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Panel Discussion on Access to Justice

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Excellencies, distinguished delegates, dear colleagues,

Access to justice is a concept that has come of age.

And when meaningful access is extended to older persons everywhere, age discrimination will be a concept destined for the trash heap of history.

But we have a long way to go.

The Universal Declaration of Human Rights provides for the right to equality before the law without discrimination, equal protection under the law, the right to an effective remedy for violations of rights, and the right to a fair trial.

Respect and protection of human rights can be guaranteed only by the availability of effective judicial remedies.

When a right is violated or damage is caused, access to justice is of fundamental importance to the restoration of the dignity and rights of victims.

Indeed, access to justice is both a fundamental right in itself and an essential prerequisite for the protection and promotion of all other human rights.

Guaranteeing access to justice is indispensable to the functioning of democratic governance, to the maintenance of the rule of law, and to combatting social and economic marginalization.

Access to justice secures rights such as the right to health, as it guarantees judicial and administrative protection of that right.

Access to justice matters for the sustainable development agenda and its commitment to leave no one behind.

The inclusion of target 16.3 in the UN's Sustainable Development Goals (SDGs) commits all member states to "promote the rule of law at the national and international levels and to ensure equal access to justice for all."

Yet, millions of older persons across the world are facing significant challenges in accessing justice and remedy for their human rights.

Submissions received by our office from stakeholders indicate that the majority of older persons have had justice problems across a wide range of issues

including disputes over land and property, difficulties in accessing public services, financial and debt problems, family disputes, violence and crime, and problems at work.

While most Constitutions and national laws guarantee access to justice by everyone and the right to equality before the law without discrimination, very few of them takes into account the specific challenges faced by older persons.

Physical barriers and lack of accessible buildings and transportation prevent many older persons from accessing the courts and legal aid, especially those living in remote areas.

Often court proceedings are not adapted to older people's needs and abilities and do not provide reasonable accommodation.

Age-based digital divides are creating additional barriers for older persons, as applications and documents are increasingly processed electronically.

And many older persons simply cannot afford court fees and legal representation.

In many countries, courts are overloaded with cases, and legal proceedings can take very long time. But for older persons, particularly those in the highest age ranges, justice delayed may literally be justice denied.

For many older persons, cultural norms further also complicate justice, particularly older women's access, with notions of honor and shame sometimes associated with resorting to the legal system to resolve disputes, especially relating to family matters, inheritance of property, and violence and abuse.

Distinguished delegates,

These are significant gaps in the enjoyment of human rights by older persons that must be addressed urgently.

And contributions received from stakeholders indicate that efforts are being taken by States and others to begin to address these challenges and reveal several promising practices. Among these:

- Putting in place a network of community justice centres available to support older persons.
- Ensuring new constructions are barrier-free, while retrofitting old court buildings.
- Policies and programmes providing free legal aid, although most of these are still based on income and are not age-specific.
- National human rights institutions are providing individual assistance, awareness raising, effective monitoring and enforcement of equality law.
- And civil society organizations are promoting awareness, capacity building and legal, social and psychological support.

And yet, the responses also demonstrate that overall, most guarantees of access to justice are of general application, and essential elements of the right to access to justice remain ill-defined, too general and not adequately targeted to the particular challenges faced by older persons.

Where laws and policies at the national and regional levels do recognize older persons' access to justice, the standards and applications are inconsistent and practical implementation is often lacking.

Furthermore, many have pointed out that entrenched ageism exists within the justice system and that the laws and policies themselves can be ageist.

Distinguished delegates,

All human beings are born free and equal in dignity and rights. And our rights do not expire or diminish with age.

If rights are to be given the force of law, no one must be denied access to justice on the basis of their age.

Guaranteeing access to justice is indispensable to combating inequality and exclusion.

But international standards lag, and national practice remains cause for worry.

As a universal right, access to justice needs well-defined international standards and clearly articulated obligations of States, to guide its effective implementation and enforcement.

Almost three-quarters of century after the adoption of the Universal Declaration of Human Rights, a majority of older persons are still seeking justice.

It falls to all of us to ensure their access to that justice.

Thank you.