
# Human Rights in An Ageing World:

## Perspectives from around the world

# ILC UK

## Introduction

**The 1948 Universal Declaration of Human Rights was a direct response to the atrocities of World War 2. Appropriately, it was Europe that took an early lead by creating the first human rights treaty in the world, the European Convention on Human Rights and Fundamental Freedoms (ECHR), which came into force in 1953. It established the first mechanisms for bringing complaints on an international basis.**

The UK was late in adopting the ECHR, incorporating it into UK law only in 1999 with the Human Rights Act. Throughout the 1980s Britain was the source of more cases brought under the ECHR than any other country bar Turkey, so adoption of the Convention was long overdue. We are still in the infancy of the Human Rights Act, and there is much work to be done to embed the culture of 'rights for real' in public policy; in the words of the former Secretary of State for Constitutional Affairs, Lord Falconer **"…all human beings should be treated with respect, equality and fairness. These principles, I believe, are the foundation of an equal, fair and civil society".**

We have fought for a long time, and against the odds, for a better deal for older people, in pension provision, equality of opportunity, equality of access to health and social care, the right to be treated at the same standards as other age groups.

But there persists the perception that older people are a separate and distinct group, however, with issues still presented in terms of the 'crisis' of an ageing population, the 'burden' the 'costs' of which devolve on to the younger employed.

The implications of ageing across the generations are only now starting to impact seriously on the political agenda in the UK. There are encouraging signs that policy makers are beginning to accept the need for strategic investment to enable people to contribute productively at all levels in society for as long as possible.

In his first Cabinet, Gordon Brown has created an Equalities Minister, who has announced that one of her priorities for action will be support for families that care for older members. In health care, for example, the NHS programme 'Tackling Health Inequalities' focuses on spearhead areas of the greatest health and social deprivation, containing some 44% of the BME population of England (percentage of total population 28%).

This year is a pivotal moment in the evolution of policy in the UK, with the advent, in October, of the new Commission for Equality and Human Rights. It will bring together in one organisation all the previously separate strands – gender, race, disability, and for the first time, age and faith. It will produce a 3-yearly report on human rights that will be laid before Parliament, independent of any Government Minister.

Something of 'hierarchy of equality' has evolved in the past 30 years, with some groups more successful than others at challenging discrimination – often because it happened within the workplace. The Equality Review, however, earlier this year, highlighted the multiple inequalities experienced by women from ethnic minorities, for instance, showing that the picture is now one of multiple and complex inequality.

Our aspirations for a society at ease with diversity, and at ease with its ageing, will throw up new and pressing challenges. It may not always be possible to deliver equality alongside human rights. In the UK, as with other European countries, debate on faith issues, particularly at the militant extreme, suggest fundamental schisms about the very concept of equality and adherence to human rights.

Faith comes under the category of qualified rights, which can be restricted in order to protect the rights of others or the interests of the wider community, so long as any restriction is proportionate and has a legitimate aim. It will be interesting to see how this plays out in practice.

The changing relative sizes and evolving roles of the different generations will challenge the current intergenerational balance and the arrangements which have delivered social cohesion for many years are being called into question. There are common trends across the EU: a declining number of marriages, with people marrying at a later age; rising numbers of divorce; fewer children being born and those to older parents; more single-parent households, with a third of them encountering poverty and social deprivation; more than 12% of the EU population lives alone.

We must work towards a new intergenerational balance that invests in the young and provides more support to families while encouraging the older generations to remain active. The CEHR should provide the ideal mechanism for establishing, and advancing, the idea that we must maximise, and protect, the potential of every individual; it could, in time, drive a gradual shift in perceptions about ageing and inter-generational relationships. Only in this way can we achieve social cohesion and deliver lasting human rights at all levels of our society.

## Pensions

It is recognised that the state retirement pension (SRP) system, long one of the cornerstones of the post-war British welfare state, is unsustainable in its current form. The Pensions Bill 2007 marks a welcome recognition that time spent caring will qualify for SRP; this, and the reduction of the qualifying period to 30 years are reforms of particular benefit to women. However, there is still concern about the level of pensions saving generally, in particular amongst younger workers, and the disproportionate dependence on housing as an asset for later life.

Income is a key determinant of life expectancy, and under our human rights provisions there is an absolute right to life. Is there, therefore, a human right to as long a lifespan as possible? In UK, socio-economic factors underpin a ten year difference between the life expectancy of a middle class man in the south east and a manual worker in Scotland. Rights do not exist without responsibilities, so whose responsibility is it to ensure we reach our maximum potential lifespan? By what mechanisms do we remove such disparities? As the Government has raised the qualifying age for state pension, these issues bite in a very real way.

## Social Care and Health

Our system of funding long term care is equally acknowledged to be unsustainable, and creates artificial distinctions between what is health care and what is social care. In human rights terms, the distinction is irrelevant for someone in need of a bed bath, or help with eating. Recent Government initiatives, such as the Dignity in Care campaign, 2006, are very welcome, but as yet there has been no injection of money into social care equivalent to that received by the NHS in recent years.

Recently the UK Parliament's Joint Committee for Human Rights produced a report 'Older People and Healthcare' citing over a fifth of care facilities failing to meet even minimum standards: an entire 'culture change' is needed, the committee concludes.

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Argentina
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Indeed. A test case on social care has highlighted a critical example of the Human Rights Act in practice. Private care homes were judged to be exempt from the Act as falling outside the definition of 'public authority', despite most of their funding coming through public channels. This left the majority of older people receiving care unprotected by the Act. The Government should have legislated at the outset but has preferred to leave it to the courts to determine an outcome, and it has rumbled on now for over two years. The legal chess game may in the long term be the best way of producing a durable result, but in the meantime vulnerable people are left in a wholly unacceptable limbo.

Within the NHS, the National Service Framework, 2001, set standards across the health service, tackling age discrimination and provision of services on basis of need as sole criterion. Charging policies should be 'demonstrably fair' – but this aim has no force of law and is difficult to challenge.

The UK is confronting a major cultural shift towards funding of essential services in health and social care. Public spending curbs have brought us inexorably to rationing: the National Institute for Health and Clinical Excellence (NIHCE) was created to bypass 'postcode prescribing' yet has created new ethical dilemmas about allocation of scarce resources. Some key pressure points are already obvious, with huge implications for the rights of older people. Prescribing drugs according to cost-effectiveness may be the opposite of the rights-based approach: decisions can condemn patients to deteriorate before the drug will be prescribed, as is the case with Aricept for dementia patients. Such crude calculations also ignore the wider social cost of carers lost to the labour market, and the impact of course on their health and rights. Quality Adjusted Life Years (QALYs), even when adjusted, militate against older people because the core criterion is 'how long will they live?'. Budgetary limitations on care home funding can lead to couples being separated, or having to move from somewhere they have become settled.

It is useful to compare the priority given by social services departments to children, where the 'the best interests of the child' is the guiding principle, with the relative lack of attention to older people's services. We need to shift focus from 'what standards can be delivered within this budget' to 'what standards meet human rights'. If we continue to see failures in terms of under-funding the more fundamental issue will continue to be ignored.

The main users of health care and help in daily living activities are old people who have reached the end of their life span. Thus, future needs for health and social care, and thus the main area in which human rights will be exercised, will primarily depend on the number of people entering the final phase of their life. There have been several attempts to legislate in the UK in recent years on the issue of assisted dying. Other European countries have evolved workable policy on this sensitive area, but in the UK we seem to have difficulty acknowledging the organic nature of death – a life stage like any other – and in placing the dignity and autonomy of the patient centre-stage. A human rights approach offers the opportunity to move the debate on from a medico-legal dilemma to one focussed on the dignity and rights of the person nearing death.

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## Discrimination

Human rights can be breached either by direct or indirect action, or direct and indirect discrimination.

It can be di f cult to prove ageism in health, given the problem of co-morbidity. Doctors do and should advise against futile treatment, or that which may harm the patient. But the fact that over 65s are excluded from mainstream mental health services, for example, is clearly discriminatory. It is essential that decisions are based on assessment of the individual and not generalisations about age or 'likely' outcomes.

Age barriers are more often implicit than explicit. They exist through deeply-entrenched behaviours and attitudes towards older people, often based on generalised assumptions about individuals' ability to bene f t or capacity to perform an action. The EU Directive on age discrimination in employment is now implemented in the UK but we have yet to tackle discrimination in goods and services, which will be a much more di f cult arena.

Key areas such as insurance to drive, and travel should be based on capacity, not age. Drivers under the age of 25 are responsible for many times the number of accidents (and, sadly, fatalities) than any other age group, yet it is never seriously proposed to limit their right to drive. Women have fought for equal treatment but longer lifespan means more expensive annuities. The UK rejected the EU Commission's proposal to equalise treatment between men and women until life expectancies are more in line.

A Single Equality Bill is due to be brought in this autumn, to simplify and modernise existing anti-discrimination law. It must include greater protection for older people.

## Labour market, assets, inter-generational contract.

There are still barriers to workforce participation, despite legislation such as the Work and Families Act which gives people the right to request f exible working around care responsibilities, and the enactment of the EU Directive on age discrimination. Arguably a society serious about respecting the capacities of each age group to contribute would have made it a right to receive f exible working, not just to request it.

Research published by ILC UK in August 2007 highlights the increasing use of property as means of asset-building. This has led to much higher borrowing, and consequently less money put into pensions, savings and other f nancial products intended to meet needs of older life.

At the same time there has been a large transfer of illiquid wealth, in the form of property values, from the young to middle aged groups.

An inter-generational contract underpins both the NHS and the pension system in UK, with most cost being borne by people of working age. This may now be at risk both because of the escalating property market, and rising personal debt. Younger groups are comfortable with high levels of debt: ability to borrow, and relatively low cost of borrowing, drives asset accumulation and also distorts career choice; 'living with debt' is built in to calculations about career and family formation. Across Europe, young people tend to stay longer in their parental home compared to previous generations, from 18% of 25-29 year olds in the UK to as many as 56% of Italian young people. This could be due to more years being spent in education, and poorer opportunities for younger people in labour and housing markets which make it more di f cult for them to set up their own household.

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Within families, grandparents are playing an ever more crucial role. Recent research suggests a figure of £6.8bn is saved by using grandparents as child-minders.

If our aim is to maintain a cohesive society in which the rights of all generations are protected, the legitimacy of the inter-generational contract is vital; policymakers must monitor and evaluate when the challenge to this legitimacy becomes so severe as to warrant a response.

## Migration

Europe has seen enormous economic and demographic change over the past 25 years, resulting in much greater workforce participation by women. This drives inward migration, in domestic service, care services, and food production, with serious implications for the source countries, in many of which basic human rights are more precarious to start with, and the mechanisms to defend them scant or non-existent. Traditional social and family structures are undermined by the labour migration of the principal wage earners, often placing a heavy burden on older generations. We who benefit must be sensitive to the unintended consequences of the migration flow northwards: it is not, as it is often portrayed, a simple win/win economic equation if, for example, 2/3 of the women in South America work outside their country of domicile.

## Close

We increasingly recognise that we live in an inter-dependent world. As history of the 20th century – and particularly Europe's - shows, nothing endangers the most fundamental human rights more effectively than rapid economic and social destabilisation.

A rights-based approach can shift emphasis from people as passive recipients of remote services to individuals active in shaping the services they need, and accepting of responsibility for them. It has the potential to transform our public service landscape in the UK.

But a note of caution. We are a long way from a pro-human rights culture in Britain: public scepticism is due partly to some headline-grabbing test cases and the distorting effect of immigration, security and terrorism judgements, wherein convicted criminals and others whose presence in the UK is certainly not, in the traditional phrase, 'conducive to the public good', have nevertheless been rewarded, in effect, with continued residency here after successfully raising HR challenges to their removal (and to detention). I doubt very much whether the public will be convinced that policy-makers are serious about defending their 'rights for real' unless this paradox can be resolved.

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Baroness Greengross has been a crossbench (independent) member of the House of Lords since 2000. She is a member of the Lords Social and Consumer Affairs sub-committee G and chairs two All Party Parliamentary Groups: Corporate Social Responsibility and the group for Grandparents and Extended Kin.

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**Appendix:**
summary of ECHR articles (from 'Rights for Real')

**The European Convention on Human Rights: relevance to older people using public services**

| Convention Article | | Application to older people |
|---|---|---|
| Article 2 | Right to life | ■ Decisions about life-saving health care treatment<br>■ End of life issues<br>■ Deaths through negligence in hospitals and care homes |
| Article 3 | Prohibition of inhuman and degrading treatment | ■ Elder abuse |
| Article 5 | Right to liberty | ■ Restrictions on older people's movements in care homes |
| Article 6 | Right to a fair hearing | ■ Decision-making processes affecting services for older people |
| Article 8 (1) | Right to respect for private and family life, home and | ■ Decisions about care in old age (whether it is provided in the home, in a care home correspondence<br>■ Remaining with partner at home or in same care home<br>■ Effects of care home closure<br>■ Poor quality care falling short of degrading treatment<br>■ Consent to medical treatment<br>■ Adoption of grandchildren<br>■ Use of personal information |

# ILC South Africa

## Background

Under apartheid, South Africa had one of the worst human rights records. The majority of its citizens were disenfranchised on grounds of race and colour, and their human rights violated in numerous arenas. Older persons lived through the entire 44 years of apartheid, and the majority suffer the cumulative effects of racial discrimination and unequal access to resources and opportunities, and consequent socio-economic disadvantage. In April 1994, the first fully democratic elections voted an African National Congress (ANC)-led government into power, and the new Government set about right away redrafting legislation and reforming policy in virtually all arenas. In 1996 the country adopted a progressive new Constitution and Bill of Rights, which emphasises equitable human rights for all citizens. Several initiatives have contributed moreover to building a human rights culture for older persons.

In line with international human rights covenants and treaties, the Constitution and Bill of Rights include civil and political rights (CPR) and economic, social and cultural rights (ESCR). The Constitution and comprehensive legislation are aimed pertinently at combating unfair discrimination. However, while the Constitution prohibits age discrimination, it does not stipulate rights for older persons.

The ESCR cover a wide range of socio-economic rights, which the State is compelled to fulfil. The Government has a duty thus to provide a range of services to meet the socio-economic needs of the poorest and most vulnerable citizens, within the constraint of available resources. Its current strategic plan aims to promote the goals of sustainable development and to redress past imbalances, through a macro policy approach to service delivery that integrates socio-economic development.

Although specific new legislation exists to protect older persons' rights (the Older Persons Act 13 of 2006), gaps remain in the implementation of constitutional and legal provisions and practices in law. Older persons are not mentioned in the agendas of relevant strategies of any ministry, nor in poverty, development, HIV/AIDS and other national agendas. A main obstacle to the implementation of these rights is that the Government purportedly lacks financial resources. As the Government has an obligation to protect vulnerable citizens, it should prioritise resource allocation to ensure that older persons' rights are realised progressively and fully.

The South African Human Rights Commission (SAHRC), mandated to translate the Constitution's human rights vision into reality, notes that while some significant success has been achieved in the pursuit of equality, deep divides remain in human development: specifically, between rich and poor, black and white, old and young, and urban and rural areas.[1]

### Older persons and human rights

The majority of South Africans are poor and vulnerable and need protection and service provision. For them to enjoy spiritual fulfilment, freedom and material security, their CPR and ESCR need to be honoured. Only limited recognition of and access to their ESCR has materialised thus far, but the State does provide them social protection in the form of non-contributory, albeit means tested, social old age pensions. Eligible women age 60 years and over and men age 65 years and over receive monthly pension benefits of approximately US$120, as well as free or discounted health care at public sector facilities. A downside of the social pension programme however is that other vulnerabilities and responses needed tend to be sidelined.

**Note**

1. The authors have drawn in part on a key address, entitled "Developments in South Africa located in an African context: Bridging the divide between North and South," given by Jody Kollapen, Chairperson of the SAHRC, to the International Federation on Ageing 8th Global Conference, in Copenhagen, Denmark on May 30 – June 2, 2006.

# ILC South Africa

The *Madrid International Plan of Action on Ageing (2002) and the African Union's Policy Framework and Plan of Action on Ageing* (2003) provide a comprehensive framework for advancing older persons' rights and interests, and the Government has made some progress in implementing recommendations in the plans since the Second World Assembly on Ageing. However, most lobbying, law reform, social mobilisation, litigation and law making processes in the years following democracy paid little attention to older persons. Then, towards the end of the 1990s, the media began to expose the plight of older persons who are abused in their homes, communities or residential care facilities. In 2000 a Ministerial Committee of Inquiry report documented numerous instances of abuse, neglect and marginalisation, which stirred the social conscience of the nation and started a process which culminated in the enactment of specific legislation to protect older persons' rights.

The *Older Persons Act 13* of 2006 provides a comprehensive framework for the protection of older persons' rights and the creation of mechanisms and structures within communities, to ensure that their welfare and safety are safeguarded, their interests advanced and their status maintained. While the Act deals with the plight of vulnerable older persons effectively and prohibits abuse specifically, it aims additionally, through a developmental approach, to empower them by encouraging the initiation of programmes and services to advance their well-being and integration. Moreover, it provides for the protection of older persons' rights as recipients of services provided by the State and the regulation of state subsidised residential care facilities.

The Department of Social Development, which has primary responsibility for older persons' well-being, has come some way in ensuring that their dignity, safety and participation are protected – albeit under an "abuse," and therefore vulnerability, mantle. However, it has not foregrounded their rights to participate in development processes and share in the benefits of development – except rhetorically. Older persons continue to be viewed largely as welfare recipients and a "burden," or drain, on scarce resources, and not as a development resource. Nonetheless, their contributions to family and community life are being gradually acknowledged.

Other successes achieved relating to the advancement of older persons' rights include the establishment of the South African Older Persons' Forum in 2005, spearheaded by the SAHRC in partnership with stakeholders.

The Commission has contributed moreover to the development of "policy directions," although the country still lacks a national policy on ageing, and to the achievement of "commitment" from various government agencies responsible for older persons. But despite the efforts and new legislation, the situation of older persons has hardly improved visibly.

## Key issues

Numerous challenges faced by the country and citizens as a whole, such as underdevelopment, poverty, unemployment and the effects of HIV/AIDS, contribute to a lag in the realisation of older persons' rights. In addition, many experience the consequences of rural to urban migration of younger kin, or where they follow migrant kin, displacement at an urban destination. Older women, in particular, are often burdened with the care of grandchildren whose parents are absent, and increasingly they assume responsibility for the care of persons infected with or affected by HIV/AIDS. The majority live in poor housing and many have difficulty in accessing health care, or are dissatisfied with treatment they receive at public health care facilities. Many experience the family care responsibility they shoulder as a burden and perceive it as a violation of their human rights.

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# ILC South Africa

Institutional responses to the plight and needs of vulnerable older persons other than social protection have been less adequate. Public health care provision is unsatisfactory. The health system is currently deficient in numerous respects and experiences multiple strains due not only to a need to respond to the HIV/AIDS and tuberculosis epidemics, but also the need to cope with chronic staff shortages, low levels of worker satisfaction, inadequate resource allocation, and labour demands. Deficiencies include a shortage of trained health care workers, shortages of medications at clinics, long waiting periods for treatment, poor and inaccessible infrastructure, and a disregard for patients' rights. Health policy prioritises child and maternal care, and older persons' health care needs are marginalised. Their constitutional right to good quality health care is thus compromised because of biased policy and sectoral ills (a better word than ills?).

Another key area in which older persons are vulnerable to violation of their rights is gender inequality. In patriarchal African society, older women's rights to property inheritance are violated commonly and they are at risk of abuse, violence and exploitation. Although the constitutional and legal framework provides for the protection of their rights, African women in rural areas are subject to the vagaries and iniquities of customary law, or indigenous law and custom, buttressed by male dominated tribal authorities, and the application of statutory law in their case may be less systematic. Older widows are especially vulnerable to violation of their right to succession, and may be evicted from a deceased husband's house and land by male family figures and left destitute.

Although discrimination on grounds of age is outlawed constitutionally, older persons are discriminated against routinely and subjected to stereotypes, marginalisation and inequality in numerous arenas. One such arena is that of mandatory retirement age, pegged at age 60 or 65, or even younger. An older person has virtually no chance of being retained in, or re-entering, the formal labour force. While employment policies provide for the protection of a full range of workers' human rights, they notably fail to mention age discrimination. An issue being challenged at present is the alleged unconstitutionality of the exclusion of men age 60–64 years from eligibility for a social pension – viewed as discriminatory and an infringement of their right to social security, equality and human dignity. The relevant ministry is opposing a court order application to declare the regulation and act discriminatory (it is unwilling to allocate additional resources to meet the costs of pensions for men from a younger age), while human rights organisations are arguing that there is no justification for differentiation in the provision of social security benefts to men and women.

Other areas of potential or real violation of older persons' human rights may be identifed similarly.

## Changes and mechanisms needed

Despite a progressive Constitution and a comprehensive legal framework to protect older persons' rights, their needs are invariably accorded a lower priority to those of children and the youth in resource allocation. Institutional adjustments are indicated, as are changes in key policies required, to ensure that older persons' rights are honoured. Equally, older persons need to be enabled to assert their rights better, and to this end awareness raising and their continuing empowerment to know and exercise their rights are indicated. Older persons are not yet represented institutionally – at least, not effectively. The South African Older Persons Forum primarily offers itself as an association for non-government organisations (NGOs) that serve older persons, rather than as a platform and a voice for older persons as primary stakeholders. Nevertheless, it brings together

# ILC South Africa

structures, stakeholders, interest groups, the Government and civil society, to speak as a single structure, engage in dialogue, lobby, advance policy changes and law reform, and monitor matters affecting older persons.

NGOs have the capacity to mobilise and empower older persons to represent themselves and to advocate for the advancement of their rights and interests; they also have the power to enforce the State to implement ESCR to benefit older persons. Indeed, the non-justiciability (is this a word?) of ESCR should not be a barrier to their enforcement in courts of law; activism through several mechanisms can achieve new commitment and action on the part of the Government and its agencies to implement the rights. Much of what has been achieved thus far to improve older persons' situations has been due to NGOs' efforts; thus they constitute an effective mechanism for change in this regard.

Non-governmental organisations, the Government and older persons are therefore key agencies and actors to effect changes, in partnerships, towards strengthening a human rights culture and affording older persons a better deal, as well as constructing a more equitable society and achieving development goals inclusive of older persons in the processes. Finally, the SAHRC continues to have a central role in promoting the protection, development and attainment of older persons' rights and in monitoring and assessing observance of their rights; additionally, it advises the Government on steps it should take to meet its obligations and commitments to vulnerable older citizens.

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# ILC France

## Background

**The striking increase in longevity is a new venture of humanity and a privilege of our nations as long as the human rights of the ageing population remain respected. Recommendations based on the principles of human rights of the United Nations were elaborated by agencies within the UN and the council of Europe. But these organizations have no mandatory rights towards specific nations. Each country has to establish and to put into practice its own laws and polices.**

In 2001 a European group of specialists was mandated by the committee of European ministers to make recommendations for improving the quality of life of the elderly[1]. Their report argues in favor of a global approach to care (medical and social) that should be pluridisciplinary, accessible, and centered on the person whose personal choices and preferences should be respected.

Independently of the principles of human rights, scientifc studies demonstrated the same fnal objective in terms of quality of life for the elderly. Three elements are considered as necessary for guaranteeing a successful ageing[2,3]: the absence of disease and disabling conditions, maintaining physical and cognitive capacities, and the active involvement of seniors in society.
With this in mind, recent gains in life expectancy do not constitute gains in quality of life for seniors unless they are associated with satisfactory health, numerous interpersonal relationships and an ability to maintain a productive social role, which is usually thought of in terms of volunteer work in the community or family care giving, but it also includes participation in the labour market[4]. It has been demonstrated that the well-being of seniors depends to a great extent on their ability to play a role in the labour market when they choose to do so[5].

In France, in 2005[6], 21 percent of the 62 million inhabitants were 60 years old and over. The mean life expectancy at birth is continuously progressing up to nearly 78 years for men and nearly 85 years for women. As in other nations, there will be a continuous increase in the 65 +, 75 + and 85 + populations until 2020 but the percentage of the population under the age of 60 years, though decreasing, remains rather high, probably as a result of the maintained fertility ratio at 1.9, one of the highest in Europe.

France has one of the highest life expectancies and one of the highest healthy life expectancies within Europe. But all people do not enjoy this equally: in addition to the differences in life expectancy between men and women there are differences based on employment and geography. There is a five year difference in life expectancy at 60 between the white collar and blue collar workers and life expectancy at birth is five years lower in the North than in the Paris region. A very important factor in life expectancy is labour market activity with the risk of mortality of unemployed people being threefold higher than for the active population.

Paradoxically, France has the lowest rate of employment activity of older people. The recommendations that came out of the European Council in Stockholm in 2001 established an objective of employment rate of 50% for the 55-64 age group by the year 2010[7].

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# ILC France

In 2005, between 55 and 64 years of age, employment rates varied greatly between the European countries, ranging from 31.4% in Italy to 59.5 % in Denmark and 37.9% in France which still remains six points behind the European average (EU 15) of 44.1 % despite a recent trend upward[8].

If nothing is implemented before 2010 to increase employment activity of older people, the predictable consequence will be an alarming decrease in the worker to retiree ratio resulting in economic difficulties in funding pensions and the healthcare system. The risk of impoverishment of the elderly population will increase and put in danger the collective and individual rights to a successful healthy and active ageing.

In order to allow all elderly dependent persons to enjoy the same rights as any other citizen, the challenge of the French Policy on Successful Ageing is to simultaneously promote health and activity as a long term perspective.

The Government has therefore a double priority:

1. Promoting high quality Long Term Care systems at affordable costs for all age groups needing assistance either at home or in institution.
2. Improving social integration and activity of the healthy senior population.

## Promoting High Quality Long Term Care systems

The 2003 heat wave which resulted 15 000 deaths mainly among isolated elderly citizens raised awareness in the general population and policy makers on the issues and vulnerabilities of older people. This resulted in both the strengthening of existing policies and the introduction of new proposals.

1. **An Emergency Plan was drawn up:** Better coordination between the different State and regional services, an improvement in the alert systems, a reorganization of the emergency services and an attempt to identify vulnerable persons and, in particular, isolated elderly who are not usual care users.

   This plan intends, with specific adjustments, to cope with any emergency situation, heat waves or winter cold, terrorist attacks, bird influenza etc...

2. **Successive launches of laws favouring the elderly: the law "Vieillissement et Solidarité"[9] in 2004 complemented by the law "Solidarité- Grand Âge" in 2006[10]**

   One of the most important outcomes was the creation de novo of a new branch of the Social Security System. This branch covers the risk of dependency and offers part of the financing of long term care either at home or in institutions.

A new Agency was set up, called "Caisse Nationale de Solidarité pour l'autonomie", CNSA. It is financed by the Health System for medical costs (the Health System covers all persons living in France) and by a new system for the remaining costs: 9 billion € for the 2004-2008 period, funded not from general taxation or social-insurance type solution but from the revenue of an extra work day called "Solidarity Day" for all employees and a 0.3% tax for the employers. The CNSA is independent of any other agency and finances care needs of the dependant elderly and of the younger disabled persons. For example:

- The care costs of dependency (restrictions in Activity of Daily Living and social care such as housekeeping, meals on wheels etc...) either at home or in institutions through a specific allowance called APA (personalized allowance for autonomy). In 2006, 770,000 beneficiaries of this allowance were living at home and 210,000 institutionalized.

### References


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9. http://www.picardie.sante.gouv.fr/planvieil.htm
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India
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The maximal amount of money an individual could receive monthly is: 1,189, 80 € if in GIR 1 (the lowest grade of the autonomy scale called AGGIR); 1,019, 83 € if in GIR 2; 764,87 € if in GIR 3 and 509,91€ if in GIR 4. Besides the public funding provided by the agency, income-related co-payments are required. Board and lodging are not covered in nursing homes; users are charged according to their ability to pay,

- The improvement of services in nursing homes (hiring of nurses and nurses helps, social activities etc...).
- New nursing homes or new beds in existing ones (20,000 beds for the period 2004-2007).
- Day care and respite care units.

Total expenditures on Long Term Care represent a little more than 1% of GDP (15 billion €).

3. **A Geriatric Specialty** was established in September 2003 and a Geriatric University Plan was implemented in 2005 in order to double the number of Professors of Geriatrics from now to 2010. The objective was to improve the geriatric training of GPs, specialists, nursing home physicians, and all professionals taking care of frail elderly. In addition, geriatric acute care units are being set up in all hospitals with emergency wards, the number of rehabilitation beds is increasing and the hospital long term care units for patient with unstable severe chronic diseases will be better staffed and equipped. Networks between hospital care and community care are strongly recommended and financed.
4. **Shifting the balance toward home-based care is promoted by the government** and home services are expanding to give a choice to the older persons (Scénario du libre choix); the number of recipients is increasing by 4,000 each year. The contribution of a family member or other informal carers is often necessary and services to support carers include psychological assistance, specific information on care giving, day care centres and institutional temporary respite care.

   The creation of a new check system, 'chèque emploi service universel' (CESU), co-financed by employers and communities will also facilitate the payment of the social workers by the community. (can we find out how? Might be useful to say)
5. **An Alzheimer Plan[11] was implemented** to cope with the age-related increase in the prevalence of Alzheimer's disease and related disorders, which represent 70% of the causes of institutionalisation and 72% of the requests of the APA allowance. The Plan is aimed at raising the rate of early diagnosis (presently at 50%) by increasing the number of Memory Clinics (263 up to 600) and the number of Resources and Research Memory Centres (24 up to 40). The second objective is to train GPs, professionals, patients and caregivers, and to support families and informal carers (specific Alzheimer day care centres and respite care). Another important objective is to better fund research in all aspects of Alzheimer's disease.

In sum, these new measures should greatly improve the condition of the frail and dependent elderly.

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11. http://www.sante.gouv.fr/htm/actu/alzheimerpresse/accueil_dp.htm



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India
Japan
Netherlands
Argentina
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**Changing the image of ageing and promoting the social integration of the healthy senior citizens in the community and the workforce of the country is another priority for human rights in an ageing society.**

The goal is to ensure people's future financial security, health and quality of life, enabling them to be productive members of society throughout their lives.
Key objectives are being pursued:

- Promoting health prevention throughout life.
- Reforming Employment Policy after 55 years of age.
- Changing the image of ageing and favouring relationships between the generations.

1. **Health promotion and prevention:**
   Most age-related diseases may be related to modifable risk factors and then accessible to prevention. Prevention is still successful after the age of 60 but it should be started before the age of 20 years by promoting healthy lifestyles.

   A National Program "Programme Bien Vieillir"[12] ("Aging Well"), based on nutrition, physical activity and social integration, was created in 2003. This program is to be implemented locally by municipalities.

   A new systematic comprehensive geriatric assessment at the age of 70 has been implemented to detect all risk factors likely to lead to disabling diseases.

2. **Reforming Employment Policy after 55 years of age.** Reforms are under way aimed at improving the incentives and opportunities for older people to play a part in the labour market for longer, and tackle the various disincentives and barriers to employment facing older workers.
   This requires action by both the public authorities and social partners in the following areas:

   - Reform retirement and social welfare systems to strengthen work incentives (progressive retirement, new contracts, simultaneous working/retiring). The French pension system is based on the pay-as-you-go principle and its financing is mainly ensured by contributions from workers and employers. As the retirement pension schemes are affected by contrasting demographic tendencies, it has to be reformed to reflect shifts over time in the structure of their contributing and retired populations. A capitalization scheme will be proposed to individuals to complement this "repartition" system.
   - Encourage change in attitudes of employers and workers.
   - Adapt employment protection rules to promote employment of older workers.
   - Promote training for upgrading skills and acquiring new ones.
   - Improve access to high-quality employment services for older job seekers.
   - Improve working conditions.

Recently, ILC France put forward an innovative **Healthy Working Life Expectancy Indicator** (HWLE) in Europe[13]. It offers a model of successful ageing combining two essential dimensions: the absence of disease and disability and the employment of seniors, which is one of the major elements of their active involvement in society. The construction of this indicator is based on calculation methods conventionally used for healthy life expectancies. By applying it to the data from the European Community Household Panel, we were able to compare the number of years lived between 50 and 70 years in good health and employment in 12 countries.

## References


12. http://www.sante.gouv.fr/htm/pointsur/nutrition/bien_vieillir.pdf
13. Healthy Working Life Expectancies (HWLE) at age 50 in Europe: a new indicator Lièvre Agnès Jusot Florence, Barnay Thomas, Sermet Catherine, Brouard Nicolas, Robine Jean Marie, Brieu Marie-Anne, Forette Françoise-JNHA submitted

# ILC France

On average in Europe, among the 20 years available between 50 and 70 years old, men spend 14.1 years in good health (70.5% ), of which about one half are at work, and women 13.5 years (67.5%) in good health, of which about one third (35%) are at work. Therefore, it should, in theory, be possible to increase working life expectancy between 50 and 70 years old, especially for women, by reallocating years in good health from retirement to work. These results suggest that for increasing working life expectancy, it is not necessary to keep unhealthy people working longer. In addition, the countries where healthy working life expectancy of seniors is the highest are also the countries where the levels of employment of seniors are very high. Such evidence underlines the essential role that employment maintenance and retirement policies have on the number of years spent healthy and at work. Furthermore, the major differences in health between the countries also suggest that health policies have an important role to play.

The HWLE indicator will enable European ageing conditions to be monitored, just as healthy life expectancy indicators do with regard to health status alone. It could also be applied to the forthcoming data from the SILC survey, a longitudinal European survey based on the experience of the European panel.

3. **Changing the image of aging and favouring relationships between the generations**
Healthy and productive ageing brings with it enormous individual, economic and societal benefts to improve human rights in an ageing society. It offers an optimistic perception of the longevity revolution in our societies. This positive image of ageing must be spread over the media (television, newspapers, magazines, etc.), schools and university programmes. Society must stop considering the demographic evolution as a burden when it is an opportunity for all generations to live together.

   The government intends to favour all intergenerational experiences: skill sharing, tutoring, and volunteering, mixing young and elderly people, multigenerational projects creating suitable work for older and younger people in a wide range of forms of employment. Some experiences of “integrated lodging” including young parents and children, disabled elderly, healthy retired persons and common services for all, show how this may generate close relationships between the generations.

4. **Fighting against discrimination and maltreatment.**
In 2004, the government implemented an agency against discrimination, the HALDE (Haute Autorité de Lutte Contre les Discriminations et pour l’Egalité) with the following free toll number: 08 1000 5000.

   In 2006[14], 30,954 calls were registered. Employment discrimination represents 42.8% of the complaints. Ethnical discrimination is described as the most important issue in 35% of these cases. The second one concerns age discrimination mainly for senior employees sacked from their companies before the age of retirement.

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**14.** Rapport annuel 2006 de la Halde au Président de la République- Dossier de presse- www.halde.fr



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In March 2007, the government implemented a budget of 5 million € to fght against the elder mistreatment. The abuse category concerns maltreatment both at home or in institutions, negligence, abandonment, lack of respect against the elderly, verbal and physical aggression, and legal and fnancial swindles. The plan was undertaken with two main objectives:

- Develop the culture of good practices in the institutions with the creation of a governmental agency of “bientraitance”.
- Facilitate the claim of mistreatments through a free toll number of a well-known association, ALMA[15]. In 2005, 11,313 calls were received, half of them concerning maltreatments: psychological (25%), fnancial (19%) or physical (17%)

**In conclusion**, the ethical challenges of the French government and the French citizens are to simultaneously organize outstanding care for the frail elderly and to promote healthy and active ageing in order to allow all people, regardless of their age, to enjoy fulfling lives, at home, at work and in their communities. It is with these conditions that human rights for all and specifcally for the elderly will be respected.

## Authors:

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## Introduction

**On December 10, 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights which comprised 30 articles involving all aspects of life of an individual. It recognizes the right to an adequate standard of living and to have insurance in situations of deprivation including old age. The international Agreement on Economic Social and Cultural Rights, 1966, is the most comprehensive article on the right to health care in an international law: signatories recognize the right of every person to enjoy the highest level of physical and mental health (Article No. 12). Neither of these documents recognize however any specific right of the elderly, probably because at the time they were written the ageing phenomenon had not reached today's dimensions. The Plan of Action, 1982, is the first policy tool to look at the consequences and impact of ageing in society. But not even this document recognizes any specific human right for the elderly though it recognizes the right to work, to education and to have a pension.**

Over the past several decades a massive change has taken place in a key demographic area of the planet's human population: **AGE**. Due to the trend of lower birth rates and lower death rates, according to the United Nations Department of Economic and Social Affairs, one out of every ten people on the planet is now 60 years of age or older. If the current trend continues, by the year 2050 one out of every five people will be aged 60 years or older. Additionally, the oldest old are the most rapidly expanding segment of the elderly population. Currently, the oldest old are 11% of the 60 plus age group and will grow up to 19% by 2050.

These demographic trends create unique challenges for all people, particularly for the governments of nations around the world. Elderly individuals are often subject to discrimination and abuse because they are perceived as easily taken advantage of. There is also a prevalent belief among many that elderly persons are worthless in today's fast paced, globalized, and increasingly industrialized world. With the number of elderly people on earth at any one time rising rapidly, there is an increased urgency to address the rights and roles of the elderly in the world.

### Which rights should we focus on?

The rights of aged persons can be broken down into three main categories: ***protection, participation and image***. Protection refers to securing the physical, psychological, and emotional safety of elderly persons with regards to their unique vulnerability to abuse and ill treatment. Participation refers to the need to establish a greater and more active role for older persons in society. Image refers to the need to define a more positive, less degrading and discriminatory idea of who the elderly are and what they are capable of doing.

An elderly person's right to security is particularly vulnerable to violation: it includes the right to health care if we, due to old age, are unable to afford or pursue health care individually. Although many countries currently have universal health care systems, these are beginning to feel the strain of an increasingly aged population and the question arises about how they will be maintained in the future. In the USA, for example, there are federally and state-subsidized health care programs only for those who are indigent, disabled or elderly, and rising health care costs are threatening their survival.

Elderly individuals have also the right to non–discrimination. Frequently they are thought to be useless to society because some need more care than the average person. Such stereotypes can lead to degrading treatment, inequality and even abuse.

# ILC Dominican Republic

Similarly, their right to participation is sometimes threatened due to prevailing negative images, and they are often not given the same opportunities as others to be productive members of society.

In all possible violations of human rights we must pay particular attention to women. They are at greater risk of having their rights violated partly because, historically, women are more vulnerable towards violence and abuse due to their traditionally subordinate position in most cultures. Taking into account that 55% of older persons are women and that in the oldest old group 65% are women, especial considerations must be given to the effect of sex on the likelihood of rights violation and abuse.

10 years ago, the Organization for Economic Cooperation and Development (OECD), in its report “Ageing Populations: The Social Policy Implications” predicted that the average annual growth rate of the population of member states would decrease from 0.5% during the decade 1980-1990 to 0.3% during the decade 2040-2050. The eventual decline of the total population would be accompanied by changes in the age structure of the population. In 60 years (1980-2040) the average proportion of persons aged 65 and over will have increased from 12.2% to 21.9% of the total population while the average proportion of those under 15 will have fallen from 23.4% to 18.3%.

The most significant aspect of the growing percentage of elderly people in the population is the marked increase in those aged 85 and over, in which group there are a large number who are severely impaired physically and/or mentally. In general, demand for health and social care rises sharply with age: 1% of those aged 75-79 have severe disabilities compared with 41% of those aged 85 and over.

For some time now economic support for the elderly has been perceived to be a critical issue for societies with welfare systems. The reasons are well known. The percentage of the population who are elderly is increasing as we have seen, while the percentage of those who are generating wealth is decreasing. More particularly, the percentage of the frail elderly who are dependent on others is increasing precisely when the state’s welfare resources are under stress, both because of the changing population profile and because of levels of unemployment in advanced societies.

## The Dominican Republic’s Reality

The Dominican Republic is in a process of demographic transition. Declining pregnancy and mortality rates have been notably rapid. The global rate of pregnancy went down from 7.4 children per woman (1950-1955) to 2.73 (2000-2003). Life expectancy increased 24 years in the same period (1950-2000) and child mortality dropped from 149 death /1000 to 34/1000.

These three indicators show the great demographic changes taking place in the country that have translated into a slower population growth rate and a changing society.

At the moment the population is still relatively young. The projections however show that while in the year 2000 33.5% of Dominicans were less than 15 years old and those over 60 were less than 7%, the 2002 National Census shows that the older population rose to 8% while those under 15 showed practically no change. In the next decades, older age groups will continue to increase at a greater rate than others and it is estimated that for the year 2025 it will reach 12% and this percentage will double for 2050.