselves from COVID-19 and how to receive services.³⁰

57. Older persons must have access to public information on the COVID-19 response to enable them to take informed decisions and to challenge or influence public policies. Ensuring such access promotes accountability and makes it possible to establish controls to prevent the abuse of power. Similarly, the voices, perspectives and expertise of older persons in identifying problems and solutions are sometimes not sufficiently included in policymaking, particularly in areas in which older persons are affected by the decisions under consideration. It is important to review participation modalities at the national and global levels to ensure that the voices of older persons are heard, to harness their knowledge and to strengthen their participation in decision- and policymaking.

58. Older persons who are under stress or experiencing social isolation or other forms of disruption might not be fully aware of, or might even deny the threat posed by, the pandemic. In this context, the role of the State is to maintain trust among health personnel, public authorities and older persons through appropriate communication. The digital divide is visible in access to information when older persons are in need of support or help because of abuse or neglect. Because of lockdowns and physical distancing measures, many older persons living alone, with their families or in institutions did not have a chance to complain or even ask for help owing to the breakdown of their regular communication channels with their networks. Some civil society organizations and Governments found ways to bring the information to those in need through telephone hotlines or call services, but many older persons stayed in isolation with severe negative effects on their lives.

59. Owing to prevention efforts in response to the pandemic, crucial information may not have reached older persons living in camps for internally displaced persons because of a lack of basic support to receive such information, including access to the Internet or smartphones. Older internally displaced persons mostly live at camp borders, are often overlooked in the provision of resources for an adequate standard of living and are not the focus of humanitarian organizations.

³⁰ United Nations, "Policy brief: the impact of COVID-19 on older persons".

Missing data

60. Comprehensive, meaningful and reliable data play a key role in enhancing the understanding of global ageing and its impact on different age groups. Such data provide essential information about the needs of older persons and create the conditions to assess the effectiveness of existing measures. They also provide the evidence base required to identify gaps and to improve the formulation of targeted measures, monitor their implementation and report on progress. Data are necessary to show how the accessibility of the built environment, income adequacy or social protection enable or restrict the autonomy of older persons. The inclusion of older persons in public data, disaggregated by age, sex and relevant socioeconomic characteristics, is essential for effective public policymaking that is inclusive of older persons.

61. A comprehensive data set could help to address the estimated 80 per cent underreporting rate, which is attributed to older persons' fear of exposing a family member, losing services or being placed in a nursing home against their will, the lack of support and information, and the internalization of ageism, which leads older persons to play down abuse.

62. The framing of the ageing category for statistical purposes reproduces societal assumptions about later life and older persons, including ageist attitudes. Engaging older persons and their representative organizations in data collection efforts would improve the breadth and depth of information on this population group, avoiding stereotypical and simplified portrayals of old age and older persons, which may perpetuate their exclusion and discrimination. It will ensure that data depict not only the challenges faced by older persons, but also the opportunities of ageing both at the societal and individual levels.

63. Another key function of data collection is its contribution to awareness-raising and empowerment. Shedding light on the structural and systematic ways in which older persons are left behind and on the roles in which they contribute to society can help to gradually change perceptions of later life, so that it is seen as more than just an inevitable stage of deficit and decline.

64. To prevent inequalities in old age, interventions are needed in early life. For data to effectively inform action, a life-course approach should be taken, and the early- and mid-life factors that have the greatest impact on later life should be identified. Furthermore, factors such as socioeconomic conditions, gender, disability, ethnicity and minority status and other characteristics and conditions that may lead to inequalities tend to be amplified in old age.

65. The prevalence of multiple, intersecting and aggravated forms of discrimination faced by older persons and the high incidence of poverty and isolation among older persons, especially older women, older persons with disabilities, older persons of African descent, older persons belonging to indigenous communities or to national, ethnic, religious or linguistic minorities, older rural persons, older persons living on the streets, older migrants and older refugees, need to be highlighted and supported by significant data to allow for informed policymaking to tackle the colossal task of old-age exclusion and inequality.

66. The COVID-19 pandemic has further revealed the invisibility of older persons in public data analysis, as recognized by the Secretary-General in his policy brief on the impact of COVID-19 on older persons. In the context of the pandemic, the Statistics Division is stepping up its support for standardized data collection. UNFPA, the Economic Commission for Africa and the Global Partnership on Sustainable Data for Development decided to provide data support to African countries for COVID-19. The UNFPA Global Ageing Network produced a technical brief that focuses on

initiatives related to protecting the human rights and health of older persons in the context of COVID-19. In the brief, UNFPA noted its capacity to help Governments to rapidly generate population data and illustrate demographic risks, including the numbers of older persons and their living conditions. UNFPA stands ready to support Governments and United Nations country teams and raise their awareness of resources by providing advice on standardized collection to health ministries to ensure that all national surveillance data are disaggregated by age, sex and disability.³¹

Access to justice

67. The legal and policy responses to COVID-19 developed by States have wide ramifications that affect a broad range of human rights, including the right of access by older persons to justice in a timely, fair and effective manner. Access to justice is a crucial, cross-cutting right that enables rights holders to exercise all their human rights.

68. The economic impact of the pandemic will significantly affect older persons and likely aggravate the existing multiple forms of discrimination faced by, and the high incidence of poverty and isolation among, older persons, in particular older women, older persons with disabilities, older persons of African descent, older persons belonging to indigenous communities or to national, ethnic, religious or linguistic minorities, older rural persons, older persons living on the streets, older migrants and older refugees. Existing inequalities faced by older persons are being magnified in areas such as access to health, employment and livelihood, and there is an increased need for accessible juridical mechanisms to redress rights violations and to ensure protection from abuse, violence and neglect and ageism and age discrimination in relation to housing, employment, access to health benefits and social protection. Older persons require access to legal services, and legal information is critical for them to be able to exercise their human rights.

69. The pandemic also brings to the fore the specific justice needs of older persons, such as addressing the rise in violence, maltreatment and abuse. Since the outbreak of COVID-19, there have been widespread reports of increased rates of violence against women, in particular intimate partner violence. Older persons who are quarantined or in lockdown with family members or caregivers may also face higher risks of violence, abuse and neglect, as well as heightened risks in gaining access to justice. This also applies to older persons living in precarious conditions, such as refugee camps, informal settlements and prisons. There are distressing reports of older persons in care homes and institutions experiencing neglect or mistreatment. It is vital that older persons have access to justice and other necessary social services, including shelters.

70. Ensuring access to justice requires not only effective remedies, but also enhanced awareness by older persons of their rights and the availability of legal aid. It is also essential that the specific needs of older persons in terms of accessibility be adequately taken into account. Measures in that regard should include preferential treatment of older persons in judicial proceedings, the provision of adequate information in an age-friendly manner and the removal of physical barriers in court buildings. It is also important that members of the judiciary receive training on the rights of older persons.

71. The pandemic has had an unprecedented effect on the functioning of justice systems. Courts are closing or reducing or adjusting their operations, which can negatively affect the provision of timely and fair hearings, contribute to increased

³¹ United Nations Population Fund, “Global technical brief: implications of COVID-19 for older persons – responding to the pandemic”, 24 April 2020.

case backlogs and lead to longer judicial and administrative proceedings. Older persons must have access to legal information and an understanding of court procedures in order to realize their rights.

72. The unhindered access of older clients to all stages of proceedings and to case files is vital to ensure that they can receive the necessary legal support. Older persons need to be empowered to use digital technology, including videoconferencing facilities, and to communicate by telephone or with messenger apps to enable them to adhere to physical distancing measures. Procedural accommodations need to be made for older persons, in particular those with disabilities. In many crisis contexts, connectivity and access to the Internet may be limited, and there is often a clear gap in digital access affecting older persons.

IV. Conclusions and recommendations

73. The report of the former Independent Expert on the human rights protection of older persons in emergency situations ([A/HRC/42/43](#)) lays the groundwork for the protection of older persons during emergencies, and many of the recommendations remain relevant in the context of the COVID-19 pandemic. Her comprehensive report in which she outlined protection gaps in the international legal framework ([A/HRC/33/44](#)), together with the Secretary-General's policy brief on the impact of COVID-19 on older persons, which was endorsed by 146 Member States, could guide the actions of Governments, civil society organizations, private support entities, health facilities, providers, institutions and hospitals, and older persons themselves. These actions must be grounded in human rights principles, based on accountability and non-discrimination, implemented within the international human rights framework and involve the full participation of older persons.

74. The Independent Expert reiterates the need for action in the four key areas highlighted by the Secretary-General in his policy brief, namely, ensuring that difficult health-care decisions affecting older persons are guided by a commitment to dignity and the right to health; strengthening social inclusion and solidarity during physical distancing; integrating a focus on older persons into the socioeconomic and humanitarian response to COVID-19; and expanding participation by older persons, sharing good practices and harnessing knowledge and data.

75. As noted above, many of the lessons from the former Independent Expert's report on the human rights protection of older persons in emergency situations apply in the context of the pandemic, including the need for a systematic approach to data collection and analysis at all levels, outside of the emergency response system that will, hand-in-hand with a human rights-based approach to inclusion of older people, create a body of disaggregated data that can be used for contextual analysis. The few responses received to the questionnaires that provided detailed information on older persons, including not only data but also measures taken, confirm the lack of a systematic and evidence-based approach to older persons. Although older persons constitute a focus group in the context of the pandemic, they remain chronically invisible.

76. The current stage of the pandemic corresponds to the beginning of the emergency response, including the needs assessment phase, which will determine the subsequent course of action. As stated by the former Independent Expert, "failing to identify the needs, vulnerabilities and capacities of older persons at this stage will lead to an inadequate response that will not meet the needs or utilize the capacities of older persons" ([A/HRC/42/43](#), para. 85). As the pandemic

continues to spread and re-emerge around the globe, the Independent Expert calls on States to step up their efforts to support older persons and to uphold their rights and dignity at all times. The Independent Expert urges States, civil society organizations, United Nations organizations and human rights institutions to make older persons a priority in their future work.

77. Efforts to protect older persons should not overlook the many variations within this category, their incredible resilience and positivity, and the multiple roles they play in society, including as caregivers, volunteers and community leaders. It is essential to be aware of and embrace the full diversity of persons in the older persons category. Women, for instance, are overrepresented among both older persons and the paid and unpaid care workers who look after them. The important contribution of older persons to the crisis response, including as health workers and caregivers, must be recognized.

78. The lack of a comprehensive and integrated international legal instrument to promote and protect the rights and dignity of older persons continues to have significant practical implications, including for older persons in emergency situations. Current instruments do not specifically address the issues of ageing or make them sufficiently visible, and therefore preclude older persons from the full enjoyment of their human rights. Crucial areas that have not been covered extensively include legal capacity, quality of care, long-term care, palliative care, assistance to victims of violence and abuse, available remedies, independence and autonomy, and the right to an adequate standard of living, in particular with regard to housing. Each of those areas raises a set of issues and protection concerns that deserve in-depth analysis, taking into account regional specificities and best practices.

Ageism and age discrimination

79. At times when solidarity between generations is crucial, stigmatizing language should not be tolerated. Governments should monitor and implement measures to prevent ageist approaches, which can lead to older persons experiencing abuse, violence and neglect. Older persons need to have access to accountability mechanisms that provide remedies and redress when their human rights are violated. States should ensure that measures to protect the human rights of older persons, including their right to health during the pandemic, are in compliance with human rights law and do not discriminate on the basis on age. Isolation measures targeted at protecting older persons from contracting the virus should be voluntary and respect the independence and dignity of older persons. Older persons should be consulted. The Independent Expert notes the absence of age as a clear ground for discrimination, which reveals a gap in the international human rights framework.

80. Policies that limit the freedom of movement of older persons to specific time frames exceed the requirements of proportionality as applied to freedom of movement and should be avoided. At the very least, time restrictions that are imposed in order to safeguard the health of persons of increased vulnerability, including older persons, as well as persons with underlying health conditions, should be optional.

Right to health

81. It is important for countries to scale-up their health services. In this regard, developed countries must assist less developed countries in bolstering their health systems and their response capacity to mitigate the disproportionate effect on older persons. Triage procedures must be in line with human rights.

Withholding or refusing the provision of medical treatment on the basis of an age limit or social worth is prohibited under international human rights law. States must ensure that medical services, which are crucial for the continued healthy living of older persons, are available on a non-discriminatory basis, even during lockdowns.

82. To ensure the smooth delivery of reduced health services during emergency situations, older persons should be provided with related information that is easy to understand and accessible. Withholding treatment to patients without having obtained their full and informed consent is not in line with human rights law. In order to achieve the full realization of the right to health, States must adopt and implement national health policies or strategies and plans of action based on an assessment of the needs of older persons. Such assessments should be adapted to the needs of older persons and be carried out in consultation with, and with the full participation of, older persons. Older persons living in institutions or alternative settings or at home should not be left behind.

Right to long-term and palliative care

83. Data on experiences of violence, abuse, maltreatment and neglect in later life during the pandemic, which are largely missing, should be collected and analysed. Monitoring systems that have been halted because of lockdown measures should resume immediately. States must ensure that good-quality long-term and palliative care is available, acceptable and accessible and enable timely access to information about existing options for palliative care, support and services. Palliative care is an obligatory and integral part of the full realization of the right of everyone to the highest attainable standard of physical and mental health. States should ensure that adequate resources are directed towards providing supportive and palliative care. The Independent Expert notes the current lack of a normative framework governing the right to palliative care in the international legal framework.

84. The Independent Expert recommends that, rather than imposing a blanket ban on visits, measures should be put in place to keep residents and staff safe. Such measures could include a ban on visitors who are sick, a limit on the number of visitors, a requirement to wash hands, a separate room for visits and a minimum physical distancing rule. There has been an absence of preventive mechanisms during the pandemic, and older persons have suffered as a result of neglect from care irrespective of their living situations, be they residing at home or living in communities or care homes.

Violence

85. As in the case of older persons in emergency situations, such as humanitarian, conflict or post-conflict settings, older persons are more affected than the average population during a crisis as a result of their specific vulnerability patterns. They can also be more at risk of abuse, as has been evident during the pandemic, in both care homes and private homes. There continues to be a need to develop tools to recognize and identify risk factors in the population of older persons affected by a crisis and to ensure that contact and communications between older persons and their social support networks are established and maintained, and that shelters are managed in an age-sensitive manner.

86. More awareness is needed of the fact that violence against older persons constitutes a human rights violation. Measures must be taken to ensure continued access to essential support services for older victims of violence,

maltreatment, abuse or neglect, especially when their movement is restricted. Such measures include protection measures to ensure that older victims can remain at home and be protected from further violence, as well as measures to ensure access to shelters, taking into account the availability of quarantine spaces, as necessary. There is also a need to prepare for an increase in demand for emergency hotlines, essential housing, legal aid and police and justice services. Hotline staff should be equipped with up-to-date information on the solutions and protection measures available to older victims and those at risk while emergency measures are in place and when measures are scaled down.

Digital divide

87. With the acceleration of the use of online and mobile services as a result of restrictions of movement, it is essential to ensure that information is accessible to older persons in terms of language and format and that it is available for those with limited knowledge of and access to online services. Lifelong learning programmes need to take into account digital literacy programmes and support services to make information and services accessible for older persons, as well as the infrastructure required to access the Internet. To ensure access to justice in the context of the limited connectivity or heightened digital exclusion of older persons, older persons must be equipped with the skills to use online services, and these services must meet their needs. Supporting community-based paralegals and civil society organizations can also be effective in teaching people how to make use of online services, sharing information and developing referral mechanisms, while keeping a safe distance and following procedures to minimize the spread of the virus.

Information

88. Information on the pandemic, services, access to health care and social security needs must be provided in an easy to understand and accessible way or with the support of focal points to ensure that older persons have access to such information. Additional efforts must be made to support the access of older persons to information and their awareness of their rights. Justice sector actors play a critical role in disseminating information on rights, access to justice services and access to benefits pertaining to the COVID-19 response. Advocacy and information campaigns related to the COVID-19 pandemic need to be developed in accessible languages and formats and disseminated through traditional and social media to specifically target older persons. Any measures taken to change the way in which justice is delivered and sought should be communicated promptly, clearly and accurately and through accessible means for older persons.

Legal aid and assistance

89. It is essential that legal aid be available to older persons when they are unable to secure access to essential services as part of the COVID-19 response, such as health care or social protection. Efforts should be made to legally empower older persons, including by providing them with information on their rights, guidance on how to access benefits and support in filling out forms, in particular for older persons who are illiterate, do not speak or read the official language of the country, or cannot access online services.

90. The Independent Expert encourages States to provide older persons' organizations the associational standing to sue, thereby allowing for strategic litigation or opt-in collective action, or to establish collective redress mechanisms that are tailored to overcome the particular difficulties encountered by older

victims. Individual claims could thus be combined with collective action on behalf of a group of older victims by qualified entities, such as older persons' organizations or associations or State bodies.

Independent body or entity for older persons

91. It is crucial to establish an independent and impartial entity, procedure or body, possibly within an existing independent body, with the mandate to examine complaints pertaining to older persons. It is also important to apply the jurisdiction of the independent body, such as an ombudsperson, under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to consider its specific application to guarantee safe care for older persons, including in residences for dementia patients. Rather than creating a completely new institutional body, the establishment of an independent national commissioner on the enjoyment of all human rights by older persons within an existing human rights commission or human rights institution to serve as an independent entity for older persons should be considered.

92. Legal safeguards and oversight mechanisms must be in place to ensure that any derogation from, or restriction or limitation of, rights does not continue indefinitely, and that States protect and ensure the enjoyment of all human rights by older persons.

Social protection and the right to work

93. It is essential to ensure the income security of older persons, in particular older women, through universal pension coverage and adequate entitlement levels, especially with regard to long-term recovery. Socioeconomic relief measures and social safety nets, such as guaranteed access to food, water, essential goods and services, and basic health care during the COVID-19 crisis for older persons affected by economic hardship, need to be adopted immediately. It is essential to remove age caps for livelihood and job rehabilitation programmes, as well as other income-generating activities and food-for-work initiatives, and for microcredit to ensure that older persons are included among the beneficiaries of economic recovery initiatives.
