

## Research Article

# TOWARDS AN EFFECTIVE LEGAL PROTECTION FOR OLDER PERSONS IN THE 21<sup>ST</sup> CENTURY: A COMPARATIVE STUDY OF INTERNATIONAL HUMAN RIGHTS LAW AND ARAB CONSTITUTIONS

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## ABSTRACT

**Background:** This study explores legal protections for older people in the 21st century, particularly in the contexts of international human rights laws and Arabic constitutions. While international human rights systems afford implicit protections for senior citizens, the international legal framework is inadequate for addressing their specific rights and challenges. While Arabic constitutions often include general provisions protecting the rights of citizens, they do not explicitly address the rights and legal protection of older people.

**Methods:** This study aims to confront this gap by examining legal frameworks that protect the rights of senior citizens in both international human rights law and Arabic constitutions.

**Results and Conclusions:** The lack of a universally accepted definition for the term 'older person' poses a challenge when studying that demographic, as they are a highly heterogeneous group. In a rapidly ageing world, it is essential to develop legal frameworks that specifically address the rights of older people to ensure their dignity and well-being.

**Keywords:** older person, international instruments, Vienna action plan, The Madrid Plan, Arab law.

## 1 INTRODUCTION

Ageing is a biological concept but is also a social phenomenon influenced by various factors. The difficulty in establishing objective criteria for defining this concept has led to the widespread use of chronological definitions of older persons based solely on age. Although the United Nations defines individuals aged 60 years or older in its statistical reports as older persons, many countries have established 65 years as a specific threshold for old age, which

is closely tied to the legal retirement age. However, there is no universal consensus on the specific age at which a person becomes an 'elder'.<sup>1</sup>

International conventions frequently refer to broader principles regarding the rights and welfare of older persons, emphasising concepts such as dignity, non-discrimination, social integration, and access to healthcare without explicitly defining the term 'older person'. The United Nations Principles for Older Persons, adopted in 1992, provide guiding principles for addressing the rights and needs of older persons without explicitly defining the term 'older persons'.<sup>2</sup> Similarly, the Madrid International Plan of Action on Aging (2002) employs the term 'older persons' without specifying a particular age range.<sup>3</sup>

Given the absence of a universally agreed-upon definition or specific age threshold for old age, the study of older persons is hindered by the fact that this highly heterogeneous group varies in terms of sex, ethnicity, economic status, health conditions, accepted social values, educational level, and residence in countries with varying levels of development. The paradox of ageing lies in that, while the world's population is growing older, individuals maintain mental and physical vitality for longer compared to previous generations. The World Health Organization has noted that, unlike the youth category, older persons exhibit tremendous diversity in their health, including physical and mental capabilities.<sup>4</sup>

Despite being a minority (approximately 7% of the world's population), older people are the fastest-growing segment globally.<sup>5</sup> According to the United Nations, the global population of individuals aged 60 years and above reached 901 million in 2015, reflecting a significant increase of 48% compared to the 607 million recorded in 2000. This trend is projected to continue, with the global population of older persons projected to double to approximately 2.1 billion by 2050. Furthermore, according to UN data, the number of people aged 80 years and over is expected to triple by 2050.<sup>6</sup>

The increasing longevity observed in recent decades is a testimony to advancements in human development and healthcare. Nevertheless, this rapid demographic transition has exposed inadequate protective measures and significant shortcomings in policies and programs designed to address the needs of older persons.<sup>7</sup> This is particularly noticeable during the global outbreak of the COVID-19 pandemic.<sup>8</sup>

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1 Mira Lulić and Ivana Rešetar Čulo, 'Poverty: A Challenge to the Protection of Human Rights of Older Persons in the Republic of Croatia' (2020) 33(1) *Ekonomski vjesnik / Econviews* 243.

2 United Nations Principles for Older Persons (adopted 16 December 1991 UNGA Res 46/91) <<https://digitalibrary.un.org/record/135779?ln=en>> accessed 1 October 2023.

3 United Nations, *Political Declaration and Madrid International Plan of Action on Ageing: Second World Assembly on Ageing, Madrid, Spain, 8–12 April 2002* (UN 2002).

4 Lulic and Čulo (n 1).

5 Frédéric Mégret, 'The Human Rights of Older Persons: A Growing Challenge' (2011) 11(1) *Human Rights Law Review* 37, doi:10.1093/hrlr/ngq050.

6 Lulic and Čulo (n 1).

7 'OHCHR and Older Persons: Overview' (*United Nations OHCHR*, 2021) <<https://www.ohchr.org/en/older-persons>> accessed 1 October 2023.

8 *ibid.*

At present, older persons are not explicitly encompassed by the existing international human rights legal frameworks. There is a scarcity of universally applicable binding international standards that can act as benchmarks for national legislation addressing the rights of older persons. The national constitutions discussed in this study were chosen based on their focus on the rights of older persons. These constitutions relied on general international texts dating back to the last century, which made the treated rights scattered among international and national texts.

This study scrutinises the functionality of public and private legal frameworks within international human rights law to ensure the adequate safeguarding of older persons. This study aimed to evaluate the effectiveness of constitutional texts in protecting the rights of older persons and their alignment with international frameworks concerning the protection of these rights. To address this issue, this paper is divided into the following sections.

## 2 PROTECTING THE RIGHTS OF THE OLDER PERSONS IN INTERNATIONAL LAW

The scope of public international law has evolved to encompass individuals beyond the confines of states and intergovernmental organisations. In this realm, individuals have emerged as subjects amenable to international law regulations, directly or indirectly. Consequently, international conferences and agreements have been convened to ensure protection for all individuals, including specific groups such as women, children, refugees, and older persons.<sup>9</sup>

### 2.1. Protecting of the Older Persons in General International Instruments

Following the end of World War II, which resulted in the loss of countless lives globally, there has been a heightened focus on the protection of human rights and the preservation of human life, body, and dignity. An array of principles and international agreements has been established to safeguard human rights, encompassing all categories, without distinction between men and women. Although specific provisions and rules dedicated to older people are lacking, their rights are Following the end of World War II, which resulted in the loss of countless lives globally, there has been a heightened focus on the protection of human rights and the preservation of human life, body, and dignity. An array of principles and international agreements has been established to safeguard human rights, encompassing all categories, without distinction between men and women. Although specific provisions and rules dedicated to older people are lacking, their rights are implicitly protected using general instruments. In the following section, the authors examine the most critical aspects of these instruments.

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<sup>9</sup> Ansam Qassim Hajim, 'Iraq's International Obligations over the Years Preparation' (2018) 1(10) Lark Journal for Philosophy, Linguistics, and Social Sciences 240.

### 2.1.1. Charter of the United Nations

The United Nations Charter aims to promote international peace and security, uphold international law, respect human rights, and improve global living standards.<sup>10</sup> The preamble of the Charter affirms the dignity and worth of every human being and recognises the fundamental rights of all individuals. Article 1(3) of the Charter states that the United Nations aims to address economic, social, cultural, and humanitarian issues and promote respect for human rights without discrimination. Additionally, several provisions of the charter emphasise equal respect for human rights, including Article 13(1), which gives the General Assembly authority to make recommendations and promote studies in the field of human rights.

While the texts in the United Nations Charter related to human rights are broad and vague, they have contributed to endowing universal human rights with a new global dimension.<sup>11</sup> However, they do not constitute a comprehensive system for protecting human rights, particularly for older persons.<sup>12</sup>

### 2.1.2. Universal Declaration of Human Rights

The Universal Declaration of Human Rights is a globally recognised document that embodies the principles of freedom and equality.<sup>13</sup> As a vital safeguard for individuals' rights, regardless of location, it serves as a universal standard for human rights protection. Adopted by the United Nations General Assembly on December 10 1948, the declaration consists of 30 articles encompassing civil, political, social, economic, and cultural rights. This marked the first time nations reached a consensus on the rights deserving of global protection. Unlike the more general provisions of the United Nations Charter, the Universal Declaration of Human Rights features a precise delineation of human rights that sets it apart and distinguishes it from other international instruments.<sup>14</sup> The articles of the Declaration are formulated in a general manner, allowing for multiple interpretations while maintaining a focus on commonalities among nations to facilitate global acceptance.<sup>15</sup>

The Universal Declaration of Human Rights was framed politically and had limited legal authority. It was not sanctioned as an international treaty, precluding its ratification and binding effect on the participating states. Nevertheless, it holds significant moral weight and serves as a comprehensive reference for human rights at both global and national levels. Based on the Universal Declaration of Human Rights, various binding human rights accords

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- 10 Charter of the United Nations (1945) <<https://www.un.org/en/about-us/un-charter/full-text>> accessed 1 October 2023.
  - 11 Hajim (n 9).
  - 12 Amani Akram Al-Asasfeh, *Elderly Rights in the Jordanian Constitution and Positive Laws and International Conventions* (Mutah University 2021).
  - 13 Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) <<https://digitallibrary.un.org/record/666853?ln=en>> accessed 1 October 2023.
  - 14 Yousef Elias, *Legal Protection for the Elderly in the GCC States: A Comparative Legal Study* (Social Studies Series 69, Executive office 2012).
  - 15 Al-Asasfeh (n 12).

have been established.<sup>16</sup> Notably, many rights enshrined in the Universal Declaration of Human Rights have been enfolded into national constitutions and local legal frameworks. Notably, the Universal Declaration of Human Rights does not explicitly address the rights of older persons. However, Article 25(1) of the Declaration asserts that all individuals are entitled to a standard of living adequate for their health and well-being, including food, clothing, housing, and medical care, and emphasises the need to ensure livelihood in circumstances such as unemployment, disability, old age, and other situations.<sup>17</sup>

### 2.1.3. International Covenants on Civil and Political Rights

The proclamation of the Universal Declaration of Human Rights elicited a strong impetus from stakeholders at the international level to render general principles concerning civil and political rights more specific and legally binding. The International Covenant on Civil and Political Rights was drafted in 1966.<sup>18</sup>

Despite the comprehensive nature of the International Covenant on Civil and Political Rights, it does not contain specific provisions that address the rights of older persons. Nevertheless, their rights are shielded by general guarantees of the rights of all individuals and various age groups. The prohibition of torture or inhuman treatment in Article 7 of the Covenant underscores the inviolability of human dignity, and older persons, like other members of society, are entitled to the right to life, a fundamental human right. The preservation of this right is crucial for the enjoyment of all other human rights, and it is considered a non-derogable right, meaning that it cannot be abridged even under exceptional circumstances.

Older persons also enjoy the protection of their civil rights within the scope of the protection provided by the covenant for the family, considering it as the basic unit of society. This protection is guaranteed by Article 23/1 of the Covenant and is further safeguarded by the state and society. The covenant also recognises the legal personality of every individual. It emphasises respect for their right to privacy and freedom of movement, which should only be restricted to specific circumstances.<sup>19</sup>

Regarding political rights accorded to citizens based on their nationality, the International Covenant on Civil and Political Rights provides a more comprehensive list of such rights than the Universal Declaration of Human Rights. Although the covenant does not explicitly mention political rights for senior citizens, they are entitled to general protections granted to all state citizens. In accordance with the principle of nationality, seniors possess the right to vote, be elected, and participate in public offices, just like any other members of the populace.<sup>20</sup>

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16 Hajim (n 9).

17 *ibid.*

18 International Covenant on Civil and Political Rights (adopted 16 December 1966 UNGA Res 2200 (XXI) A) <<https://digitallibrary.un.org/record/660192?ln=en>> accessed 1 October 2023; Jabar Mohammed Mahdi AlSaadi and Hasan Mohammed Salih, 'Protecting the Elderly in Light of International Human Rights Conventions' (2021) 10(1) *Journal of Juridical and Political Science* 345, doi:10.55716/jjps.2021.10.19.

19 AlSaadi and Salih (n 18).

20 *ibid.*

#### 2.1.4. The International Covenant on Economic, Social, and Cultural Rights

The United Nations General Assembly adopted the International Covenant on Economic, Social, and Cultural Rights on December 16 1966.<sup>21</sup> It is the first multilateral treaty to establish specific and binding provisions for member states to guarantee economic, social, and cultural rights to individuals.<sup>22</sup> Although the International Covenant on Economic, Social, and Cultural Rights provides more detailed provisions on the rights outlined in the Universal Declaration of Human Rights, it does not specifically dedicate articles to protecting the rights of older persons. However, Article 9 addresses the 'right of everyone to social security, including social insurance,' which can be applicable in situations of unemployment, disability, illness, or old age. As the rights guaranteed by the covenant encompass all individuals in society, regardless of gender or age, it can be inferred that older persons have an implicit right to social security.<sup>23</sup>

The International Covenant on Economic, Social, and Cultural Rights recognises the right to work as a fundamental and inseparable aspect of human dignity, as outlined in Article 6/1. It is imperative that all individuals, including older persons, have the opportunity to work and enjoy fair and favourable working conditions without discrimination.<sup>24</sup> Article 7 of the covenant emphasises the importance of ensuring safe working conditions for older persons by ensuring they enjoy fair and favourable working conditions. Furthermore, as outlined in General Comment No. 6 of the Committee on Economic, Social, and Cultural Rights, older personnel should be utilised to optimise their experience and technical knowledge.

Article 8 of the covenant grants individuals the right to form trade unions and participate in collective bargaining as well as the right to strike, provided that these rights are exercised in accordance with the laws of the respective country.

The Covenant on Civil and Political Rights, as well as the Covenant on Economic, Social, and Cultural Rights, both recognise the importance of protecting and supporting families and individuals. Article 10 of the Covenant on Civil and Political Rights obligates member states to provide special protection for mothers and children from all forms of hazards. Additionally, Article 13 of the Covenant on Economic, Social, and Cultural Rights recognises the rights of every individual to education, including the freedom to establish educational institutions, and emphasises the importance of making primary education compulsory and free, as well as ensuring access to education at all levels for all members of society. Article 12/1 of the Covenant on Civil and Political Rights also highlights the right to healthcare. It obligates state parties to provide a satisfactory level of physical and mental health to older persons. It is important to note that the right to health is closely linked to human rights such as the right to food, housing, work, and education.<sup>25</sup>

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21 International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966 UNGA Res 2200 (XXI) A) <<https://digitallibrary.un.org/record/660192?ln=en>> accessed 1 October 2023.

22 Safa Samir Ibrahim, 'The Role of the United Nations in Promoting the Rights of Elder People' (2013) 2 *Journal of Legal Sciences* 323.

23 Al-Asasfeh (n 12).

24 AlSaadi and Salih (n 18).

25 *ibid.*

Article 3 of the Covenant recognises the right of men and women to enjoy equality in the enjoyment of all economic, social, and cultural rights set forth in the Covenant. Notably, the exclusion of age as a consideration for discrimination is noted in both the Covenant and the Universal Declaration of Human Rights.<sup>26</sup>

The Committee on Social, Economic, and Cultural Rights has issued comments regarding the treatment of older persons, particularly regarding the right to health for older persons.<sup>27</sup> The Committee notes that the absence of explicit recognition of this right in relevant instruments may have been due to the limited awareness of demographic ageing at the time of their adoption. Although the covenant prohibits discrimination based on ‘any other status’, the scope of permissible age discrimination is limited. The Committee emphasises that while age discrimination is not entirely prohibited under the covenant, it remains a matter of concern. The comment also stressed the need for efforts to overcome stereotypes of older persons with disabilities, the incapability of independent action, and the lack of roles and positions in society. These initiatives should involve governments, non-governmental organisations, older persons, media outlets, and educational institutions. The goal is to create a society that fully integrates older persons.

In summary, the International Covenants and Universal Declaration of Human Rights, collectively known as the ‘International Bill of Human Rights’, have established a comprehensive system of human rights that serves as the basis for all subsequent international agreements and conferences. Nevertheless, the rights of older persons require specific legislation that considers their circumstances and needs.

## 2.2. The Protection of Older Persons in Light of the International Conventions Pertaining to Specific Categories

The protection of older persons is of utmost importance, and the United Nations has issued numerous international agreements to ensure their well-being. These agreements, which relate to specific categories of individuals, provide special protection to older persons based on their unique social, cultural, and personal circumstances. These agreements recognise the rights of older persons to receive the necessary protection to ensure their well-being and guarantee their rights.

### 2.2.1. Convention on the Elimination of All Forms of Discrimination Against Women

The United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on December 18 1979, with the aim of achieving equality in rights between women and men.<sup>28</sup> The CEDAW comprises 30 articles and establishes a legally binding framework to eliminate discrimination against women in

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26 Al-Asasfeh (n 12).

27 CESCR General Comment No 6: The Economic, Social and Cultural Rights of Older Persons (adopted 12 December 1995) <<https://www.refworld.org/docid/4538838f11.html>> accessed 27 September 2023.

28 Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979 UNGA Res 34/180) <<https://digitalibrary.un.org/record/10649?ln=en>> accessed 27 September 2023.

all fields. The first article defines discrimination against women as 'any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.'

CEDAW is comprehensive in nature, guaranteeing women's political, economic, social, cultural, and civil rights, including those of older women. Specifically, Article 10 of the Convention mandates that state parties ensure equal access to education and equal opportunities for scholarships and financial assistance. Furthermore, under Article 3, State parties are obligated to take appropriate measures, including the enactment of legislative measures, to promote the advancement and progress of women and ensure their equal enjoyment of human rights alongside men in all areas.

### 2.2.2. International Convention on the Rights of Migrant Workers and Members of Their Families

This Convention<sup>29</sup> was adopted by the United Nations General Assembly in 1990 to safeguard the rights of migrant workers and family members who reside temporarily or permanently in a country other than their country of origin. This Convention established ethical standards to be followed and relied upon to enhance the rights of migrants and their families in host countries.

Article 7 of the Convention emphasises the reasons for prohibiting discrimination based on factors such as sex, race, colour, language, religion, belief, political opinion, age, or any other status. This Article obliges countries to ensure respect for all human rights as stipulated, thereby guaranteeing the rights of older migrants, regardless of their gender.<sup>30</sup>

### 2.2.3. The International Convention on the Rights of Persons with Disabilities

The United Nations General Assembly adopted the Convention on December 13 2006. The Convention is a binding multilateral treaty that recognises the human rights and fundamental freedoms of all individuals with disabilities, including older persons. Article 1 of the Convention outlines its purpose, stating: 'To promote, protect, and ensure the full enjoyment and equal participation in all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.'

The Convention acknowledges several rights for individuals with disabilities, including the right to a decent standard of living, social protection, and access to the highest standard of health care. Article 28/2 emphasises the importance of ensuring that women, girls, and older persons receive social protection and poverty reduction programs and that individuals with disabilities have access to public housing and retirement programs.<sup>31</sup> Paragraph 2(b) recognises the rights of older persons to social security, which represents a significant step in providing the necessary protection for their rights in international agreements.

29 International Convention on the Rights of Migrant Workers and Members of Their Families (adopted 18 December 1990 UNGA Res 45/158) <<https://digitallibrary.un.org/record/105636?ln=en>> accessed 27 September 2023.

30 Al-Asasfeh (n 12).

31 Ibrahim (n 22).



Older persons with disabilities require special care and protection because of their health and physical and mental conditions. Some of these individuals rely on caregivers for daily support and face challenges related to lack of independence, legal capacity, discrimination, and inadequate social protection.<sup>32</sup>

### 3 INTERNATIONAL INSTRUMENTS FOR THE PROTECTION OF THE RIGHTS OF OLDER PERSONS

The development of laws pertaining to the rights of older persons under public international law began in the early 1980s. In 1982, the United Nations General Assembly passed a resolution endorsing the Vienna International Plan of Action on Aging. This was subsequently followed by a plethora of plans, principles, and programs related to ageing, which are listed below in chronological order.

#### 3.1. Vienna International Plan of Action on Aging, 1982

The United Nations General Assembly has expressed notable concerns about issues affecting older persons, who constitute an increasing segment of the global population. In response to these concerns, Resolution 33/52 was issued on December 14 1978,<sup>33</sup> to draw international attention to the challenges of ageing and facilitate consultations with member states. The establishment of the International Association of Older Persons in collaboration with specialised agencies and relevant organisations in 1982 further underscores the global interest in addressing the needs of older persons.

In 1982, the United Nations General Assembly convened the First World Assembly on Aging in Vienna to develop an international action program to ensure the economic and social security of older persons and to enhance their opportunities to contribute to national development. During this assembly, the International Plan of Action on Aging was adopted, commonly referred to as the 'Plan of Action',<sup>34</sup> which comprises 62 recommendations covering research, data collection, training, education, health and nutrition for older persons, as well as social care and consumer protection.<sup>35</sup>

This plan aims to strengthen the ability of governments and civil society to address the population's ageing effectively by outlining specific measures that countries should implement to ensure that the rights of older persons are upheld in accordance with international human rights covenants.<sup>36</sup> While the plan represents a significant achievement

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32 Catalina Devandas-Aguilar, 'Rights of Persons with Disabilities: Note' (17 July 2019) <<https://digitallibrary.un.org/record/3823803?ln=en>> accessed 27 September 2023.

33 World Assembly on the Elderly (adopted 14 December 1978 UNGA Res 33/52) <<https://digitallibrary.un.org/record/187392?ln=en>> accessed 27 September 2023.

34 United Nations, *Report of the World Assembly on Ageing, Vienna, 26 July to 6 August 1982* (UN 1982) 46-83.

35 Jaber Al-Huwail, 'The Rights of Older People under International Human Rights Norms and Conventions and Their Preservation in the Framework of the Family and Society' (The Symposium on the Rights of the Elderly, Qatar, Doha, 2014).

36 Elias (n 14).

in recognising older persons' rights at the international level, it lacks a legally binding force. Consequently, it serves as a set of guidelines for member states to consider when developing international and national standards for protecting older persons.

### 3.2. The 1992 United Nations Principles on Older Persons

The United Nations Principles for Older Persons were adopted by the UN General Assembly through Resolution 46/91 on December 16 1991.<sup>37</sup> This resolution encouraged states to integrate these principles into their national policies and programmes. The UN recognised this initiative as a means of acknowledging the rights of older persons and appreciating their contributions during their working years and activities. The objective of the principles was to coordinate efforts and promote collaboration at both national and international levels. A set of 18 principles were established, which can be summarised as follows:<sup>38</sup>

#### a) Independence

In accordance with the principle of independence, older persons must have access to the necessary resources to ensure their well-being, including adequate income, support from the family and community, suitable living arrangements, and access to education and training. This includes the provision of employment opportunities and a safe living environment that allows them to age in place with dignity. It is the responsibility of states to ensure that these fundamental requirements are provided to all citizens and residents, as they are essential for the protection of the rights of older persons.

#### b) Participation

Participation is considered one of the most important principles that motivate older people to persevere in life, overcome challenges, and avoid despair and depression. Older persons must remain integrated and actively engaged in society, capable of sharing their knowledge and skills with the younger generations. In accordance with the principle of participation, older persons should be able to seek and develop opportunities to serve the community. They should also be capable of forming movements or associations with fellow older people.

The importance of this principle is reflected by its realism and dynamism. Securing the basic needs of older persons, such as clothing and shelter, is a basic requirement. Still, we need the participation of older persons in social life so that they continue to give and so that the state and younger generations benefit from their experiences, opinions, and experiences. The authors note that most of the constitutions mentioned in this research focus on the primary needs of individuals and older persons without paying attention to the concept of participation of older persons in society after retirement.

#### c) Sponsorship

The principle of care states that older persons should benefit from the care and protection of the family and local community and have access to health care to delay or prevent the onset of diseases. Older persons should also have access to social and legal services to

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37 United Nations Principles (n 2).

38 *ibid.*

strengthen their independence, protection, and care. They can also enjoy human rights and fundamental freedoms when staying in any shelter, care, or treatment facility. They have the right to decide on their care and quality of life.

National and international constitutions and laws have guaranteed this principle, such as the right to welfare and Social Security, regardless of where they are located. The most important thing that this principle has brought is the right to make important decisions related to health and life so that they do not seem to be ignored, pressured, or influenced by their will.<sup>39</sup>

d) Self-realisation

According to the principle of self-realisation, older persons should have opportunities to fully develop their potential and access and benefit from society's educational, cultural, spiritual, and recreational resources. States must take necessary measures to ensure that older people have access to all community services as members of society with all rights and privileges.

e) Dignity

Older persons should enjoy dignity and security without material or moral exploitation. They should be treated with fairness and respect irrespective of gender, age, ethnicity, financial status, or disability. This principle aims to ensure that older persons live with dignity without exploitation or discrimination.

Notwithstanding the urging of the General Assembly to formulate policies and programs aimed at the practical application of these principles, significant obstacles persist in their implementation. Although the Universal Declaration on Aging has gained recognition, it remains a non-binding document, serving as an inspiration for some countries and international organisations to address the rights of older persons. Furthermore, the principles do not impose any legal obligations on the concerned states as their implementation has been limited.<sup>40</sup> The application of these principles varies across countries depending on their socioeconomic conditions and the extent of their commitment to human rights.<sup>41</sup>

In the same year, two additional central documents were published to promote the rights of older people: a scheme for integrating older people in development, the Age and Disability Capacity Program (ADCAP), and the Declaration on Aging. The first document outlines the eight goals set by the UN General Assembly for the rights of older persons. The latest document, published on the tenth anniversary of the Vienna International Plan of Action on Aging, urged 'countries to support older women who work in caring for home and family has not been recognised. The document also encouraged older persons to continue living a creative life afterwards. Retirement.' The declaration recognised the importance of encouraging, supporting, and strengthening families by pointing out that families form the basis for supporting the older population. Finally, the declaration called for countries to

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39 Al-Asasfeh (n 12).

40 Rosa Sanz, *Older People and Human Rights: A reference guide for professionals working with older people* (2nd edn, Age UK 2011).

41 Ibrahim (n 22).

strengthen cooperation in the field of research to expand their knowledge on the topic of ageing and older persons.<sup>42</sup>

### 3.3. Program of Action of the International Conference on Population and Development

On September 5 1994, the UN convened the World Conference on Population and Development (ICPD) in Cairo with the participation of twenty thousand delegates and representatives from various governments, UN bodies, non-governmental organisations, and media professionals. This conference focused on issues related to migration, family planning, and women's welfare. Conference Commissioners agreed on the following objectives: universal education, reduction of infant and child mortality, reduction of maternal mortality, and access to reproductive and sexual health services, including family planning.<sup>43</sup>

The conference resulted in a program that served as a guide for the United Nations Population Fund. Item (c) of Chapter VI on population growth and structure says that states should promote self-reliance among older people and enhance their quality of life by enabling them to work and live independently for as long as possible and by developing healthcare systems. It was emphasised that economic and social security systems, support systems, and safety nets for senior citizens are necessary.<sup>44</sup> The program focused on women, who make up the majority of Older People. The need for governments to create the necessary conditions for senior citizens to lead healthy lives and utilise their skills for the benefit of society while eliminating violence and age discrimination was emphasised.<sup>45</sup>

In 2013, on the anniversary of the ICPD, a regional conference was held in Cairo to assess the progress of the program's goals in the Arabic region.<sup>46</sup> The conference was designed to evaluate the population and development in the Arabic region by 2014 and to support countries in meeting their development objectives. The conference identified deficiencies in addressing the issues and needs of older people. Inadequate attention has been paid to several areas, such as creating employment opportunities for older persons, addressing various forms of discrimination against them, and addressing issues of neglect, abuse, and violence.<sup>47</sup> The Cairo Declaration was adopted at the conference and contained several recommendations regarding older persons that countries are currently implementing. Among these recommendations, the most crucial are enhancing a supportive environment for older persons, providing them with social and economic opportunities, collaborating with relevant authorities to integrate the older persons into the path of development,

42 Benny Spanier, Israel (Issi) Doron and Faina Milman-Sivant, 'In Course of Change: Soft Law, Elder Rights, and the European Court of Human Rights' (2016) 34(1) *Law & Inequality* 55.

43 United Nations, *Report of the International Conference on Population and Development, Cairo, 5-13 September 1994* (UN 1995).

44 Mohammed Hamid Al-Ghannam and Mohammed Hussain Abdul-Hameed, 'International Protection of Old People within the Framework of the Provisions of Public International Law' (2022) 34(98) *The Spirit of Arbitrated Laws* 1, doi:10.21608/LAS.2022.265635.

45 *ibid*; UN Economic and Social Affairs, *Population and Development: Programme of Action adopted at the International Conference on Population and Development, Cairo, 5-13 September 1994* (UN 1995) <<https://tinyurl.com/3scy3mjv>> accessed 1 October 2023.

46 Al-Asasfeh (n 12).

47 *ibid*.

engaging civil society organisations, and the private sector to support the implementation of legislation that enables families to care for their older persons, ensuring non-discrimination based on age, and guaranteeing that older persons, especially women, live with dignity.<sup>48</sup>

### 3.4. Madrid International Plan of Action on Ageing

In 2002, the Second World Assembly on Aging convened in Madrid 20 years after the Vienna Action Plan. The assembly resulted in the adoption of the Madrid International Plan of Action on Ageing (MIPAA),<sup>49</sup> which examined the Vienna Conference on Aging's decisions and received approval from all UN member states. MIPAA called for the recognition and promotion of older persons' rights on a global scale, representing a significant milestone in the recognition of older persons' rights at the international level.<sup>50</sup>

MIPAA identified three key priorities. The first priority, and of utmost importance, concerns the well-being and development of older persons. The recommended course of action is to implement programs that guarantee the economic and social protection of older persons. The MIPAA urges all individuals, regardless of gender or profession, to have equal access to social insurance. Furthermore, the plan advocates that countries extend protection to individuals who lack social security. In addition, MIPAA calls for states to provide support to older persons, especially during natural disasters and other humanitarian crises, by ensuring their access to essential needs such as food, housing, and medical care. The second priority pertains to the need to improve the health of older individuals, emphasising the importance of equal access to medical care, including mental health care. Finally, MIPAA calls for countries to ensure adequate and old living environments for older persons.<sup>51</sup>

MIPAA agreed to a set of goals to achieve, including promoting and protecting the universally recognised human rights of older persons; eliminating all forms of violence and discrimination against them; paying attention to quality health care and providing prevention, protection, and support for older persons; providing social protection for older persons; providing them with the opportunity for self-realisation and individual development; and seeking to solve the problem of poverty among older persons.<sup>52</sup>

MIPAA is a policymaking reference for governments, NGOs, and other actors to redraw the ways in which their societies perceive older citizens. This policy framework represents a historic agreement by governments to integrate ageing concerns into broader frameworks for social and economic development and human rights, as adopted by United Nations

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48 *ibid.*

49 United Nations (n 3).

50 Spanier, Doron and Milman-Sivant (n 42).

51 *ibid.*

52 'Global Frameworks on Older Persons' (*UN Economic and Social Commission for Western Asia*, 2017) <<https://archive.unescwa.org/publications/ageing-global-frameworks>> accessed 1 October 2023.; Ibrahim (n 22).

conferences and summits.<sup>53</sup> Governments have pledged to translate MIPAA's objectives into tangible national policies that positively impact the well-being of the older population.<sup>54</sup> The Madrid Plan, despite being a significant step towards advancing the rights of older persons, lacks legal enforcement and does not propose a binding global agreement on the matter.<sup>55</sup>

## 4 PROTECTING THE RIGHTS OF OLDER PERSONS ON THE REGIONAL AND NATIONAL LEVEL

To provide comprehensive protection for older persons, international obligations must be translated into regional agreements and applied by regional and national institutions. This will be addressed as follows:

### 4.1. Protection of Older Persons at the Regional Level

The Arab Charter on Human Rights came into force in 2008,<sup>56</sup> addressing human rights without dedicating specific articles to older people. However, Article 38/B obligates states to provide special care and protection for the family, motherhood, childhood, and old age. Article 30 requires states to guarantee comprehensive social security for all citizens. This might be incompatible with Article 9 of the International Covenant on Economic, Social and Cultural Rights, which states that all persons, not just citizens, must have access to social security.

The League of Arab States has incorporated mechanisms for the protection of the elderly into its agenda and adopted the Social Work Charter of 2017 to safeguard citizens against disability, old age, unemployment, and disease.<sup>57</sup>

A milestone occurred during the Arab Summit in Tunisia in March 2019 when the Arab Strategy for the Elderly was approved. This represented a significant qualitative leap for this demographic, enabling them to exercise their rights and benefit from their experience. The League's Assistant Secretary-General, Ambassador Haifa Abu-Ghazaleh, revealed that a draft law, 'The Arab Guideline for Protecting the Rights of the Elderly', is being prepared to support all efforts to implement the strategy.

### 4.2. Protection of Older Persons by National Institutions

Several institutions have been created in Arab countries to support older persons, enabling them to carry out their daily routines and leisure activities and offering specialised care for those affected by conditions such as memory loss, mental confusion, and dementia. These

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53 'Madrid Plan of Action and Its Implementation' (*United Nations Department of Economic and Social Affairs*, 2002) <<https://social.desa.un.org/issues/ageing/madrid-plan-of-action-and-its-implementation-main/madrid-plan-of-action-and-its>> accessed 1 October 2023.

54 Al-Asasfeh (n 12).

55 Spanier, Doron and Milman-Sivant (n 42).

56 Arab Charter on Human Rights (revised 22 May 2004) <<https://www.right-to-education.org/resource/arab-charter-human-rights-revised>> accessed 10 November 2023.

57 'Social Work Charter of Arab Countries' (*Haqqi*, 4 April 2023) < <https://haqqi.info/en/haqqi/legislation/social-work-charter-arab-countries> > accessed 10 November 2023.

institutions can further aid by providing appropriate accommodation for elderly couples and ensuring they receive adequate food to maintain their human dignity.

For example, the Kuwaiti Charitable Society for Elderly Care and Rehabilitation, established by the Ministerial Resolution of the Ministry of Social Affairs and Labor No. (116/A) of 2014.<sup>58</sup> Their services include:

1. Giving materials and moral support to provide health, psychological, and medical equipment for the elderly.
2. Raising awareness among the elderly and their families about the care services provided by the Ministry of Social Affairs and Labor. This includes encouraging them to participate in recreational, social, cultural, and craft activities aimed at promoting their integration into society.

The society strives to enhance the government's comprehensive role in serving the elderly by offering support to related institutions.

In Jordan, there are ten care institutions for the elderly that cater to both males and females. Research has shown that these institutions have not been fully utilised due to the elderly's preference to live with their families. Notably, care homes are non-governmental; therefore, the Jordanian legislature is invited to establish government-run care homes and provide the necessary funding and resources for both government-run and voluntary care homes.<sup>59</sup>

In the United Arab Emirates, Federal Law No. (9) of 2019 on the Rights of Senior Emiratis determines the commitment of the Ministry of Community Development to provide services that benefit the elderly. Services include providing care at assisted facilities and at homes or by mobile service units, social assistance and discounted or free transportation, parking facilities and issuing discount cards for use at retail stores and restaurants. These services are free of charge, as stated in Article 16 of the law, and subject to restrictions outlined in its executive regulation.

## 5 OLDER PERSONS RIGHTS IN THE CONSTITUTIONS OF ARAB STATES

It is universally acknowledged that human rights are inherent and inalienable entitlements that every individual is endowed with by virtue of being human. These rights, which are typically enshrined in national constitutions, serve as a legal foundation for safeguarding citizens' dignity, equality, and welfare. The provision of national constitutions that address human rights can be particularly advantageous for older persons.

### 5.1. The Right to Equality and Non-Discrimination

The principle of equality is one of the basic pillars of the establishment of states, and it is considered one of the highest values associated with a person and human dignity. As such, the national constitutions recognised the principle of equality between the rights of all

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58 *Kuwaiti Charitable Society for Elderly care and Rehabilitation* <[http://kw-care.org/site/?page\\_id=65](http://kw-care.org/site/?page_id=65)> accessed 10 November 2023.

59 Al-Asafteh (n 12).

citizens, regardless of age and gender, and considered equality as one of the basic pillars of the system of government.<sup>60</sup>

It is imperative to note that the concept of equality encompassed within the phrase 'all human beings are equal in dignity and rights' refers to the parity in legal standing that individuals share in relation to their rights and responsibilities. This concept is fundamental to the principles of justice and fairness and is embodied in the notion of equality before the law.

Article 19 of the amended Syrian constitution of 2012 states, 'The society in the Syrian Arab Republic is based on solidarity, respect for the principles of social justice, freedom, equality, and the maintenance of the human dignity of every individual.'<sup>61</sup>

In a related context and in affirmation of the principle of equality, the Kuwaiti Constitution equalised all citizens before the law in rights and duties, where it dedicated Article 29 of the Constitution of Kuwait, stating 'People are equal in human dignity, they are equal before the law in public rights and duties, there is no discrimination among them in terms of sex, origin, language, or religion.'<sup>62</sup>

As for the Kingdom of Saudi Arabia, it has adopted a special approach in this regard, as Article 8 of the kingdom's statute states, 'Governance in the kingdom of Saudi Arabia is based on Justice, Shura and equality under Islamic law,' which means that the recognition of the principle of equality is restricted in accordance with the provisions of this Sharia, and not in accordance with the situational and international standards of human rights.<sup>63</sup>

The constitutional right to equality is combined with the right not to discriminate between citizens, the grounds of which are specified exclusively. Article 33/3 of the amended Syrian constitution of 2012 stated that 'Citizens are equal in rights and duties, there is no discrimination among them on the basis of sex, origin, language, religion or creed.'

As for the Jordanian constitution amended in 2016, Article 6/1 emphasised that the equality of Jordanians is before the law, and there is no discrimination between them in rights and duties, even if they differ in ethnicity, language, or religion.<sup>64</sup> The article did not refer specifically to older persons, but the government of Jordan pointed out during its dialogue with the UN bodies that the word (Jordanians) can be interpreted broadly to include other categories of Jordanian society.<sup>65</sup>

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60 Elias (n 14).

61 Constitution of the Syrian Arab Republic (2012) <<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/91436/106031/F-931434246/constitution2.pdf>> accessed 1 October 2023.

62 Constitution of Kuwait (1962) <<https://www.ilo.org/dyn/natlex2/natlex2/files/download/74769/KWA74769%20Eng.pdf>> accessed 1 October 2023.

63 Elias (n 14).

64 Constitution of the Hashemite Kingdom of Jordan (rev 2016) <<https://www.ilo.org/dyn/natlex2/natlex2/files/download/34112/JOR34112%20Eng.pdf>> accessed 1 October 2023.

65 CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention, Jordan 25 June 2015 (CEDAW/C/JOR/6) <<https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=56e7c1d24>> accessed 1 October 2023.



Article 25 of the UAE Constitution of 1971 states that there is no discrimination among federation citizens on the grounds of origin, domicile, religious belief, or social status.<sup>66</sup>

Considering the preceding discussion, it is evident that the constitutions have set forth principles of equality and non-discrimination for all citizens, albeit with some variations regarding grounds for discrimination. It should be emphasised that the constitutions do not endorse the concept of positive discrimination, a measure intended to rectify imbalances by granting certain groups in society advantages equal to those afforded to other groups. This form of discrimination, preferential treatment, was not recognised within the constitutions.<sup>67</sup>

The principles of equality and non-discrimination are interdependent and cannot exist separately.<sup>68</sup> It is well established that the constitutions of various countries have consistently ensured the protection of rights and freedom of all age groups, including older persons. This is in accordance with the stance taken by the UN High Commissioner for Human Rights, Michelle Bachelet, who emphasised that ‘Every life has equal value. Our rights do not diminish with age.’<sup>69</sup>

## 5.2. The Right to Work

The right to work is a fundamental right essential for promoting human dignity and maintaining social stability. This right has been enshrined in several Arab constitutions, with some including specific articles related to it and others mentioning it alongside other rights.

Article 40/1 of the amended Syrian constitution of 2012 ensures that ‘Work shall be a right and a duty for every citizen, and the State shall endeavour to provide for all citizens, and the law shall organise work, its conditions and the workers’ rights.’ Article 23/1 of the Jordanian constitution (Amendment 2016) stipulates that work is a right for all citizens, and the state should provide it to Jordanians by directing the national economy. Article 41 of the Kuwaiti Constitution of 1962 states: ‘Every Kuwaiti shall have the right to work and to choose the nature of his occupation. Work is the duty of every citizen. Dignity requires it and the public welfare ordains it. The State shall make work available to citizens and shall see to the equity of its conditions.’ Article 20 of the UAE Constitution stipulates that community values work as a fundamental pillar of its progress and work to provide it to citizens and qualify them for it, creating the appropriate conditions for this. However, Article 34 grants Emirati citizens the freedom to choose their jobs. Lastly, Article 26 of the Qatari Constitution of 2004 states property, capital, and labour are essential components of the social entity of the state, and they are all rights of social nature regulated by law.

Notably, the Arab constitutions have conferred recognition of the importance of work, with the majority acknowledging its status as a right and some recognising the state’s responsibility to provide favourable conditions for its pursuit. In fact, certain constitutions,

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66 Constitution of the United Arab Emirates (1971) <[https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2009](https://www.constituteproject.org/constitution/United_Arab_Emirates_2009)> accessed 1 October 2023.

67 Elias (n 14).

68 Mohammad Yousef Alwan and Mohammad Khalil Al-Mousa, *International Human Rights Law: Protected Rights*, vol 2 (Dar Althaqafa Publication and Distribution 2014).

69 OHCHR and Older Persons (n 7).

such as the Syrian and Kuwaiti, have even established it as a duty for citizens. Furthermore, some constitutions, including the UAE and Kuwait, have granted citizens the right to choose their preferred work type.<sup>70</sup>

Considering the provisions outlined in the Constitution, there is no explicit exclusion of older persons regarding their right to work. Furthermore, no restrictions or conditions were imposed on this category of citizens. As such, older persons are entitled to the same rights and protections as other workers, without discrimination based on age.<sup>71</sup>

### 5.3. Right to Social Security

Social Security holds great significance for both older persons and all citizens as a cornerstone of human dignity and the full realisation of human rights. Its importance lies in its ability to alleviate poverty, mitigate its effects, and foster social integration, particularly for those experiencing inadequate or insufficient income. With age, individuals may find it difficult to work or secure employment that provides a suitable standard of living, and social security serves as a crucial safety net to ensure that basic rights are met. Most constitutions recognise the human right to social security as a fundamental human right, albeit with varying terminology.

Article 30/2 of the Iraqi Constitution stipulates that the state should provide social and health security to its citizens in the event of old age, illness, incapacity, homelessness, orphanhood, unemployment, or any other similar circumstances, as regulated by law. Similarly, Article 69 of the Algerian Constitution ensures workers' right to social security. In contrast, Article 73 confirms the state's commitment to providing for the living conditions of citizens who are unable to work, including those who are completely unable to do so.<sup>72</sup>

Article 5/c of the Bahraini Constitution ensures social security for citizens in the event of old age, illness, inability to work, or unemployment. Likewise, article Eight of the Constitution affirms the state's commitment to providing health care to all citizens.<sup>73</sup> In line with the mentioned constitutional articles, Article 2 of Bahraini Law No. 58 of 2009 on the Rights of the Elderly affirms the state's commitment to caring for a decent life for older persons by assisting them financially and morally. The mentioned article stressed the state's commitment to providing them health, housing, social, and administrative services.

Article 16 of the UAE Constitution states, 'Society shall be responsible for protecting childhood and motherhood and shall protect minors and others unable to look after themselves for any reason, such as illness, incapacity, old age, or forced unemployment. It shall be responsible for assisting them and enabling them to help themselves for their own benefit as well as that of the community. Such matters shall be regulated by welfare and social security legislations.' Based on the mentioned article, Federal Law No. (2) of 2001 was

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70 Elias (n 14).

71 *ibid.*

72 Constitution of the People's Democratic Republic of Algeria (2016) <<https://www.joradp.dz/har/consti.htm>> accessed 30 September 2023.

73 Constitution of the Kingdom of Bahrain (2002, rev 2017) <[https://www.constituteproject.org/constitution/Bahrain\\_2017](https://www.constituteproject.org/constitution/Bahrain_2017)> accessed 30 September 2023.

enacted regarding social security, which specified the conditions for obtaining social security benefits and specified in its third and fourth articles the categories that benefit from social security, which incorporates older persons.

In accordance with Article 11 of the Kuwaiti Constitution, the state affords aid to citizens in the event of old age and provides them with social insurance, aid, and welfare services. Similarly, Article 27 of the Saudi Basic Law guarantees the rights of citizens and their families in cases of emergency, illness, disability, and old age and supports the Social Security System. Based on the previous text, Article 2 of the Saudi Social Security System for the year 1427 AH specified the conditions for citizens' entitlement to social security. Article 3 also specified the categories eligible for this security and assured that new categories may be added by a decision of the Council of Ministers by a proposal from the Minister. Correspondingly, Article 22/1 of the Syrian Constitution of 2012 stipulates that the state ensures the provision of aid to citizens and their families in cases of emergency, illness, disability, orphanhood, and old age.

Most Arab national constitutions recognise mandatory Social Security insurance for citizens of the state, particularly for those who are older. This aligns with the requirements stipulated in international instruments such as the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Rights of Persons with Disabilities. However, certain constitutions have explicitly mentioned social security, such as those of Iraq, Algeria, and Saudi Arabia, while others have employed the term 'social insurance', such as those of Kuwait and Syria. Notably, the Syrian Constitution does not specify any form of guarantee or mechanism to ensure the welfare of citizens in the event of old age. Certain constitutions, including those of Iraq and the Emirates, have enacted special laws to address this issue thoroughly.

Social security systems are characterised by the fact that they are financed by the general budget of the state, and they are managed by the public utility of the state, which does not seek to achieve profit, and they are characterised by generality and apply to all citizens. It should be noted that social security systems are backup systems; they do not apply to persons to whom special insurance and pension systems provide citizens with income equal to or greater than the amount of support specified in the Social Security System. Thus, the social security system is a last resort for providing income to those who do not have a decent income.<sup>74</sup>

#### 5.4. The Right to Health Care

The right to health care is fundamentally inextricably linked to notions of equality, employment, and Social Security. This right encompasses healthcare provision and the availability of essential components that contribute to health, including safe food and water, adequate housing, and a healthy work environment. To fulfil the right to health, states have an obligation to create the necessary conditions that enable individuals to attain the highest level of health possible. It is important to note that the realisation of the right to health does not guarantee that all individuals will be healthy but rather that appropriate healthcare and conditions are provided to ensure that all citizens have access to the means to achieve

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74 Elias (n 14).

optimal health. The obligation to provide health care, therefore, can be understood as an obligation to achieve a result, while the obligation to take care ensures that all citizens have access to the resources necessary to maintain their health.<sup>75</sup>

Given the importance of health issues for older persons, it is noteworthy that many constitutions have not dedicated special articles on their health. Article 31/1 of the Iraqi Constitution of 2005 specifies that each Iraqi has the right to the state concerned with public health and ensures prevention and treatment by establishing various types of hospitals and health institutions. In the same context, Article 22/2 of the Constitution states that the state protects the health of citizens and provides them with means of prevention, treatment, and medication. Article 25 of the Syrian Constitution states that education, health, and social services are essential pillars for building society, and the state is working to achieve balanced development among all regions of the Syrian Arab Republic. Article 55 of the Yemeni Constitution states that health is a fundamental right accorded to all citizens, and the state recognises this right by establishing and developing numerous hospitals and healthcare institutions. Article 66 of the 2016 Algerian Constitution affirms that healthcare is a right that belongs to the citizens of Algeria. The state is responsible for preventing and controlling the spread of epidemics and other infectious diseases.

The Kuwaiti Constitution specifically provides for the right to healthcare for older persons. Article 11 states that the state guarantees aid to citizens in the case of old age and provides them with social insurance, social aid, and welfare services.

One of the modern Arab constitutions that guarantees the rights of older persons is the Moroccan constitution of 2011, which states in Article 34, 'the public authorities develop and activate policies aimed at people and groups with special needs. For this purpose, special care was given to 'addressing and preventing the vulnerable situations of groups of women and mothers, children and older persons.' In this article, it is observed that the Moroccan constitution recognises older persons as a vulnerable group that requires special protection and care and charges public authorities responsible for implementing corresponding policies.

The authors observed previous constitutional provisions that although the constitutions agreed on the obligation to care for citizens' health, there was a difference in the methodology of dealing with healthcare and how the texts were drafted. It is also clear that constitutions hesitate to deal with the issue of health care; some of them have given it the status of the right, such as the Iraqi, Yemeni, and Algerian constitutions, and some of them only emphasised the obligation of states to provide health care to their citizens. This implies an implicit recognition of citizens' right to healthcare.<sup>76</sup>

The Arab constitutions' provisions regarding the provision of healthcare for older persons align with the standards set by international human rights courts, such as the European

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75 *ibid.*

76 *ibid.*

Court of Human Rights, which affirmed that the age of the individual should not exempt them from prosecution or imprisonment if they are treated with dignity and receive adequate medical care.<sup>77</sup>

## 6 CONCLUSION AND RECOMMENDATIONS

In conclusion, the study highlighted the urgent need to strengthen the protection of older persons by combining international human rights law and the Arab constitutions and reached the following conclusions and recommendations:

### 6.1. Conclusions

1. The development regarding the protection of the rights of older persons in the twenty-first century is doubtful and does not live up to the level of aspirations. No new binding instruments have been enacted in this regard, so the commitment remains to arise from previous international legislation and modern national constitutions and legislation.
2. The general protections provided by human rights laws, both in international human rights charters and national legislation, are inadequate when it comes to protecting geriatric citizens.
3. Most international instruments on older people are legal documents that are not binding on states; they are merely guidelines that governments may or may not adopt.
4. There is a lack of a dedicated legal framework designed specifically for the rights and needs of older people in both international human rights laws and Arabic legislation. This gap underscores the need for a focused and comprehensive international convention to address this growing demographic.
5. Without a universal, legally binding international framework, it is feasible to rely on the provisions of national constitutions to safeguard the well-being and recognise the rights of older people.

### 6.2. Recommendations

1. Given the demographic transition towards an ageing population and the unique challenges older citizens face, it is imperative for Arabic countries, in cooperation with the international community, to reconsider and revise their constitutional frameworks to proactively address the challenges faced by senior citizens. This can be accomplished by harmonising national laws with international human rights standards.
2. This study emphasises the importance of a comprehensive approach to protect older citizens. This approach should include not only health care but also social support, economic welfare, and social inclusion. Arabic constitutions must address these multifaceted needs to ensure comprehensive and effective protection.

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77 Caroline Davidson, 'Aging Out: Elderly Defendants and International Crimes' (2020) 61(1) *Virginia Journal of International Law* 57; *Sawoniuk v. United Kingdom* (Court of Appeal (Criminal Division), Great Britain (UK), 10 February 2000) <<https://internationalcrimesdatabase.org/Case/744/Sawoniuk>> accessed 1 October 2023.

3. Protecting older people under international human rights laws and Arabic constitutions requires adopting effective legislative procedures. These include the establishment of government agencies and organisations with specific responsibilities to older people and monitoring the implementation of laws related to them. Raising awareness and educating society about the rights of senior citizens and promoting their understanding and respect is imperative. Arabic countries should adopt integrated policies and programs to improve the conditions of senior citizens and provide them with the necessary support and care. These programs can include adequate healthcare, job opportunities and continuing education, adequate housing, and promoting social solidarity to ensure dignified and stable lives for older people.
4. The protection of older people under international human rights laws and the constitutions of Arabic states requires cooperation and joint efforts from governments, civil society, and international and local organisations. Senior citizens deserve decent lives and should benefit from all human rights, including healthcare, social justice, and political participation. Providing for their legal protection and protecting their civil rights promotes social justice and contributes to a prosperous and equitable society.

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## RIGHTS AND PERMISSIONS

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