United Nations Economic and Social Commission for Asia and the Pacific

Third Stakeholder Consultation for the Asia-Pacific Intergovernmental Meeting on the Fourth Review and Appraisal of the Madrid International Plan of Action on Ageing

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“A human rights perspective”

Andrew Byrnes
Emeritus Professor of Law
Faculty of Law & Justice, UNSW
SYDNEY AUSTRALIA
Overview

1. MIPAA and human rights

2. An international human rights framework – principal characteristics

3. Comparison of MIPPA and a proposed human rights treaty regime

4. The future of MIPAA and the international protection of older persons’ rights

5. Examples of complementary and reinforcing policy frameworks and treaties

6. Conclusion
1. MIPAA’s affirmation of human rights: the Political Declaration

• Political Declaration, article 5:

“We reaffirm the commitment to spare no effort to promote democracy, strengthen the rule of law and promote gender equality, as well as to promote and protect human rights and fundamental freedoms, including the right to development. We commit ourselves to eliminating all forms of discrimination, including age discrimination. We also recognize that persons, as they age, should enjoy a life of fulfilment, health, security and active participation in the economic, social, cultural and political life of their societies. We are determined to enhance the recognition of the dignity of older persons and to eliminate all forms of neglect, abuse and violence.”

Only other right explicitly mentioned in human rights terms in the Political Declaration is the right to health (article 14)
1. MIPAA’s affirmation of human rights: the Plan of Action (1)

Goals of MIPAA include “full realization of all human rights and fundamental freedoms of all older persons” (para 12(a))

Broad affirmation (para 13):

“The promotion and protection of all human rights and fundamental freedoms, including the right to development, is essential for the creation of an inclusive society for all ages in which older persons participate fully and without discrimination and on the basis of equality. Combating discrimination based on age and promoting the dignity of older persons is fundamental to ensuring the respect that older persons deserve. Promotion and protection of all human rights and fundamental freedoms is important in order to achieve a society for all ages. . . .”
1. MIPAA’s affirmation of human rights: the Plan of Action (2)

21. Priority Direction I (Older persons and development): Recognition of the economic, social, cultural and political contribution of older persons

*Actions*

(a) Ensure the full enjoyment of all human rights and fundamental freedoms by promoting the implementation of human rights conventions and other human rights instruments, particularly in combating all forms of discrimination;…

(e) Ensuring the full enjoyment of economic, social and cultural rights, and civil and political rights of persons and the elimination of all forms of violence and discrimination against older persons;

(f) Commitment to *gender equality* among older persons through, inter alia, elimination of gender-based discrimination;

But no direct reference in MIPAA to any specific human rights instruments (not even the Universal Declaration of Human Rights) other than the United Nations Principles for Older Persons.
MIPAA’s affirmation of human rights: the Plan of Action (3)

MIPAA contains few references to specific human rights (though references to “rights”)
However, objectives and specific recommendations for action align with human rights in many cases.

Priority Direction III: Ensuring enabling and supportive environments

Aligns with human rights to autonomy and independence, right to participate in the community, right to adequate housing, accessibility and liberty of movement, right to decide on where and with whom to live, right to support services, and right to be freedom from neglect, abuse and violence.

Ageism: the word appears only once in MIPAA, the document touches on aspects of ageism at various points (eg Priority Direction III, Issue 4 (Images of ageing, paras 112-13, but also in context of employment and older persons with disabilities) – the measures suggested would fit well in a human rights treaty if formulated as State obligations
3. An international human rights framework – principal characteristics

- A clear statement of an individual right (not as a broad social or developmental objective that applies to the community as a whole)
- Clear indication that the State as duty-bearer is under an international legal obligation to take steps to respect protect and ensure the right in question
- Requirement that those affected by the exercise of State power are entitled to participate in and/or be consulted on decisions that affect them
- Transparency of process and accountability mechanism
- Procedures for access to remedies or reparation for violations of the rights guaranteed
- Independent mechanism for monitoring implementation by individual States in a focused and regular way at the international and national levels.
<table>
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<tr>
<th>Proposed convention on rights of older persons</th>
<th>MIPAA</th>
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<tbody>
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<td>Statement of individual right (legal entitlement)</td>
<td>Statement of specific objectives to be achieved without formulating in terms of rights</td>
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<tr>
<td>Statement of the international legal obligations of the State to take steps to respect, protect and ensure the right</td>
<td>Non-binding recommendations to States and affirmation that States have the” primary responsibility” on ageing matters</td>
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<td>Formal right of affected groups to participate in the formulation of policy, its implementation and in monitoring its impact</td>
<td>MIPPA recommends the participation of older persons and their representative organisations in the process of policy development, implementation and monitoring</td>
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<td>Right to access to remedies for violations of rights guaranteed</td>
<td>Measures to prevent violation recommended, but remedies implied rather than spelt out</td>
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<td>International monitoring mechanism that requires States to undergo regular review by an independent expert body on the basis of State reports/ other information, provides detailed feedback to the State.</td>
<td>MIPPA process of review is a collective assessment of progress and individual States subject only to a voluntary process for reporting progress.</td>
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A relatively short and focused document that can be used to advocate in bodies such as courts and tribunals

A lengthy and broad-ranging document that has only limited utility and impact in influencing particular categories of decision-makers.
4. The future of MIPAA and the international protection of older persons’ rights

- MIPAA has made and continues to make a significant contribution to engaging governments and others around the human rights of older persons
- MIPAA cannot by itself bring about the far-reaching social and political changes that are needed to fully ensure the enjoyment of human rights by older persons
- There is a need to expand the agenda of rights goals set out in MIPAA and to renew or supplement MIPAA with a policy framework that is more explicit in its human rights language and expectations of States (eg San José Charter of Rights)
- The development of a new comprehensive international treaty on the human rights of older persons is critically needed to complement and reinforce MIPAA and its successor policy frameworks.
5. Examples of complementary and reinforcing policy frameworks and treaties

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<th>Treaty</th>
<th>Policy framework</th>
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<td>Convention on the Elimination of All Forms of Discrimination against Women 1979</td>
<td><strong>Beijing Declaration and Platform for Action</strong> (1995) and subsequent updates</td>
<td>“11. There is a significant synergy between the substantive content of the Convention and the Beijing Platform for Action, and they are therefore mutually reinforcing. The Convention comprises legally binding obligations and sets out the right of women to equality in the civil, political, economic, social, cultural or any other field. The Platform for Action, through its 12 critical areas of concern, provides a policy and programmatic agenda that can be used for the implementation of the Convention.” (CEDAW Committee, 2019)</td>
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Conclusion

- We need policy frameworks such as MIPAA and the 2030 Framework for Sustainable Development (and the ASEAN and the Kuala Lumpur Declaration).

- But we also need a strong human rights instrument that will build on and complement what MIPAA (and the SDGs) offer older persons.

- Need to include in the output of the Asia-Pacific Intergovernmental Meeting on the Fourth Review and Appraisal of the Madrid International Plan of Action on Ageing in June 2022 a call to the broader community of States to move ahead positively with the drafting of a new treaty in the OEWGA.

- Possible role for ESCAP as a forum for bringing together Asia Pacific experts to draw up elements of a new treaty to contribute to the work in OEWGA and Human Rights Council – something ESCAP facilities during the drafting of the CRPD with its facilitation of the Bangkok Draft?
Useful resources


Economic Commission for Latin American and the Caribbean, San José charter on the rights of older persons in Latin America and the Caribbean, 2012

ESCAP, Incheon Strategy to “Make the Right Real” for Persons with Disabilities in the Asia and the Pacific, 2012, adopted by ESCAP as part of the Second Asia Pacific Decade of Persons with Disabilities (2013-2022),

ESCAP, Harmonization of national laws with the Convention on the Rights of Persons with Disabilities: Asia-Pacific trends in selected topics in the ESCAP region, ESCAP/SDD/APDPD (3)/WG (7)/INF/12 (2021)

ESCAP, Key elements for developing policies on ageing in Asia and the Pacific, 2021


