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18th session of the Human Rights Council

Panel on the realization of the right to health of older persons

Statement by Mr. Anand Grover

**Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health**

16 September 2011
Geneva



**Madame President,
Distinguished Delegates,
Ladies and Gentlemen,**

I am pleased to share with you the work I have carried out in pursuance of this Council's resolution 15/22, which requested that I prepare a thematic study on the realization of the right to health of older persons.

In that context, I invited States, relevant United Nations agencies, national human rights institutions and other relevant stakeholders to submit information and comments on the primary challenges and best practices with respect to the realization of the right to health of older persons. In response, I received submissions from more than 60 States, IGOs, NGOs and NHRIs, in preparation of the study.

On 7 April 2011, I convened an expert meeting in Geneva in order to discuss the health challenges posed by an ageing population and explore methods by which they could be addressed from a human rights perspective. The main issues considered during this meeting included primary health care and chronic illnesses; legal capacity and informed consent; palliative care; and home support and institutional care, which were subsequently made focus areas of my study. Following this meeting, I held a public consultation on at the Palais des Nations on 8 April 2011, which further provided me with an opportunity to engage in an open dialogue with representatives of nearly 30 States and international organizations.

I greatly appreciate the high level of participation by States and other stakeholders throughout this process and in the examination of what is often perceived to be a marginal area in human rights.

Madame President,

My thematic study (contained in A/HRC/18/37) examines the growing importance of the right to health as it relates to older persons and explores challenges relating to realization of this right,

which will increase dramatically in the future if left unaddressed. I would like to use this discussion to share with you some of the most important issues and recommendations that emerged from the study.

As the High Commissioner reiterated earlier, a rapidly ageing world population presents significant challenges for the global community, including the full enjoyment of human rights of older persons. Despite this impending demographic shift, there is currently no international instrument specifically concerning older persons' rights. Older persons are regularly discriminated against, and their particular needs often remain unrecognized partially due to this lacuna. Discrimination against the elderly may take a number of forms, many of which result in violations of the right to health.

Unfortunately, older persons have occasionally been considered a “social burden”, reliant on public or private charity to address their needs. I believe that is strongly misguided conception of the elderly. Older persons must be viewed as rights-holders who may, at times, require support in order to claim their rights in a fashion similar to other populations. Failure to recognize **older persons as rights-holders** may lead to continued prejudice and discrimination against them with profound consequences for their future health and welfare. In the study, I recommend implementing a right to health framework with respect to older persons in order to ensure that the discourse shifts from a needs-based to a human rights-based approach. Doing so will enable greater realization of the right to health of older persons.

The enjoyment of the right to health is not age-dependent. It does not cease to exist once a person reaches a certain age. I consider **the right-to-health approach as indispensable** to the design, implementation, monitoring and evaluation of health-related policies and programmes, in order to mitigate the consequences of an ageing society, and to ensure the enjoyment of this human right by older persons. Accordingly, health facilities, goods and services should be made available, accessible, affordable, acceptable and be of good quality for older persons. States should take immediate measures to ensure that older persons receive age-friendly health care of a quality commensurate with that provided for other groups.

The right-to-health approach should be accompanied further by a **paradigm shift** in our perception of ageing and older persons. We should move beyond striving only for healthful ageing and, instead, work towards a broader conception of ageing that is **active and dignified**, and which should be planned and supported in a manner similar to any other stage of life. In order to fully realize the right to health of older persons, we must focus on the continued participation of older persons in the social, economic, cultural, political and civic life of society.

Distinguished delegates,

As life expectancy increases, older persons will stay active longer than ever before both in terms of occupational and non-occupational activities. I, and other experts in the field, suggest that encouraging older persons **to remain physically, politically, socially and economically active** for as long as possible will benefit not only the individual, but also society as a whole. My study therefore recommends recognizing ageing as a **lifelong process**, and reflecting this idea in policy, legislation and resource allocation, in order to allow healthcare services to promote healthy and dignified ageing.

What also emerged strongly from the study is a belief that States should allocate **more resources to the provision of geriatric healthcare** and ensure that all healthcare workers, irrespective of specialty or profession, are adequately trained to understand the right to health and appropriately deal with particular health issues that may arise from ageing. This is to ensure that they interact with elderly patients in an appropriate, considerate and non-discriminatory manner.

As chronic illnesses and disability often increases with advancing age, **primary care** is generally the most appropriate point of coordination for the health-related needs of older persons, given its centrality to monitoring health, and preventing and/or managing chronic conditions. As such, ensuring equitable access to quality primary health care that addresses the specific needs of the elderly is a core requirement in realizing the right to health of older persons.

Palliative care is another aspect of health care which disproportionately affects older persons. Palliative care and treatment for the reduction of long-term or chronic pain is a necessary

component of the right to health, but it unfortunately remains a generally neglected area. In particular, access to palliative care in the developing world is substantially limited due to lack of knowledge and education around palliative care and insufficient access to analgesic medicines necessary for the control of pain.

Long-term home and institutional care is also an issue that particularly affects older persons. As greater numbers of older persons enter institutional care or formal home care arrangements, I am concerned about **reported and unreported violence** directed against older persons while in such care. Special attention is needed to protect older persons from abuse and to ensure that their rights are not violated in settings where they might be especially prone to violations. My report recommends establishing **a system of social protection** that affords older persons access to long-term care, whether institutional or home-based, and which would also ensure that abuse or violations of rights do not take place. I also urge putting in place policies and procedures for reporting, addressing and preventing abuse of older persons.

The issue of **informed consent** for treatment of older persons is becoming increasingly important. Older persons are often taken advantage of due to perceived ignorance and helplessness, as well as actual physical or mental frailty resulting in decreased ability. Older persons more frequently face situations in which informed consent may be necessary, and the possibility of infringement and abuse is therefore greater. International guidelines and national systems should therefore be developed to regulate these practices and ensure that older people are supported in making informed health-care decisions. I recommend establishing and implementing **safeguards to ensure that free and informed consent** is required for any treatment or medical intervention, and that this is guaranteed to all patients, whatever their age, condition and treatment proposed.

Finally, I consider that **increasing rights-related awareness and empowering** older persons necessary in order to strengthen their participation in health policymaking and promote networks of older persons. I therefore encourage establishing and supporting **organizations of older persons** in order to ensure their participation in the development and improvement of social protection and healthcare, which recognizes and ensures the enjoyment of the right to health.

Madame President,

I would like to conclude my statement and welcome further discussion of how we best can promote and protect the right to health of older persons.

Thank you.