**Multi-stakeholder meeting on the human rights of older persons**

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**Session 1: Limitations and gaps of selected human rights norms and obligations**

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**Full and equal participation in society, including digital participation**

Distinguished High Commissioner, Excellencies, Ladies and Gentlemen, dear colleagues and friends,

I am very grateful for the opportunity to speak here as a representative of older persons and their organisations.

And thank you, Madam Moderator, for this question, because there is a close connection between older persons’ right to participation and digitalisation.

The increasing penetration of all areas of life by digital media, products, services and systems, including automated decision making by artificial intelligence, affects everyone’s life – and it affects increasingly also older persons’ lives and their right to autonomously participate *in society as its full and equal members*.

As a comparatively new historical phenomenon, digitaliization and the human rights implications that may be associated with this development for older people have not yet been addressed in existing international human rights treaties.

Digitalization can significantly expand the opportunities for older people to participation. However, it can also severely impede them and thus violate the rights of older people in many areas.

**Rights touched on by digitalization:**

I would like to highlight a few examples of how older persons’ human rights are affected by digitalization and where protection gaps are most obvious:

First of all, I see **participation itself** **touched**.

Today, municipal services, banks, administrative procedures, delivery services, important information, cultural offerings, and health services are increasingly only accessible and usable by means of digital media.

Whether you can participate in this digitalised world increasingly depends on whether someone has the resources and competencies needed to access, afford, and use the digital opportunities – or whether he or she is excluded from essential areas of life.

In principle, this applies to people of all ages. However, older persons are affected to a much greater extent:

* The well-known causes of social inequality - low education and income, gender, generational and regional differences, disabilities, ethnicity, and multiple discrimination -, occur more frequently in older age and limit older persons’ resources to afford the necessary devices and applications.
* State pensions and social grants for older people do not provide sufficient income for older people to afford costs associated with digital participation.
* A huge gap in human rights law is the absence of an explicit obligation to eliminate ageism:
* Mandatory retirement ages and ageist practices, e.g., mean that many older people do not have access to digital skills building in the workplace.
* After they have left the workforce, they often lack the opportunity to acquire the currently necessary skills for dealing with the latest digital devices and systems because local governments do not provide enough appropriate, accessible and affordable learning and training opportunities for older people
* Due to the widespread ageism, older persons are largely regarded as too incapable of dealing with new technologies, as too clumsy, no longer capable of learning, uninterested in or hostile to technology. However, in no age group are physical, sensory or intellectual competencies, and individual experiences, needs and interests as different as in old age.
* The fact that most products and applications are developed by tech-savvy young men and not adapted to the possibly slightly different needs and abilities of older men and women has a particularly negative effect on older persons who are limited in their abilities and therefore are confronted with major barriers to using inappropriate digital products and services.
* States have failed to regulate technology companies to ensure that digital goods and services are accessible to all older persons and that digitalised sytems do not operate with ageist biases.
* States have also failed so far to create legal regulations for the security of digital devices and systems to protect older people from data misuse, privacy spying, fraud and exploitation by cybercrime.
* This problem is exacerbated if people suffer from cognitive impairments, mental disorders, or dementia.

All these gaps in the protection of the rights of older people to **participate in the opportunities offered by** scientific progress lead to the so-called Digital Divide, which subsequently leads to further infringements of their rights.

For instance, the pandemic made us aware of how crucial digital media are for older people’s **right to maintain private relationships or professional contacts and contact with the outside world in general**.

Their **right to information** is particularly salient in cases of risk and humanitarian emergencies when older people need to get the latest news about the current situation, about where you can get help or – as the pandemic showed – about relevant protection measures.

The **right to learning** is affected if learning opportunities for older people are only offered through online events such as Zoom-meetings or webinars.

**Health and health and care services and support through assistive devices and digital applications** are increasingly available **in digital form.**

E-Health and telemedicine, for instance, offer a wide range of applications, ranging from digital information and advice, video consultations, health promotion and prevention apps to self-monitoring for chronic diseases. This is of utmost importance especially in underserved areas.

If the digital preconditions are not available to older people, their respective rights are at risk. Hence, the implications of digitalization on the rights of older persons must be considered urgently in international human rights treaties.

**Article 15** of the International Covenant on Economic, Social and Cultural Rights, addressing **the right of everyone** **to enjoy the benefits of scientific progress and its applications, must apply also to older people.**

Government policies must be aimed at conquering the digital divides and guaranteeing digital equity to older people.

Every older person who wants or needs to use available technologies and services must be given the appropriate options for using them – including adequate learning opportunities and respective training programmes as media literacy is a prerequisite for a competent digital participation.

At the same time, the **right to remain offline** must also be guaranteed. Older people must have the **right to autonomously decide** whether they want to participate in the digital world, but they also must have the right to a life without using digital means – **according to their individual needs and preferences**.

Hence, older persons’ right to autonomy and independence in the era of digitalisation must be incorporated into international human rights treaties, norms and standards, resulting in a Convention for the rights of older persons.

*What underpins these human rights protection gaps? Are there fundamental conceptual limitations in the way this right is currently conceived or articulated in the international human rights framework?*

Digitisation is a historically relatively new phenomenon.

*(40 years ago, when the First World Assembly on Ageing adopted the Vienna International Plan of Action on Ageing, digital media and services did not play a significant role in public and private life yet.)*

In 2012, when the first Analytical study of the Office of the High Commissioner for Human Rights (OHCHR) was prepared, the changing framework conditions for public and private life in old age did not appear in this document.

Hence, it is no surprise that the authors of the 2021 Update OHCHR Analytical study found that there are no international treaties on digitization to secure the rights of older people.

*Quote:*

*„This emerging issue and its relevance of the human rights of older persons – indeed for human rights more generally – have not yet been addressed in any international human rights treaty.“*

However, the usual factors of inequality that have always existed (social class, age, gender, education, environment and multiple intersectionalities) determine not only access, but also the capacity to participate fully in the digital world.

The associated violations of older persons’ rights have not been addressed in human rights treaties.

The absence of an explicit obligation to eliminate ageism is another huge gap in human rights law.

Until today, those who are working on digital rights have failed to address ageism, age biases, age discrimination and exclusion of older people.

Therefore, I call on the HRC and Member States to finally close the gaps in international treaties to **secure older people’s rights to fully participate in society under the conditions of a digitalised world.**

***What can the Human Rights Council do to close these human rights protection gaps?***

*The possibility and ability of digital participation are the prerequisites for older people’s access to and participate in more and more essential areas of life.*

The existing shortcomings regarding the lack of digital infrastructure, the exclusion of marginalised and poorer people because of the costs, the manageability of digital devices and applications, their data security deficiencies, and the risks of threatening personal rights and compromising the older users' dignity have been discussed time and again for years.

Despite the existing guidelines and ethics codes, despite continuous calls to bridge the digital divide, and even despite many regional or topic specific laws, hardly anything has changed as a result.

Hence, based on **Article 15** of the International Covenant on Economic, Social and Cultural Rights, **the right of everyone** **to enjoy the benefits of scientific progress and its applications,** my call to the Human Rights Council is

to recognize that digitalization and their implications and possible violations for older persons’ rights are not covered by existing instruments or treaty bodies.

As digitalization affects many different areas and rights of older persons, an overarching framework is needed that addresses both the **right to digital inclusion and right to abstain from using digital means, according to a person’s needs, preferences and autonomous decisions.**

*„A new normative instrument on the rights of older persons would provide an opportunity to address these issues.“ (OHCHR Analytical study, 2021)*

Therefore, as a member of an older persons’ organisation and an older person myself I call on the HRC and Member States to start drafting a UN Convention so that we can age with rights **in the era of digitalization**.