



INTERGOVERNMENTAL WORKING GROUP ON OLDER PERSONS

Input to the 1st Session 13-17 July 2026, Palais des Nations

A. COMMUNITY LEGAL CENTRES AUSTRALIA

1. Community Legal Centres Australia (CLCA) is a non-governmental organisation in special consultative status with the United Nations since 2003.¹
2. CLCA is the peak body for the Australian community legal sector. Our members include 160 community-based legal services, including legal services that specialise in the area of older persons' human rights.
3. CLCA's members provide legal assistance to ~25,000 older persons each year. They also engage in community legal education and law and policy advocacy on older persons' human rights issues.
4. CLCA's **2025 Vision for Justice** specifically highlights the need to address freedom from violence, abuse and neglect, age discrimination and ageism and the intersectionality of older persons' human rights issues.²
5. CLCA attended and actively participated in the 4th – 14th Sessions of the Open-ended Working Group on Aging (OEWGA).
6. CLCA was unable to attend in person at the IGWG's organisational meeting but intends to attend the First Working Session in July 2026.

B. ENDORSEMENT OF GAROP'S POSITION

7. CLCA is a member of the Global Alliance for the Rights of Older Persons (GAROP).
8. CLCA endorses the GAROP Discussion Paper: Conceptual Framework, Underlying Principles and Possible Scope of a New Legally Binding Instrument on the Human Rights of Older Persons.

¹ Special Consultative Status is held in the name "The National Association of Community Legal Centres Inc."

² Community Legal Centres Australia, Vision for Justice, September 2025.

C. RESPONSES TO KEY QUESTIONS

1.1. What overarching framework should guide the international legally binding instrument on the human rights of older persons?

9. In this part we address the core values of the framework, including purpose and object. Initially, we address the drafting process and the use of the Convention on the Rights of Persons with Disabilities (CRPD) as an exemplar.
10. CLCA considers that the overarching framework should reflect a contemporary best-practice model of treaty-making.

The Drafting Process

11. Best practice includes a drafting process that incorporates meaningful involvement of civil society, including:
 - Early and continuous engagement;
 - Clear and inclusive participation rules;
 - Representation of affected individuals and groups;
 - Access to information and draft texts;
 - Opportunities for substantive input (not just observation);
 - Responsiveness and feedback loops;
 - Resource support and accessibility;
 - Transparency of negotiations;
 - Independence and protection of civil society space; and
 - Institutionalised participation mechanisms.

Object & Purpose: CRPD as an Exemplar

12. Attention should be given to the most recent UN human rights treaty – CRPD, noting however that its drafting process was more than 20 years ago. Lessons from that process should be embedded here but must also acknowledge the subsequent global experience. This includes the impacts of climate change, the global pandemic and artificial intelligence on older persons worldwide.
13. The CRPD’s object and purpose as articulated in Article 1 and informed by Articles 2–5 is to secure the full and equal enjoyment of all human rights by persons with disabilities through a framework grounded in dignity, autonomy, non-discrimination, accessibility, and inclusion, and implemented through positive and systemic State obligations.
14. Accordingly, we reiterate GAROP’s position that the instrument’s overarching framework must “must clearly address the problems, challenges and barriers that have been identified and their root causes.”³

³ See paragraph 7.

15. We reinforce GAROP’s message that the instrument must be a “a comprehensive instrument, incorporating an overall vision of transformative change, substantive rights, State obligations and national and international frameworks for accountability.”⁴
16. The CRPD demonstrates that modern human rights treaties are not static instruments—they are frameworks for ongoing normative development. In our view, this instrument should adopt a similar design for its framework but not become beholden to CRPD’s approach by simply swapping out ableism for ageism.
17. This is a critical issue that needs careful consideration. While CRPD may be among the best normative starting points, in that it seeks to address the invisibility of disability, there are important commonalities and differences between older age and disability.
18. Before slavishly copying CRPD, it is necessary to think through this relationship, and other similar contextual relationships, to ensure that the instrument:
 - Responds to known and evolving human rights needs of older persons
 - Accounts for known and evolving intersectional experiences
 - Establishes protections that are innovative, enhanced and nuanced and
 - Complements other instruments and avoids regression for existing protections.
19. We note that both groups are estimated to currently number over one billion people globally, and both cohorts are reported to be growing. We note there is significant overlap – in Australia – 50% of older persons (65 or older) had disability.⁵
20. There are strong parallels in the historical treatment of both groups: their social construction, the impacts of paternalism, perceptions of incapacity and dysfunction, their shared intersecting attributes, and in the root causes of discrimination and mistreatment that lead to human rights violations.
21. Importantly, there is also divergence – even while disability is most prevalent in older persons, ableism can be experienced throughout the entire life course, including how persons with disabilities are socially constructed, treated and marginalised over the entire arc of their lives. Persons with disability may only experience ageism as a later, additional intersecting phenomenon. Others may have no experience of disability and ableism until they reach ‘older age’.
22. Additionally, and importantly, ageism is a concept that is not particular to older age; various age cohorts will experience stereotypes, prejudice and discrimination based on age. Experiences of ageism (including perceptions of) can also differ within the spectrum of who might be considered older.⁶

⁴ See paragraph 9.

⁵ <https://www.aihw.gov.au/reports/older-people/older-australians/contents/health/health-status-and-functioning>

⁶ Giasson HL, Queen TL, Larkina M, Smith J. Age Group Differences in Perceived Age Discrimination: Associations with Self-Perceptions of Aging. *Gerontologist*. 2017 Aug 1;57(suppl_2):S160-S168. doi: 10.1093/geront/gnx070. PMID: 28854611; PMCID: PMC5881655.

23. Older-ageism-based human rights violations begin when individuals (including older persons themselves), communities, cultures, systems and policies use or accept ageism, whether consciously or not. Like ableism, ageism has individual, collective and systematic manifestations.
24. Again, while there is overlap between ageist and ableist stereotypes, ableism may be focused on inherent incapacity whereas ageism is founded on perceptions of inevitable decline or change – which includes but can extend to issues beyond capacity.
25. It may also be the case that ageism is socially normalised to a greater extent now because of the failure to establish normative standards in the same manner as has occurred for other ‘protected’ areas such as childhood, race, sex, disability etc. In this sense, the fight against ageism is at least 20 years behind CRPD’s fight against ableism. There are significant examples of this normative vacuum in Australia’s domestic context, such as the treatment of restrictive practices/interventions.

Core Purpose

26. The core purpose of the instrument should be to establish a comprehensive positive obligation to guarantee (promote, respect, protect, and fulfil) older persons’ human rights. It should also, like CRPD, reflect the core values of the Universal Declaration of Human Rights.
27. The core purpose is the essence of the instrument and should be transmit a clear, timeless rationale. It is supported by statements about:
 - Scope of the rightsholders
 - Objects
 - Guiding principles

Scope of Rightsholders

28. The scope of rightsholders is likely to be a central point of future dialogue. We reiterate GAROP’s views about the need to establish a scope of rightsholders that embraces a holistic conception of older age.⁷
29. CRPD provides a contextual example by reference to interactions and barriers to participation, rather than taking a prescriptive approach. CLCA supports taking a similarly expansive approach.
30. CLCA opposes any constraining or restrictive definition of older persons or older age, noting that while age proxies (e.g. XX years) appear to be an obvious solution, they themselves can operate as an ageist policy construct – a ‘used by’ or ‘best by’ date. CLCA instead prefers that the instrument avoids the use of age proxies without careful analysis of alternative approaches.

⁷ See paragraphs 10-13.

31. The scope of rightsholders should provide coverage for older persons broadly defined within the diversity of human experience without settling on an age proxy at this stage of the drafting process. This aspirational approach should not limit discussions going forward.
32. It remains that Member States will continue to use age proxies to set the guardrails for legislative and policy criteria, however, in our view, the instrument should provide the broadest possible coverage.

Objects & Guiding Principles

33. CLCA notes the objects and guiding principles should be comprehensive. The CRPD's guiding principles are relevant but not entirely resolved for older persons.
34. The instrument's general principles should:
 - Recognise the older age is a socially constructed phenomenon that belies the heterogeneity of ageing persons
 - Recognises that the experience of ageing is diverse and shaped by many distinct and intersecting factors
 - Promote respect for older persons, including the importance of combatting ageism in all its manifestations, including its various causes and drivers,
 - Provide protections for older persons against the myriads of human rights violations that they experience across all settings
 - Celebrate the inherent value of older persons to themselves, their families, their communities and society
 - Stress the importance of positive ageing, personal and relational wellbeing, and of intergenerational dialogue and understanding
 - Identify and reinforce the central importance of autonomy, independence and full legal personhood (including legal capacity)
 - Revere the existence of elderhood including its centrality to indigenous and other cultural self-determination
 - Promote age-friendly environments and other accommodations as a minimum baseline for intervention against obstacles and barriers
 - Promote the positive aspects of older age including retirement, leisure⁸ and health
35. The UN Principles for Older Persons are also resonant with references to independence, participation, self-fulfilment and dignity. The elevation of these principles has been largely ignored – even so they remain meaningful.
36. How the objects can be achieved might consider CRPD article 3 as a starting point by reflecting the following or similar positive obligations:

⁸ Karev I, Doron II. The Human Right to Leisure in Old Age: Reinforcement of the Rights of an Aging Population. J Aging Soc Policy. 2017 May-Jun;29(3):276-295. doi: 10.1080/08959420.2016.1261388. Epub 2016 Nov 23. PMID: 27880089.

- Legislating and implementing laws and policies to give effect to rights and ensure consistent application throughout provincial jurisdictions
 - Removing or changing ageist and discriminatory laws, policies, customs, and practices
 - Eliminating ageism, discrimination, violence, abuse, exploitation and neglect by the state and private actors
 - Ensuring older persons' rights are integrated into all government policies and programs
 - Ensuring government bodies and those contracted by government comply with the instrument
 - Promoting universal design, assistive technologies, and accessible information, including affordable and emerging technologies
 - Supporting training and awareness for people and institutions working with older persons
 - Progressively realising economic, social, and cultural rights using maximum available resources, while recognising some obligations apply immediately
 - Requiring close consultation and active involvement of older persons in law and policymaking
 - Ensuring the instrument does not reduce existing protections and that higher standards in domestic or international law still apply.
 - Applying obligations across all levels of government in federal systems without exception.
37. A significant challenge for the instrument is to ensure that the framework is established by language that avoids a deficit approach; rather the instrument must recognise through positive and aspirational obligations that such a deficit framing has been a key driver of human rights violations against older persons over time.
38. In this regard, GAROP suggests:
- The treaty should be based on a holistic conception of older persons as rightsholders who have a right to full legal personhood (including the enjoyment of full legal capacity), who are full participants in their societies and who are entitled to enjoy the full range of human rights and fundamental freedoms guaranteed under international, regional and national law.⁹*
- 1.2. Additionally, how can it best reflect and reinforce the recognition that older persons are rights-holders entitled to the full and equal enjoyment of all human rights and fundamental freedoms?**
39. The instrument should not contain a general limitation clause.¹⁰
40. It is apparent that the scope and impact for rightsholders are nullified when broad justifications for limiting human rights are applied in domestic laws. The use of positive duties and obligations within the framework of rights will consolidate those guarantees.

⁹ See paragraph 12.

¹⁰ For example, art.4 of ICESCR

41. CLCA cautions that the instrument’s text must be carefully drafted to ensure the articulation of rights does not contain internally limiting or deficit language.¹¹
42. Further, CLCA submits that drafting should avoid a compromise position where ‘tight’ restrictions and conditions apply to mitigate circumstances where limitations are conceived or allowed.¹² Such arrangements lead to diminution of rights-guarantees and create added complexity within domestic laws.¹³
43. The instrument should be drafted so rights are non-derogable. Many of the circumstances that give rise to violations of older persons’ human rights are already recognised, either explicitly or in practice, as non-derogable under other treaties. That rights are non-derogable should be explicitly stated wherever possible.
44. The inclusion of clear articles on equality and non-discrimination including a positive duty to take steps to ensure reasonable accommodations or adjustments will also provide a mitigating role against limitations which may not be proportionate. This should be carefully considered, including considering any commentary on how reasonable accommodations clauses could be enhanced. Language that limits or qualifies the positive duty should be avoided.
45. CLCA contends that principles for special or specific measures to accelerate or achieve equality should be included.

2.1. What core principles should underpin the legally binding instrument, to ensure it effectively protects the rights of older persons?

46. We suggest that the core principles should include the general principles outlined by GAROP¹⁴ and those outlined above.
47. We now provide some examples of older potential rightsholders in Australia to illustrate the need for the framework to ensure effective coverage and realisation. The framing of rights must establish a positive duty to address these issues through positive values supported by strong articulations of human rights.
48. For older persons living in Australia, the framework, including purpose, objects and principles must recognise and address the distinctive, but not unique, intersections that compound the effects of discrimination, such as between ageism/remoteness and ageism/racism.¹⁵

¹¹ For example, ICCPR arts 4 (Emergency), 12 (Free movement), 19 (opinion and expression), 21 (assembly), 22 (association).

¹² We note the Inter-American Convention allows limited, tightly controlled restrictions embedded within specific rights, subject to strict requirements of legality, necessity, proportionality, and non-discrimination.

¹³ Australia’s *Age Discrimination Act 2004* (C’t) can be regarded as the weakest of Australia’s federal discrimination laws. The ADA includes a suite of limitations, exemptions, and defences that significantly qualify how the rights operate in practice.

¹⁴ See paragraph 40.

¹⁵ See for example the idea of “rageism” which combines ageism and racism: Cummings MR. Rageism: racism, ageism, and the quest for liberation democracy. *Innov Aging*. 2024 Dec 31;8(Suppl 1):58. doi: 10.1093/geroni/igae098.0180. PMID: PMC11688723.

49. Older persons may experience various forms of discrimination over their life course, which accumulate in an experience of systemic disadvantage leading to poor health outcomes, longer periods of morbidity and ultimately reduced life expectancy.
50. For example, older First Nations women may experience the impacts of colonisation (and associated inequality and trauma) as well as a conglomerate of sexism, gender-based violence, racism, ableism, geographical discrimination, and ageism.
51. Alternatively, an older person may have experienced lifetime repeat and polyvictimisation,¹⁶ including institutional child abuse, domestic and family violence, and ageism. Their experience of violence, abuse and neglect may have a multiplicity of settings and perpetrators.

Older Persons in Rural and Remote Areas

52. Regionality and remoteness is a barrier to human rights guarantees in metrocentric human rights norms, structures and mechanisms. 1 in 3 older Australians lived in regional, remote or very remote areas (areas outside major cities) – a larger proportion of any other age cohort.¹⁷
53. Older persons in these areas experience a range of structural barriers impacting their rights to justice, employment, health, housing, social protections and care, including through mobility and transport barriers, social isolation and digital exclusion. Older persons living outside major cities were also more likely to be dependent on non-contributory social security pensions than those elsewhere.
54. Older persons living in these areas may also be prone to reduced standard of living during times of economic depression, including experiencing food and essential supply shortages.
55. In recognising this context,¹⁸ the instrument must address the ongoing disadvantage experienced by older persons in outlying areas, noting the likely diminution of rights guarantees unless a positive obligation reinforces universality.

Older First Nations People

56. The overarching framework must recognise the specific context of indigeneity and elderhood.¹⁹
57. Some essential themes have been identified, including that “[I]ndigenous Elderhood is not defined by age alone or physical health status, but rather by an older person’s commitment

¹⁶ Tompson, L., Simpson, A. J., & Wortley, R. (2026). Understanding poly-victimisation through an intersectional lens. *Journal of Criminology*, 0(0).

¹⁷ <https://www.aihw.gov.au/reports/older-people/older-australians/contents/population-groups-of-interest/regional-remote-communities>

¹⁸ We note the UN has addressed some of these conceptual underpinnings in A/HRC/39/12 - United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

¹⁹ See for example Huang YK, Braun KL. Elderhood and Healthy Aging from an Indigenous Perspective. *Int J Environ Res Public Health*. 2025 Jan 18;22(1):123. doi: 10.3390/ijerph22010123. PMID: 39857576; PMCID: PMC11765160.

to preserving and transmitting Indigenous culture, continuing to contribute to family and community, and providing a vision for the future based on tradition.”²⁰

58. Older First Nations people are central in family and community life, holding important roles and responsibilities that support the social and emotional wellbeing of families and community.²¹ They experience complex and intersecting lifelong health, social and disability conditions. These conditions are often a result of the harsh political and historical contexts, like the direct consequences of colonisation, racism and marginalisation.²²
59. Older First Nations’ people have unique human rights needs that reflect their distinctive and diverse spiritual, material and economic relationship with the lands, territories, waters, coastal seas and other resources with which they have a connection under Aboriginal tradition and Torres Strait Ailan Kastom.²³
60. In recognising this context, the instrument must ensure that the framework acknowledges that rights will only flourish under structures that privilege partnerships with older First Nations people, that recognise and combat intersectional discrimination, and that are co-designed, culturally safe, trauma-informed, self-determined and integrated.²⁴ The instrument must also recognise distinctive models of philosophy of care (including intergenerational reciprocal care) and cultural governance structures.²⁵
61. Older First Nations peoples’ participation is also critical to ensure inputs that addresses the intersectional barriers to their self-determination in the context of their ‘older age’.²⁶

2.2. In addition, how can the legally binding instrument both reaffirm existing human rights for older persons and clearly identify and address gaps where further normative development is required?

62. The text of the instrument should establish timeless, broad adaptive concepts rather than rigid definitions. The instrument should include principles with transformative intent.

²⁰ Ibid, p.13.

²¹ <https://www.aihw.gov.au/reports/indigenous-mental-health-suicide-prevention/flourishing-in-later-life-promoting-older-aborigin/abstract>

²² Gibson C, Godwin S, Radford K and Stanley D 2025. Flourishing in later life: promoting older Aboriginal and Torres Strait Islander peoples’ mental health and suicide prevention, catalogue number IMH 28, AIHW, Australian Government.

²³ ‘Ailan Kastom’ is “The cultural identity of Torres Strait’s traditional inhabitants is expressed and maintained through Ailan Kastom (Island Custom) and Aboriginal Law/Lore – the system of knowledge, traditions, laws, protocols, and practices that maintain Torres Strait Islander and Aboriginal peoples’ relationships to others and their connections to country.” <https://torresstraitsoe.org.au/people/ailan-kastom/>

²⁴ Gibson C, Godwin S, Radford K and Stanley D 2025. Flourishing in later life: promoting older Aboriginal and Torres Strait Islander peoples’ mental health and suicide prevention, catalogue number IMH 28, AIHW, Australian Government, viii.

²⁵ Ibid.

²⁶ See for example: First Nations Aged Care Commissioner, Transforming Aged Care for Aboriginal and Torres Strait Islander people - Report from the Interim First Nations Aged Care Commissioner, November 2024, <https://www.health.gov.au/sites/default/files/2025-05/transforming-aged-care-for-aboriginal-and-torres-strait-islander-people.pdf>

63. The instrument should include mechanisms for identifying necessary further normative development through the inclusion of:
- A monitoring body with powers to provide general comments and undertake monitoring in member states;
 - Individual complaint mechanisms, including, if necessary, by optional protocol;
 - Other special procedures, including on thematic issues akin to the Council's Social Forum or the General Assembly's Open-ended Working Group on Aging, allowing for cross-fertilisation of normative expertise with and between other treaty bodies and special procedures mandate holders;
 - Data monitoring with associated participatory mechanisms to identify new and evolving normative issues
3. **What overall structure or architecture should the legally binding instrument adopt to ensure clarity and effectiveness? For example, should it include a preamble, definitions, general principles, general obligations, specific rights, and implementation provisions?**
64. CLCA agrees with GAROP's suggested starting point for a structure.²⁷

Wednesday, 22 April 2026

Community Legal Centres Australia



Acknowledgement of Country

Community Legal Centres Australia acknowledges the traditional owners of the lands across Australia and particularly acknowledges the Gadigal people of the Eora Nation, traditional owners of the land on which the Community Legal Centres Australia office is situated. We pay deep respect to Elders past, present and emerging.

Community Legal Centres Australia is inclusive of everyone in our community

Community Legal Centres Australia is a proudly inclusive organisation and an ally of the LGBTIQ+ community and the movement toward equality.

Transmitted by email to: OHCHR-SecretariatIGWGOlderPersons@un.org

²⁷ See pages 8-11.