

Challenges to the autonomy and interdependent rights of older persons

(Report by the Secretariat)

Good day to all. I am honoured to present to you the report prepared by the technical secretariat of the Conference.

SLIDE 2

The presentation will address 6 aspects:

SLIDE 3 (THE PATH)

This conference has not been organized on a whim, nor is it an isolated event. It stems from methodical efforts to increase the visibility and empowerment of older persons, to make them protagonists, to respect their dignity and integrity, to recognize and guarantee their rights, to improve their living conditions and to change the cultural perceptions that lead to discrimination against and stigmatization of this group.

When we began this journey in **Santiago in 2003**, the global community had already begun to address this subject, for example with the strategy for “A society for all ages” and the Madrid International Plan of Action on Ageing. The first Regional Intergovernmental Conference on Ageing in 2003 sought to incorporate this Plan, and one of its main outcomes was the adoption of the Regional Strategy for the Implementation in Latin America and the Caribbean of the Madrid International Plan of Action on Ageing. This regional adaptation of an international instrument paved the way for efforts focused on incorporating the specificities of the region, which was entering the twenty-first century aware that population ageing was already under way and that it was not prepared to face those challenges.

More countries joined the effort **in Brasilia in 2007** and deepened their commitment to the older persons’ rights agenda. Therefore, it is no accident that the Brasilia Declaration included a significant number of new and ambitious plans relating to this agenda, to the point of converting it into a reference and text to be followed up in intergovernmental meetings that have served as a framework for the present Conference. In perspective, this Declaration planted a seed that should not take too long to grow in the region, thanks to countries’ political will. Indeed, the Brasilia Declaration has been captured in governments’ intention and willingness to pursue an international treaty to protect older persons’ human rights.

The number of participating countries and individuals peaked in **San José, in 2012**. It was a massive event that had to be inaugurated in a stadium with capacity for thousands of people. This atmosphere reflected the arrival of an actor that had been present and active since Santiago but in fewer numbers. I am referring, of course, to the civil society. The numerous and diverse organizations representing older persons made a crucial contribution to this Conference and its outcomes in terms of advancing the rights agenda for older persons in the region. The outcome of this Conference, the San José Charter on the Rights of Older Persons in Latin America and the Caribbean, became a reference instrument for public action relating to older persons and their rights.

Brasilia 2007 and San José 2012 were decisive for the Inter-American Convention on Protecting the Human Rights of Older Persons, adopted in 2015. The importance of this Convention, without a doubt the region's greatest milestone in this area, has been highlighted by previous speakers, and will continue to be a major reference throughout this Conference.

Thus, we arrive in **Asunción** after a long journey, with various stops along the way and with very encouraging concrete results. There is already a solid base to continue building on, along with multiple persisting and emerging challenges. This Fourth Regional Intergovernmental Conference in Asunción will contribute significantly to this base, and at the same time, give new vigour and energy to the advancement of the older persons' right agenda. Precisely in order to continue moving forward with this agenda, the Latin American and Caribbean Demographic Centre (CELADE) - Population Division of ECLAC has prepared the working document for this Conference, which I will now describe very briefly.

First, it provides a brief overview of population ageing and the situation of older persons in the region.

Since the end of the 1960s, most Latin American and Caribbean countries have experienced clear changes in demographic trends, particularly the transition from high to low fertility and mortality rates, with significant effects for population growth and age structure.

There is also a demographic dimension to the region's heterogeneity, which is expressed in the different stages of the demographic transition in its countries as shown in the figure.

SLIDE 4 (THE DATA)

While some countries are at a relatively advanced stage of the transition, for example Chile, Costa Rica and Cuba, with high life expectancy and fertility rates below the replacement rate (in quadrant 4 of the figure), others are in the early stages, such as Guatemala, Haiti and the Plurinational State of Bolivia, with relatively higher fertility rates and lower life expectancy (in quadrant 1 of the figure).

However, it is important to note that this gap will narrow in the future, as countries continue their demographic transition.

SLIDES 5 to 8

The sequence of figures that follows on the screen clearly shows this process, with a marked demographic convergence of countries in the next few decades towards very low fertility rates and high life expectancy.

The main consequences of these demographic transformations are the reduction of population growth and, perhaps most important at present and in the medium and long terms, the change in age structure leading to population ageing.

Hence, while the last century was one of population growth in the region, the most relevant demographic trend this century will be population ageing.

SLIDES 9 to 12

With a view to illustrating the change in age structure in the region, the following sequence of slides shows the trends in the regional population in four broad age groups: 0-19 years (children and adolescents), 20-39 years (young adults), 40-59 years (adults) and 60 years and over (older persons).

Historically, the predominant population group has been children and adolescents aged 0-19. However, the year 2023 is projected to mark the end of the youthful society in the region, with the group aged 20-39 becoming the largest population segment. In 2045, or 22 years later, the population aged 40-59 is expected to exceed those aged 20-39, giving rise to a more mature society. Just seven years later, in 2052, the population aged 60 and over will become the predominant group, ushering in the era of an aged society.

Naturally, this process will occur at different times and intensities in each country, in line with the stage they are at in the demographic transition.

SLIDE 13

According to United Nations estimates and projections, there are currently **76 million people aged 60 and older in Latin America and the Caribbean**, representing roughly **12%** of the total population. By 2030, this population will reach **121 million**, or **17%** of the total regional population. By 2060, when practically all the countries of the region will have an ageing population, older persons will make up **30% of the regional population**, numbering some **234 million**. As shown in the figure, the absolute and relative growth in this age group will be very rapid.

In addition to the demographic trends in the region, the report presents a general overview of the characteristics of older persons. For example, the larger number of older women than older men. At present, there are 123 older women for every 100 older men, and this trend is expected to remain unchanged over the next few decades.

Another important characteristic of this population group is internal ageing, as the oldest age groups continue to grow most rapidly. For example, although just 3% of the regional population is 75 years and older, this percentage is projected to jump to 12% by 2060. In the countries with the oldest populations, this figure is likely to be very close to 20%.

SLIDE 14

In the past, a defining feature of older persons was their lower level of education, the result of inequalities of access to education that they experienced growing up. Over the decades, this situation has started to change, clearly illustrated by the decline in the illiteracy rate among older persons as shown in the figure, either because more educated cohorts, who had greater access to formal education when they were young, are now moving into that population group or because they were the beneficiaries of government adult literacy programmes. However, large gaps continue to exist between countries (with adult illiteracy rates ranging from 3% to 30%), between urban and rural areas, and between men and women.

SLIDE 15

The economic participation of the population aged 60 and older in our region is very high in comparison with more developed regions, and is higher among men, with rates ranging from 36% to 70%. Several factors probably contribute to this situation, but the most worrying is the limited access to pensions or retirement benefits, in addition to the small amounts received when they do exist, which are not enough to cover older persons' basic necessities. In many cases, as indicated in this report, overall, older persons supply the largest share of household income.

SLIDE 16

The socioeconomic gaps between older men and women are replicated in the wage gap, where women are at a severe disadvantage. The figure shows the percentages of the population aged 60 and over with no income of their own, by sex, for 15 countries in the region. Older women systematically represent the highest percentages, which means that a significant proportion of them depend on others for survival, making them economically vulnerable.

Although this report shows that older persons have improved their sociodemographic status in various areas at the country level, these national figures conceal various socioeconomic disadvantages, particularly among older women and those living in rural areas.

SLIDE 17 (THE CONCEPTS)

Moving on to concepts, the report presents a detailed review of past, current and emerging discussions about the rights of older persons. Although these concepts are referred to throughout the report, the heart of the discussion in this regard takes place in chapter II on "Human rights in the context of ageing and the need for enhanced protection of older persons in the framework of the United Nations". The focus presented in the document, which structures the approach expressed in previous documents and meetings of this Conference and in the Inter-American Convention on Protecting the Human Rights of Older Persons, is premised on key concepts and principles, some of which I will now describe:

The first key concept is **DIGNITY**. The recognition of dignity is a starting point and fundamental basis of the architecture of older persons' rights. It stems from the recognition of the inestimable value of people for the simple fact that they are human beings. It is the principal argument against discrimination and inequality and serves as the basis of older persons' universal rights.

The second concept is **AUTONOMY** which goes beyond the welfarist and fatalistic visions of old age, and the passive perception of older persons. Prioritizing autonomy means guaranteeing older persons' ability to manage their own lives on a personal level and as members of society, such that they can lead an independent life in a familiar setting as long as they wish and are able to, as well as actively participate in the civic and political dimensions of society.

The third concept is **PROTECTION**, particularly the protection of rights, that is, ensuring that they are guaranteed and enforceable. Although there is a debate about the need and relevance of identifying groups that require special protection measures among older persons, these groups do exist and countries should cater for them through specific policies and support programmes. In any case, the principle of rights protection is not compatible with the violation of any person's rights, or with categorizing older persons as vulnerable solely because of their age.

The fourth concept is **ENTITLEMENT**, which first requires the identification of rights-holders, a complex subject that until now has been resolved on the basis of age, particularly for those aged 60 and over. However, entitlement is much more than identification, as it also involves empowerment to exercise and demand rights. Nonetheless, for a long time it was believed that older persons only needed social and health care to live with dignity, which transmitted a passive and welfarist image of older persons.

An ongoing debate, which our report is not likely to end, although it does aim to show the relevance of the subject to ongoing processes, concerns the **UNIVERSALITY and SPECIFICITY of rights**. The experience with the Inter-American Convention suggests that, in addition to universal human rights, older persons require specific rights that should be identified, not as ideals of conduct (although these are necessary), but through a binding legal instrument that categorizes, specifies and guarantees these rights.

SLIDE 18 (THE PROBLEMS)

With respect to problems, older persons continue to be targets of discrimination and their rights are not protected as they should be. They also have special needs relating to their age. The lack of regard for these needs results in problems that threaten their well-being and restrict the exercise of their rights. Previous slides showed some of the problems with updated figures for the region.

However, the report provides a much more detailed and in-depth analysis of the difficulties, discrimination and unmet needs associated with ageing that should and can be addressed with rights-based public policies and programmes.

First, it lists a number of problems that have emerged from formal consultations with countries, with **CARE** (both the lack and poor quality of services) being the most frequently mentioned, followed by others such as the **LACK OF AWARENESS OF THE REALITY AND RIGHTS OF OLDER PERSONS**, **HEALTH** (both health problems, particularly chronic illnesses and degenerative diseases, and inadequate services), **PENSIONS** (both limited coverage and amounts as pressure on budgets grows), **DISCRIMINATION** and **MISTREATMENT**. These problems are not the natural result of age and should not be considered inevitable. They stem mainly from social structures that exclude older persons and discriminatory cultural models that stigmatize them.

SLIDE 19

The report also addresses emerging issues relating to older persons' rights, and highlights two: access to credit and palliative care:

With respect to **access to credit**, the report underscores the contribution of credit to older persons' economic security and inclusion, which contrasts with the multiple ways in which this access is made more difficult or impossible for this group. This type of discrimination involves additional risks, such as situations of abuse by informal lenders forcing older persons to take out more expensive and sometimes illegal loans. The report also shows that even when older persons have access to formal credit, they are punished with higher rates and abusive clauses. Overall, the report shows various national experiences relating to older persons' access to credit that suggest this is an issue which is already being factored into the public agenda, although the evaluation of these experiences indicates that there is still much work to be done.

As regards end-of-life **palliative care** and dignified death, the report highlights the increase in the number of older persons requiring this type of care owing to chronic and degenerative diseases with no known cure. The report underscores how palliative care helps older persons both to control or ease pain and discomfort, and to recover autonomy and have their wishes respected. Unfortunately, despite its importance as a humanitarian issue, palliative care is still a privilege and is not guaranteed for all. Increasing its coverage and ensuring that it is universal requires political will and funding, and in particular, it implies addressing the lack of trained health-care personnel, limited availability of medication and lack of facilities or support that would allow family members to care for ill older persons who are beyond medical help. An especially novel and sensitive point is the link between this type of care and dignified death as part of the right to life and dignity, and not simply assisted suicide or euthanasia. The aim of this right is not a good death, but a good life until the end.

Lastly, the report focuses on two unfulfilled commitments: **the right to a life free from violence —and how that right is violated through mistreatment— and long-term care**. Progress has been made on the former thanks to its formal definition as a right and the classification of types of violence, as well as the recognition that States are legally responsible for guaranteeing this right. However, mistreatment continues to be a widespread problem with various negative effects on older persons. Countries have responded and the report describes a broad range of policies and programmes to prevent and punish the abuse of older persons, underscoring innovations such as socio-legal guidance in situations of abuse. Nonetheless, the analysis concludes that the bulk of interventions consist of campaigns that raise awareness and shed light on the problem, and that little progress has been made in providing more concrete protection.

Long-term care is a priority in the efforts to address the problems that arise from ageing. Its provision should not replace or deny the potential autonomy of any person. On the contrary, any capacity that can be maintained or recovered should be strengthened. Care should also be recognized as a right for people who remain at home. One of the region's major challenges is the establishment of care systems, as they are non-existent or just developing in a few countries, as the rights of those who receive and those who provide care must be recognized, and as there is need for change in the historical model of care provision in the region, under which family members, particularly women, take on the bulk of the work without receiving the required training or resources, and under which the State has played a secondary role and focused on institutionalization with little regard for the quality of the services provided.

SLIDE 20 (THE MILESTONE)

A full chapter of the report is devoted to the Convention, which rectifies the omission from international human rights law of this group and enshrines highly relevant guarantees that no other binding international instrument had included previously. The chapter describes and analyses the process of developing the Convention, particularly the conceptual debates, technical discussions and political decisions that shaped its form and content. It also refers to the current ratification process, which includes five countries to date, emphasizing the legal implications of ratification for countries —respecting, protecting and guaranteeing the human rights recognized in the Convention— and the follow-up mechanisms and procedures included in that instrument.

I will now highlight three of the numerous contributions and lessons of the Convention relating to both process and outcome, which are very different in scope, but which are all components of this new architecture of older persons' rights.

SLIDE 21

The first is the active ingredient of this architecture: the recognition of age as an additional source of discrimination alongside other known factors shown on the slide (for example race, gender and religion) which is never acceptable as it is clearly contrary to values such as dignity and equality.

SLIDE 22

The second is represented by the underpinnings of this architecture: the catalogue of rights of older persons, as a group suffering from discrimination with specific needs which are now formally recognized. As shown in the slide, the report distinguishes between existing rights subject to new interpretations and broadened content, extended rights and emerging rights, representing historic progress that places the region in the vanguard of empowering and safeguarding older persons.

SLIDE 23

The third is a key component of this architecture, one of the rights reinterpreted by the Convention and one which, together with the catalogue just mentioned, forms an interdependent ensemble: the right to free and informed consent on health matters. This is article 11 of the Convention, which relates to the

fundamental rights to dignity, autonomy and independence, and non-discrimination, as well as other rights such as those relating to security and a life free of violence (including abuse and mistreatment). The slide shows, in red, the area of application of this right, in light blue, the option to exercise it (prior will), and in blue, exceptional situations that could limit these rights owing to the superiority of other rights, such as the right to life, and, where the circles overlap, indicates possible areas of ambiguity. In short, this right not only empowers older persons, but also contributes to their autonomy and independence.

SLIDE 24 (FINAL REFLECTIONS)

There is no doubt that the region has changed its perception of older persons and ageing. There is a growing recognition of older persons' rights and capacity to live this stage of their lives actively and with dignity and autonomy. This new perception is increasingly apparent in the media, political discourse, and in the attitudes and behaviour of family members and the general public.

This change is also evident in older persons themselves, as they are gradually becoming empowered, occupying new spaces, organizing and demanding the respect of their rights.

In line with past progress, the region has seen normative, institutional and programmatic advances. The Inter-American Convention has been a milestone both as a catalogue of rights that are now standard components of discussions on the subject, and thanks to its implications for national laws as it is ratified by more and more countries. However, each country in the region has taken valuable institution-building or strengthening initiatives, as shown in the ECLAC publication on ageing and public institutions in Latin America and the Caribbean, *Envejecimiento e institucionalidad pública en América Latina y el Caribe*, which is among the materials distributed to the national delegations present. The same is true for policies and programmes, where some countries have made significant progress, including in emerging themes such as care, abuse and access to justice, which could be useful for other countries in the region, particularly within the framework of South-South cooperation.

Nonetheless, the progress made in recent years should NOT lead to false optimism or hide the enormous gaps, weaknesses and challenges facing the region. Our population will age at a much faster pace than other currently developed countries and our socioeconomic capacity to face this situation will be more restricted, not just because of our more limited resources but also owing to their unequal distribution and the weakness of our States in terms of revenue and implementation capacity. **Economic security**, which

is a pillar of dignity and autonomy, will be comprised by the failure to provide resources for older persons with no or very limited pensions. This challenge extends to other rights, such as those relating to health and care, which require an intergenerational funding compact to ensure public provision.

There is also evidence of a still significant gap between established rights and the reality faced by older persons, which includes **limited coverage of basic services, poor-quality services and in many cases lack of access to mechanisms or procedures to demand rights.**

In addition to these shortcomings, the report highlights setbacks relating to programmes that were ended owing to a lack of resources or to unsatisfactory results, and national institutions focused on older persons that slipped down in the government hierarchy or lost their initiative. Lessons can be learned from setbacks as well as progress, in order to avoid them in future.

In conclusion, the list of current problems and emerging challenges is long and complex, but not insurmountable. It should not inspire despondency, but, on the contrary, should encourage us to value and defend the progress already made and to seek the transformation of the rights of older persons into a State agenda that engages the action of the public sector to overcome gaps, pay debts and face the emerging challenges that affect older persons.