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PERMANENT MISSION OF THE REPUBLIC OF MALAWI TO THE UNITED NATIONS
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3rd June, 2015

Mr. Hongbo Wu
Under-Secretary-General
Department of Economic and Social Affairs
Office of the Focal Point on Ageing
Division for Social Policy and Development
United Nations
Room S-2922

Dear Sir,

I have the honour to refer to General Assembly resolution 69/146 of 2 February, 2015, which calls upon Member States to continue to contribute to the work of the Working Group on Ageing, in particular by presenting concrete proposals, practical measures, best practices and lessons learned that will contribute to promoting and protecting the rights and dignity of older persons, in order to enable it to fulfill its mandate.

In this regard, please find attached herewith, for your consideration, a document containing proposals on a new Convention on the Rights of Older People, prepared by the Government of the Republic of Malawi, through its Ministry of Gender, Children, Disability and Social Welfare.

Please accept the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read "Lot Dzonzi".

LOT DZONZI
Charge d' Affairs, a.i.



**PROPOSAL ON A NEW CONVENTION ON THE RIGHTS OF
OLDER PEOPLE**

BY

**Ministry of Gender, Children, Disability and Social Welfare,
Malawi**

May, 2015

INTRODUCTION

Human beings, irrespective of age, citizenship, nationality, race, ethnicity, language, gender, sexuality or abilities are entitled to human rights. The respect of these inherent rights enables people to live with dignity and equality, free from discrimination.

The world over, discrimination of people based on age is widely documented. Despite this, age discrimination has been ignored by nearly every human rights instrument to date. With rapid population ageing, the prevalence of age discrimination escalates and so does the imperative to address the fundamental causes of discrimination. Treating older people with respect and on an equal basis with younger people creates the conditions that enable all people in society to participate in and contribute to their own development. It is important to remember that today's younger adults are tomorrow's older people.

The adoption of the International Plan of Action on Ageing, at the first World Assembly on Ageing in Vienna, has guided the course of thinking and action on ageing over the past 20 years, and crucial policies and initiatives evolved from the plan. However, results of the first review and appraisal of the Madrid International Plan of Action on Ageing have demonstrated that wide-spread age discrimination, neglect and violence against older women and men, as well as the absence of meaningful social protection, have remained an unfortunate reality in many countries, rich and poor alike, but particularly so in low-income developing countries.

The mainstreaming of older persons' concerns in policies and programmes at the national level remains generally the exception rather than the rule. It is not a secret that knowledge of the Madrid Plan at the national level is often quite minimal, and many commitments of the Madrid Plan have remained only on paper. The fact that the Madrid Plan is not a binding international document does not help its implementation either. It is obvious that we need a more powerful, dedicated international instrument to trigger decisive national action to improve the treatment of older persons in many societies.

Standards that protect older people's rights are scattered throughout various international and regional conventions. Bringing the relevant provisions together in one text, as was successfully done for the rights of women, children and people with disabilities would bring clarity to both the nature of older people's rights and the responsibilities necessary to protect them.

A convention on this specific subject would help to consolidate the extremely varied range of relevant provisions and to clarify the situation with respect to possible ambiguities in the recognition of the rights of older persons, thereby furthering the efforts of States, international bodies and civil society stakeholders

to promote and protect those rights. Furthermore, the adoption of a convention on the rights of older persons would contribute to the evolving interpretation of general international and regional human rights instruments and to the design and implementation of human-rights-based public policies that are fully aligned with the universally accepted objectives of the Madrid International Plan of Action on Ageing.

There is already growing political support for new human rights mechanisms at the regional level after noting that the existing regional human rights laws do not protect older people's rights systematically or comprehensively. Latin American States, for instance, are actively working towards developing a regional convention on the rights of older people. Similarly, The African Commission has drafted a new protocol on the rights of older people to the African Charter on Human and Peoples' Rights. The creation of a new human rights body under the 2008 Association of South East Asian Nations (ASEAN) Charter may also provide an opportunity for considering older people's rights in South East Asia.

It is for these observations and our own experience working with older persons that we present this proposal for the content of a UN Convention on the rights of older persons.

PURPOSE AND SCOPE OF THE CONVENTION

Basing on our experience and situation of older persons in Malawi and Africa as a whole and also our understanding of ageing and ageism, we propose as follows on the purpose and scope of the convention.

Purpose

The purpose of the convention therefore must be to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all older persons, and to promote respect for their inherent dignity. The convention should achieve this by ensuring that member states addresses the profound social disadvantage of older women and men and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries.

The scope of the convention must include all people who are subjected to violence, abuse and are discriminated against and denied their rights on the basis of their older age or in combination with other forms of discrimination.

CONTENTS OF THE CONVENTION

We are proposing that the new convention should contain the following areas among the others; General Principles on older persons, General Obligations, Specific Human Rights, Implementation, monitoring and accountability.

A. PRINCIPLES

We propose that the convention must incorporate the following principles whenever possible:

1. Independence
2. Respect
3. Participation
4. Care and Support
5. Dignity
6. Non-discrimination
7. Accessibility
8. Self-fulfilment

B. GENERAL OBLIGATIONS

A new convention must clearly articulate State Parties' general human rights obligations in relation to each of the articles within it. It must ensure that States Parties undertake measures to ensure and promote the full realization of all human rights and fundamental freedoms for all older persons without discrimination of any kind on the basis of older age. To this end, States Parties must:

- a) adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention;
- b) take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against older women and men;
- c) refrain from engaging in any act or practice that will be inconsistent with the Convention and to ensure that public authorities and institutions act in conformity with the Convention;
- d) With regard to economic, social, political and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of older peoples' rights, without prejudice to those obligations contained in the Convention that are immediately applicable according to international law;

- e) promote the training of professionals and staff working with older persons in the rights recognized in the Convention so as to better provide the assistance and services guaranteed by those rights;
- f) Guarantee the protection and promotion of the human rights of older people where relevant in all policies and programmes;

C. SPECIFIC HUMAN RIGHTS

The new convention should ensure that States parties' take all appropriate measures to protect and promote the human rights of older persons at all cost. These rights should include, but not limited to the following:

- 1) Right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment
- 2) Right to housing
- 3) Right to Health Care
- 4) Right to Social Security
- 5) Right to life
- 6) Right to leisure
- 7) Right to property
- 8) Right to freedom of association
- 9) Right to work in old age
- 10) Right to equal recognition before law
- 11) Right to information
- 12) Right to freedom from all forms of abuse and violence
- 13) Right to leisure

Situations of risk and humanitarian emergencies

The new convention should ensure that States Parties 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 older women and men rights in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters. Particular attention must also be paid to older women where gender, age, cultural, sexual orientation and/or marital status related discrimination may intersect or accumulate over time.

D. IMPLEMENTATION, MONITORING AND ACCOUNTABILITY

Strong implementation, monitoring and accountability measures need to be put in place at both international and national level to ensure effectiveness of the new convention.

IMPLEMENTATION

At the national level, a co-coordinating mechanism within government should be established for matters relating to the implementation of the provisions of the convention and also to facilitate related action in different sectors and at different levels.

Attention should be given to measures to support capacity building of States Parties and other stakeholders to implement the provisions of the convention.

MONITORING AND ACCOUNTABILITY

A new convention should ensure that States Parties, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish independent bodies at national level as appropriate, to promote, protect and monitor implementation of the Convention.

At the international level, a new convention should create an independent treaty body to monitor States Parties on national implementation, receive periodic reports, receive complaints, conduct investigations and make recommendations on compliance with provisions within the convention.

Civil society, in particular older women and men and their representative organizations, should be involved and participate fully in the monitoring process.

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