



Joint Statement:

The right to life of persons with disabilities and older persons infected by Covid-19

Humanity is facing the Covid-19 pandemic, whose greatest challenge is to protect the lives of all people. In this context, certain groups of persons are mostly exposed to decisions that could affect their right to life. We are talking about persons with disabilities and older persons.

Persons with disabilities “include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”¹. Over a billion persons (about 15% of the world’s population) are estimated to be living with one or more disabilities².

“Older person” means: “A person aged 60 or older, except where legislation has determined a minimum age that is lesser or greater, provided that it is not over 65

¹ United Nations Convention on the Rights of Persons with Disabilities (2006), article 1, paragraph 2.

² World report on disability: <https://www.who.int/publications-detail/world-report-on-disability>

years”³. It is estimated that currently about 900 million persons (about 12% of the world’s population) are older persons⁴.

The International Covenant on Civil and Political Rights (ICCPR) prescribes that: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”⁵.

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) prescribes that: “States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others”⁶. Likewise, the CRPD declares that: “States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk and humanitarian emergencies”⁷.

The Inter-American Convention on Protecting the Human Rights of Older Persons (ICOP), the only binding international human rights instrument focused on older persons, affirms that: “States Parties shall adopt all measures necessary to ensure older persons’ effective enjoyment of the right of life and the right to live with dignity in old age until the end of their life and on an equal basis with other segments of the population”⁸. Similarly, the ICOP declares that: States Parties shall adopt all necessary specific measures to ensure the safety and rights of older persons in situations of risk and humanitarian emergencies, in accordance with the norms of international law, particularly international human rights law and international humanitarian law. States Parties shall adopt assistance measures specific to the

³ Inter-American Convention on Protecting the Human Rights of Older Persons (2015), article 2.

⁴ <https://www.who.int/news-room/fact-sheets/detail/ageing-and-health>

⁵ International Covenant on Civil and Political Rights (1966), article 6, paragraph 1.

⁶ CRPD, article 10.

⁷ CRPD, article 11.

⁸ CPOP, article 6.

needs of older persons in preparedness, prevention, reconstruction, and recovery activities associated with emergency situations⁹.

Both normative instruments are based on the bioethical standard on the right to life applicable to persons with disabilities and older persons.

Accordingly, for persons with disabilities and for older persons, in relation to the Covid-19 pandemic, States shall apply the following bioethical recommendations:

1. Every person with a disability and every older person infected with Covid-19 has the right to access intensive care units, including mechanical ventilation systems and other life-saving supports, on an equal basis with others. Every person's life has equal value.

The correct application of triage¹⁰, does not admit criteria of selection or “rationalization” of human lives, linked to a person's disability or age.

2. Being a person with a disability or an older person will not be a condition or determinant to deny or omit access to intensive care, including mechanical ventilation systems, and all life supports, when required, regardless of health insurance coverage, if any.

No national regulations can protect these refusals or omissions.

3. The refusal or omission can be qualified as disability discrimination under the CRPD¹¹, or age discrimination in old age under the ICOP¹².

⁹ CPOP, article 29.

¹⁰ UC Christus definition of triage: A process by which individuals are selected based on their need for immediate medical treatment when available resources are limited. It represents the rapid assessment of patients and their placement on the waiting list for medical care. It divides the states of gravity into several categories, ranging from critical states to less urgent situations.

¹¹ CRPD, article 2, subsection 3: “Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation”.

¹² CPOP, article 2: “Age discrimination in old age”: Any distinction, exclusion, or restriction based on age, the purpose or effect of which is to annul or restrict recognition, enjoyment, or exercise, on an equal basis, of

In this context, the refusal or omission that affects the right to life of persons with disabilities or older persons may be classified as cruel and inhuman treatment, in accordance with the provisions of the CRPD¹³ and ICOP¹⁴ and therefore a violation of human rights.

4. The person with disability and the older person infected with Covid-19 will always have the right to dignified treatment, autonomy in decision-making, respect for their will, preferences, free and informed consent and the privacy of their personal data.

5. The person with disability and the older person infected with Covid-19 will have the right to receive all public information about Covid-19 in a timely and accessible manner, using reasonable accommodation, if necessary.

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human rights and fundamental freedoms in the political, cultural, economic, social, or any other sphere of public and private life”.

¹³ CRPD, article 15.

¹⁴ CPOP, article 10.