**The Rights of Older Persons Tomorrow**

**Remarks by Gerard Quinn, Special Rapporteur on the rights of persons with disabilities, on the issue of a proposed international treaty on the rights of older persons**

22 February 2022

I want to share with you three reflections on the rights of older persons.

I do so from my perspective as UN Special Rapporteur on the rights of persons with disabilities, and someone profoundly interested in intersectional perspectives on human rights.

**Firstly,** let me recall what we were against when drafting the Convention on the Rights of Persons with Disabilities (CRPD). The core problem was invisibility of the person with a disability: Invisibility in law, invisibility in policy, invisibility in culture.

Put another way around, the very humanity or personhood of persons with disabilities was implicitly discounted. Disability acted as a cloaking device to conceal the person. Perversely, equality law at that time sealed this invisibility into place. ‘Material differences’ between persons deemed different sets of rules appropriate for persons with disabilities. But how, or who, you see as different? Culture and prejudice weigh that process down heavily.

Persons with disabilities were subtly problematised because of their difference, and we needed to state that no person is a problem, all persons have rights.

I see a similar form of problematisation of older persons. Whereas the invisibility of persons with disabilities kicked in from the outset, older persons become invisible as time moves forward. But the net effect is similar. Suddenly, they are deemed responsible for their own inability to live in the community, and the inadequacy of social arrangements to enable that to happen is relegated in importance. Invisibility and problematisation render these fundamental questions about social support as secondary.

**Secondly, the key anchorage point of the UN CRPD turned out to be personhood.** We expected that securing equal rights of all persons regardless with disabilities was enough, but civil society rightly disabused us of that. After all, inequality is likely to re-surface again and again if the core problem of lack personhood is not dealt with.

One result of the “problematisation” was social support systems that entrapped people with disabilities, instead of supporting them. Economic and social rights needed to be reinvigorated—or reinvented--to underpin liberty rights instead of undermining them. That is why issues like legal capacity, human autonomy and community living came to the fore. You might say they lie at the very foundation of the CRPD treaty.

To my mind, something similar is needed with respect to older persons lest extremely outdated social arrangements continue to lock into place their invisibility.

**Last but not least, the overlap between disability and old age maybe significant – but not complete**. Many older persons are treated negatively because they have a medical condition or disability. To the extent that they are, they stand to benefit from the protections afforded by the CRPD. But their relative invisibility has broader and deeper roots beyond disability. One will not be able to get at the root of this through the lily pad of disability alone.

Many human rights instruments will be relevant – especially as they touch on overlapping identities. They all represent windows onto the rights of older persons. But all of them, even when powerfully combined, cannot really get at the underlying or driving forces for ageism. For that, a separate instrument is needed.

**In conclusion: we did not argue for a disability treaty so that it could be a stand-alone and isolated piece of specialist law**. We argued for it because it could animate the entire web of treaties as they bear on disability. That transformative potential has largely worked, and that’s what is needed too with respect to the rights of older persons. We should not think of it as ‘another human rights instrument,’ but rather as a needed antidote to ageism and a transformative tool elevating the entire UN human rights system.