GOVERNING FOR HEALTH AS THE WORLD GROWS OLDER: HEALTHY LIFESPANS IN AGING SOCIETIES

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The challenge of global aging is significant and universal. Almost 700 million people are now over the age of 60, and by 2050, 2 billion people—over 20 percent of the world's population—will be 60 or older. Recognizing the need to combat this population shift, Anna Garsia and Professor Gostin look at the impact this changing dynamic will have on global health and the structures currently in place. In this Article, Garsia and Gostin analyze the current state of affairs for older persons around the world, looking at both international and domestic efforts and ultimately calling for a course of action that enhances the application of existing human rights law while campaigning for a robust new international treaty on the treatment of elder individuals.

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So much of global health governance focuses intensely on a brief moment in the human lifespan—from a safe birth to infant and child survival. To be sure, every mother has a right to have a safe birth and a healthy baby. Every child deserves to survive to celebrate her fifth birthday, and well beyond. To achieve these worthy goals, two out of the three health-related United Nations Millennium Development Goals (MDGs) target maternal/child health: MDG 4 aims to reduce mortality among children younger than five years of age by two-thirds and MDG 5 aims to reduce maternal mortality by three-quarters, both from 1990 base figures.[1]

Yet, with all the attention to this early window of life (infancy to age five), the opposite end of the life spectrum is comparatively neglected. The MDGs do not mention a healthy lifespan or a healthy old age. Major governing institutions such as the World Health Organization (WHO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), and UN Women concentrate on maternal/child health and the rights of the child or the woman. Vast public-private partnerships (e.g., the GAVI Alliance) and philanthropies (e.g. the Bill and Melinda Gates Foundation) mobilize global efforts to prevent and mitigate childhood diseases.[2] For example, although the WHO (the ostensible global health leader) includes "promoting health through the life-course," within its six programmatic areas, representing 8.9 percent of WHO's 2014–2015 budget ($380 million),[3] the vast preponderance goes to maternal/child health; indeed, virtually *all* the resources are allocated to focus on areas other than aging.[4]

1. U.N., *Goal 4: Reduce Infant Mortality*, http://www.un.org/millenniumgoals/childhealth.shtml (last visited Mar. 17, 2014); U.N., *Goal 5: Improve Maternal Health*, http://www.un.org/millenniumgoals/maternal.shtml (last visited Feb. 17, 2014). *See generally* Zulfiqar A. Bhutta & Robert E. Black, *Global Maternal, Newborn, and Child Health: So Near and Yet So Far*, 369 NEW ENG. J. MED. 2226 (2013).

2. *See Maternal, Neonatal & Child Health*, BILL & MELINDA GATES FOUND., http://www.gatesfoundation.org/What-We-Do/Global-Development/Maternal-Neonatal-and-Child-Health (last visited Feb. 17, 2014); *Types of Support*, GAVI ALLIANCE, http://www.gavialliance.org/support (last visited Feb. 17, 2014).

3. *See* WORLD HEALTH ORG. [WHO], *Proposed Programme Budget 2014-2015*, at 8, U.N. Doc. A66/7 (Apr. 19, 2013), *available at* http://www.who.int/about/resources_planning/A66_7-en.pdf.

4. Only $9 million of the WHO budget is for "Aging and Health," compared to $190 million for "[r]eproductive, maternal, newborn, child and adolescent health"—just under five percent of MCH budget. Put in perspective, in this category, the entire $9 million aging budget is equivalent to the level of increase from 2012–2013 to 2014–2015 for research in human reproduction alone. *See id.* at 9–10.

This inadequate attention to the older years of the life appears to be a glaring omission given the universal challenges posed by aging societies. Over 800 million people are currently over the age of 60 and by 2050, two billion people—over 20 percent of the world's population—will be 60 or older.[5] Aging is a demographic fact in almost all countries, but it is occurring more rapidly in low- and middle-income countries. Today, almost two in three people aged 60 or over live in developing countries. By 2050, nearly four in five of those aged over 60 will live in the developing world.[6] In societies that have sought aggressive forms of population control, such as China and their one child policy, there are simply too few young people to generate income to support a large aging population with significant health needs.[7]

Across the globe, declining fertility rates, lower infant mortality, and greater longevity drive population aging: people live longer because of improved nutrition, sanitation, health care, education and economic wellbeing. In many respects, therefore, global aging is a triumph of social and economic development. Domestic and global health agendas, notably the strong push for universal health coverage, have played a major role in reducing premature mortality.[8] At the same time, one of the most sought-after scientific endeavors in high-income countries is research to dramatically extend longevity by, for example, slowing the aging of human cells.[9]

But sitting alongside the stunning success of longer lives (and the future prospect of still longer lives), are the personal, social, and economic consequences of a global demographic transition to a decidedly older population. A fundamental dynamic for global health in the coming decades is to find innovative governance tools to shape the way the international community can enhance the well-being of older people living in aging societies—from civil society, philanthro-

5. Population Fund, *Ageing in the Twenty-First Century: A Celebration and a Challenge* (2012), *available at* http://www.unfpa.org/webdav/site/global/shared/documents/publications/2012/Ageing-Report_full.pdf (last visited Mar. 31, 2014).

6. *Id*.

7. *See, e.g.*, Sui-Lee Wee & Li Hui, *China to Ease Decades-Old One-Child Policy Nationwide*, REUTERS (Nov. 15, 2013), http://www.reuters.com/article/2013/11/15/us-china-reform-child-idUSBRE9AE0OD20131115.

8. WHO, *Global Health and Aging*, at 6, (Oct. 2011), *available at* http://www.who.int/ageing/publications/global_health.pdf.

9. *See, e.g.*, SCIENCE DAILY, *Erasing signs of aging in human cells now a reality* (Nov. 7, 2011), http://www.sciencedaily.com/releases/2011/11/111103120605.htm.

py, industry, and governments to international agencies and global public-private partnerships.

Healthy aging in fair and just societies is an undeniable human good. But aging with devastating illness and disability—which causes profound suffering and financial impoverishment among individuals and their families—is a cruel price to pay for added years of life. And population aging in societies that fail to govern well can sap the humanity and wealth from entire nations. Healthy lifespans amidst aging societies require universal and affordable health services molded to the unique needs of older people (e.g., home and small group care); sustainable social safety nets (e.g., income support, retirement benefits, and lifelong occupations and education); human rights and entitlements (fostering social inclusion and proscribing discrimination); and building environments that accommodate older persons in everyday life (e.g., physical accommodations, safe and walkable streets, and secure places to live).

Given the intrinsic relationships between aging and the personal, social, and economic impacts of ill health and disability, health must lie at the core of society's response to population aging. Beyond the human right to the highest attainable standard of physical and mental health[10], well-governed societies recognize that the foundations of good health in older age are laid throughout a person's lifespan. In short, our response to aging must be in the context of a life course approach to health.[11] Nowhere is this clearer than in response to addressing the key risk factors for non-communicable diseases (NCDs), such as cancer, diabetes, cardiovascular disease, and respiratory diseases. These diseases primarily (but not exclusively) burden the middle-aged and elderly, but the seeds for NCDs are sown from an early age and are compounded over the decades.[12]

It must also be remembered that older people are at heightened risk for almost all public health hazards including depression (contributed to by isolation, loneliness, and loss of status or purpose); de-

10. *See* International Covenant on Economic, Social and Cultural Rights, art. 12, Dec. 16, 1966, 993 U.N.T.S. 3, 8, *available at* http://www.refworld.org/docid/3ae6b36c0.html.

11. For a better understanding of a life course approach to health *see* WHO, *The Implications for Training of Embracing A Life Course Approach to Health*, at 4–6, (2000), *available at* http://www.who.int/ageing/publications/lifecourse/alc_lifecourse_training_en.pdf.

12. WHO, *Global status report on noncommunicable diseases 2010* (2011), *available at* http://whqlibdoc.who.int/publications/2011/9789240686458_eng.pdf.

mentia (progressive loss of memory and orientation); injuries (fragile bones, loss of touch and balance, burns, and falls); and infectious diseases (influenza and pneumonia)—all of which can be addressed at least somewhat through a life course approach.[13]

The goal of healthy aging is unmistakable, and benefits everyone equally in society. Society should afford all human beings the opportunity to live dignified and long lives where they are healthy and active for as long as possible, allowing them to continue to enrich their own lives and of those around them.

In this Article, we first propose a suite of policies and practices at the national and local levels designed to support healthy people living in aging societies. Changing the social, economic, and built environments would transform life prospects not only for older persons, but also would assure all of us that as we age, all of society will help us live well. Next, we then turn to global governance, inquiring how well the international community has responded to this remarkable demographic transition. How effective is the current, and proposed, architecture in facilitating a shift towards these public health policy goals? The international community entered the new millennium with optimism as the United Nations General Assembly declared 1999 the International Year of the Older Person.[14] Reflecting on the journey from the new millennium to today, there has been undeniable—although decidedly inadequate—progress. The 2002 Madrid International Plan of Action on Aging ("Madrid Plan")[15] framed aging policies as integral aspects of economic development and human rights—a form of mainstreaming we support. Yet, more than a decade later, the United Nations processes have failed to yield concrete changes in law and governance.

Finally, we endorse two ideas to shape a favorable global response on healthy aging: (1) global action for a Convention on the Rights of Older Persons; and (2) global mobilization toward post-2015 Sustainable Development Goals (SDGs), with "healthy life expectancy" at the center, and implemented through concrete targets, sustainable resources, and mutual accountability. We intend to demonstrate

13. WHO, *supra* note 8, at 8–10,14.

14. Proclamation on Ageing, G.A. Res. 47/5 (III), U.N. Doc. A/RES/47/5 (Oct. 16, 1992), *available at*http://www.un.org/documents/ga/res/47/a47r005.htm.

15. U.N., Second World Assembly on Aging, Political Declaration and Madrid International Plan of Action on Ageing (2002), http://undesadspd.org/Portals/0/ageing/documents/Fulltext-E.pdf.

why strong normative frameworks could mobilize an effective global response to healthy aging, as they drive public awareness, policies, and practices at national and local levels. Above all, change will only come with robust civil society action demanding health and dignity in aging.[16]

Before beginning our exploration of healthy aging, it will be helpful to place aging in context by explaining its various meanings within culture and society, and the unique ways that it is experienced on the personal level.

I. Contextual Framing of Global Aging

There is no precise definition of when a person is to be considered an older person—inherently, the concept is imprecise and varies from community to community, influenced by a range of social and cultural factors. It also depends on life expectancy. A 70-year-old person may be regarded as "old" in societies where life expectancy is, say, 80 years. But a 50-year-old individual may be "old" in a society with a life expectancy of 60 years.

Generally speaking, the age at which a person is considered to move into the older population is correlated with the gradual loss of capacities that are required to maintain autonomy and independence.[17] The United Nations follows the lead of demographers and uses "older people" to refer to those over 60 years of age. However, in many developed countries the age of 65 is significant as this marks the beginning of eligibility for old age Social Security or welfare benefits.[18]

"Aging" can refer both to individual aging and population aging. Population aging refers to a demographic transition whereby "older individuals become a proportionately larger share of the total

16. Eric A. Friedman, Lawrence O. Gostin, & Kent Buse, *Advancing the Right to Health Through Global Organizations: The Potential Role of a Framework Convention on Global Health*, 15 HEALTH & HUM. RTS. (2013), available at http://www.hhrjournal.org/wp-content/uploads/sites/13/2013/06/Friedman-FINAL.pdf (using the paradigm of AIDS advocacy to demonstrate the power of civil society engagement).

17. S. HUENCHUAN & L. RODRIGUEZ-PINERO, AGEING AND THE PROTECTION OF HUMAN RIGHTS: CURRENT SITUATION AND OUTLOOK 13 (2011), *available at* http://social.un.org/ageing-working-group/documents/ECLAC_Ageing%20and%20the%20protection%20of%20human%20rights_current%20situation%20and%20outlook_Project%20document.pdf.

18. Population Fund, *supra* note 5, at 20.

population."[19] Individual aging is the experience of a particular person getting older. This is a complex and multi-dimensional process involving not only physiological aging accompanied by the chronological counting of age in years, but also a range of psychological, social, and cultural factors. The experience of aging will necessarily be personal and unique for each individual. When considering aging through the lens of international law and governance the focus is on the ramifications, challenges, and opportunities of population aging. Policy responses to population aging, however, are experienced at the individual level, shaped by a person's own experience of growing old.

Finally, although we examine the aging process at some level of generalization, we understand that each individual's experience is unique, just as there are differences in the aging experience between genders and between communities within and among countries with diverse social, cultural and economic characteristics. There is, nevertheless, value in considering aging at a general level: the rights of older persons are universal and the sad reality is that discrimination, vulnerability, and unfilled needs are all common experiences among older people across the globe.

II. The Political and Policy Response: Proposals for Healthy People Living in Aging Societies

If fostering healthy people living in aging societies is a worthy goal, what are the best policies for healthy and dignified aging? Like any public health objective, it cannot be reached through singular interventions, but rather requires a suite of policies and practices that transform society and the environments in which people live. Although our proposals here are not comprehensive, they offer a vision of a society to which nations and the international community should aspire.

A. Universal Health Coverage Should be Molded to the Unique Needs of Older People

One of the World Health Organization's highest priorities is universal health coverage—a goal that it urges the United Nations to

19. World Assembly on Ageing 2002, *World Population Ageing: 1950-2050*, U.N. Doc. ST/ESA/SER.A/207 (2001), *available at* http://www.un.org/esa/population/publications/worldageing19502050/pdf/preface_web.pdf.

adopt in the SDGs.[20] Universal health coverage encompasses accessible, affordable, and equitable health services for everyone.[21] The best way to manage ongoing needs for health services and essential medicines as the population ages is to ensure preventative, curative, emergency, and long term care, along with effective relief of pain and suffering.[22]

Beyond building a health care infrastructure, societies need to ensure that the particular health and safety needs of older persons are met—both in health service resource allocation and biomedical research. Among these special needs of older people are mental health (e.g., depression and dementia); chronic care (including home care) for non-communicable diseases and their associated risk factors (e.g., diabetes, cancer, cardiovascular disease, and respiratory disease); and acute care for injuries (not only emergency services, but also prevention).[23] Older people live disproportionately with disabilities (e.g., mobility, breathing, vision, hearing), so their care can be intensive and long-term.[24] Making arrangements for specialized care for extended durations is often necessary, and this need will only grow as the population ages. Long-term care is also highly expensive care, and many national health systems do not include full benefits for these services, which disadvantages older persons.

Rearranging health services requires not only major changes in the organization, financing, and delivery of health services,[25] but also will require health professional training to identify and effectively prevent risks, and treat injuries and disease.[26] Health programs should also be geared to minimize risk. For example, research has shown that providing a comprehensive service that evaluates risk factors for disability in the homes of older people and then provides specific recommendations coupled with health education can reduce dis-

20. WHO, *Questions and Answers on Universal Health Coverage and the post-2015 Framework*, http://www.who.int/contracting/documents/QandA_UHC_post-2015.pdf.

21. WHO, *What is Universal Health Coverage Online Q&A* (Oct. 2012), http://www.who.int/features/qa/universal_health_coverage/en/index.html.

22. Population Fund,, *supra* note 5, at 14, 68, 161.

23. *See generally* WHO, *supra* note 8.

24. *Id*. at 12.

25. Howard Oxley, *Policies for Healthy Ageing*: *An Overview* (OECD Health Working Papers No. 42, 2009), *available at* http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=DELSA/HEA/WD/HWP (2009)1.

26. Population Fund, *supra* note 5.

ability and delay the need for nursing home care.[27] Such programs are both more humane and cost-effective. Facilities and staffing for long-term care at home or in groups will ensure a health services safety net in a normal, familiar environment.[28] If home care remains the prevailing paradigm (as it should), then arrangements for respite care and support for family and community caregivers will become essential.[29] Additionally, when a person is at the end of life, empowering her to make decisions about terminating life-sustaining treatment (through a surrogate where appropriate) affords a sense of comfort and dignity.

Nurses and community health workers, rather than physicians, can offer many of these services less expensively. Thus, "task shifting" can be a valuable policy, particularly in low- and middle-income countries but also in highly developed countries such as the United States. Task shifting enables relatively lower paid, less educated health professionals to attend to tasks that they are capable of doing, and does not require specialized medical knowledge. This can often require legal reform of licensing and scope of practice laws to allow a range of health professionals to expand their capacity to provide care.[30]

B. Sustainable Social and Economic Safety Nets Should Underpin Aging Policy

One of the greatest worries of every young adult is whether they will have the resources and services needed as they age. A sad fact of aging is that many individuals are driven into poverty, and cannot afford the goods, services, and shelter that are needed for a decent life. Consequently, ensuring economic independence and financial security for older people, and reducing poverty, should be salient

27. Andreas E. Stuck et al., *A Trial of Annual In-Home Comprehensive Geriatric Assessments for Elderly People Living in the Community*, 333 NEW ENG. J. MED. 1184 (1995).

28. *See* WHO, *Towards an International Consensus on Policy for Long-Term Care of the Ageing* (2002), http://whqlibdoc.who.int/hq/2000/WHO_HSC_AHE_00.1.pdf?ua=1.

29. WHO, *Good Health Adds Life to Years: Global Brief for World Health Day 2012* 23 (2012), http://whqlibdoc.who.int/hq/2012/WHO_DCO_WHD_2012.2_eng.pdf?ua=1.

30. Much of the initial focus on task shifting has occurred in the HIV/AIDS context but it is also applicable in the context of aging. *See generally* WHO, *Task Shifting: Global Recommendations and Guidelines* (2008), http://www.who.int/healthsystems/TTR-TaskShifting.pdf?ua=1.

social policies.[31] The elderly have the right to social security and retirement benefits that are adequately supported by government resources and investments to provide for an adequate standard of living.[32] Governments and all of society should promote environments that are conducive to older people working and contributing for as long as they can.[33] This includes retirement policies that do not discriminate on the basis of age, reasonable accommodations at work, and flexible working hours.[34] These policy reforms would enable older people to remain active contributing members of society for as long as they are able.

Strong economic drivers spur governments to cut back on social and economic safety nets. In societies constrained by a lack of resources, along with political ideologies favoring economic austerity, there are marked disincentives for adequate social welfare benefits. As societies age, there are also fewer younger people to support older people, leading to a perception that pensions and support for the elderly are unaffordable. Since the elderly characteristically require more services than the young, there is the temptation to think that they receive an unfair share of economic resources. However, intergenerational equity demands that older persons are cared for, just as those in other generations demand appropriate services. If governments adopt a life-course, those who are young will live with the comforting knowledge that as they grow old, they will not be abandoned or sidelined.

C. Enact Laws to Protect Older Persons and Promote Dignity

Sadly, many people become far more susceptible to neglect, exploitation, and violence as they age. Older people tend to live in relative isolation, so it is all too easy to benignly, or malevolently, neglect their basic needs—both physical and emotional. Because they

31. *See* Population Fund, *supra* note 5, at 41–59.

32. U.N. COMM. ON ECON., SOC., & CULTURAL RIGHTS (CESCR), *Gen. Comment No. 19: The Right to Social Security (Art. 9 of the Covenant)* 15 E/C.12/GC/19, ¶ 15 (Feb. 4, 2008), *available at* http://www.refworld.org/docid/47b17b5b39c.html; *see also* U.N. COMM. ON ECON., SOC. & CULTURAL RIGHTS (CESCR), *Gen. Comment No. 6: The Economic, Social and Cultural Rights of Older Persons*, ¶ 26–27, E/1996/22 (Dec. 8, 1995), *available at* http://www.refworld.org/docid/4538838f11.html.

33. Oxley, *supra* note 25.

34. WHO, *Global Age-Friendly Cities: A Guide* 53–54, 58 (2007), *available at* http://www.who.int/ageing/publications/Global_age_friendly_cities_Guide_English.pdf.

may lose cognitive function and are relatively powerless, they are subjected to scams and exploitation that can rob them of their savings. Because the elderly are frail, they are disproportionately subjected to abuse, especially by family members and caregivers.[35] Finally, and importantly, due to societal misconceptions and prejudices, they are often discriminated against in employment, insurance, and access to public and private services.[36]

This kind of maltreatment is largely preventable. Governments can enact laws and construct enforcement and implementation machinery to prevent and punish physical and emotional abuse. Law enforcement could make fraud or abuse against the elderly more of a priority. And strong anti-discrimination laws specifically designed to protect older persons would send a social and political signal that rights and dignity in aging should be the norm.[37]

All public sector workers (including health, social work, and transport personnel) should be trained to identify and respond to the needs of older people. Social media campaigns should promote better understanding of older people and encourage more community caring.[38] As law and policy shift, it could be possible to transform society and culture so that older people gain respect and dignity—rather, than being overlooked, discounted, and sometimes distained.

D. Organize Societies to Foster Civic Engagement and Social Participation

It is a fundamental precept of the human experience that all of us want to become an integral part of our families and communities. We all want to feel valued, to contribute, and to gain comfort from being embedded in civic life. In short, civic engagement and social participation is fundamental to human happiness, well-being, and self-respect.[39] Bringing older people into the social mainstream makes for

35. Population Fund, *supra* note 5, at 96–98; *see also* WHO, *A Global Response to Elder Abuse and Neglect* (2008), http://www.who.int/ageing/publications/ELDER_DocAugust08.pdf.

36. U.N. Secretary-General, *Follow-up to the International Year of Older Persons: Second World Assembly on Ageing: Report of the Secretary-General*, ¶ 13–15, U.N. Doc. A/68/167 (July 19, 2013), http://www.un.org/Doc/UNDOC/GEN/N13/402/51/PDF/N134025.pdf?poenelement.

37. *Id.*; *see also A Global Response*, *supra* note 35.

38. WHO, *Good Health Adds Life to Years*, *supra* note 28.

39. *See generally* ROBERT D. PUTNAM, BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY (2000) (showing how society has become increasingly disconnected from family, friends, neighbors, and our democratic struc-

a more humane society, and also enables an aging population to make a difference—whether by volunteering in a school, museum, or homeless shelter; enriching interactions in social groups (e.g., book clubs, bowling leagues, or discussion groups); or working in political campaigns or legislators' offices. In this respect, the tendency for older people to congregate in communities that are increasingly dominated by their own demographic (such as cities or even neighborhoods dominated by retired people) while appealing in some respects (such as building of community among older people) has significant detriments, as it segregates older people from broader society. Our collective goal should be to foster rich interactions among generations—as each age group has something to contribute to the other.

These goals of civic participation and social inclusion require affirmative policies and practices designed to reach out to older people, to make them feel welcome and included, and to dismantle the physical and attitudinal barriers to full participation.[40] Funding to support community centers, community events, and support networks would go a long way to tap the experience and energy of older people who want to meaningfully contribute.

E. Alter the Built Environment so that Older Persons Can Participate Fully in Everyday Life

Many societies, particularly in the West, view each individual as being disconnected from the people around them and from the environments in which they live. The values of autonomy, free will, and individualism reinforce the social attitude that all individuals must be self-reliant. But the human experience is far more complex than this individualistic notion, often associated with freedom itself. Rather, each of us is embedded in families, neighborhoods, and environments that actively shape our behavior, and give us a sense of well-being. Just as social engagement is vital to human well-being, so too is an environment that is conducive to full participation in everyday life. Sometimes we prioritize policy based on "big" ideas such as health care and social security reform. But it is important to understand that

tures, and warning that our stock of social capital—the fabric of our connections with each other—has plummeted, impoverishing our lives and communities).

40. *See Global Age-Friendly Cities, supra* note 34, at 33–39, http://www.who.int/ageing/publications/Global_age_friendly_cities_Guide_English.pdf.

the little things determine our human quality of life—e.g., conversation, walking, recreating, shopping, and gathering in social settings.

For old people, living in a warm, clean, and accessible home—with caregivers and friends visiting often—makes all the difference to a good life. Social policies designed to give every person affordable housing, with accommodations for frail and disabled older people, would vastly improve the quality of life.[41] And if support and services are provided locally, humane care in the home and community becomes much more likely.

All people, including older persons, also want the freedom and vitality that comes from a full life outside the home.[42] The built environment could promote mobility and freedom of action through walkable, attractive, and safe streets; well maintained footpaths; and lighting to prevent falls. Transport, accessible buildings, and a range of services would facilitate full participation throughout the range in levels of mobility. Services used by older people (for example, shops, health clinics, libraries and government agencies facilitating social security) should be situated together to provide easy access.[43]

F. A Suite of Policies

These are only a few of the political, policy, and social choices that would vastly improve quality of life as we age. The sheer range of interventions can seem daunting. Yet, society must think systematically about a healthy lifespan because aging impacts on all aspects of life, and will affect every person. Consequently, national policy involving an aging population must also be comprehensive.

Analytic thinking and careful planning are needed to implement the diverse factors that shape the health and well-being of the elderly. The common thread running through all the foregoing policies and practices is a focus on maintaining the independence of older

41. *Id*. at 25–32.

42. The *New York Times* offered an insightful illustration of these social phenomena in its observations about lonely people lingering in McDonald's restaurants savoring low-cost coffees and lattes: "Behind the Golden Arches, older people seeking company . . . have transformed the banquettes into headquarters for the kind of laid-back socializing once carried out on a park bench or brownstone stoop." This story vividly shows how deeply important it is for all human beings to have a place of comfort and socialization that is friendly, warm, and welcoming. *See* Sarah Maslin Nir, *The Food May be Fast, but These Customers Won't Be Rushed,* N.Y. TIMES, Jan. 28, 2014, http://www.nytimes.com/2014/01/28/nyregion/the-food-may-be-fast-but-these-customers-wont-be-rushed.html .

43. *Global Age Friendly Cities*, *supra* note 34, at 12–29.

people, while ensuring that they age in a healthy and dignified manner. Human rights law provides the duty to respect, protect, and fulfill the basic rights and needs of older people.

The mentioned interventions share the pursuit of three fundamental goals. A primary goal is to affirmatively shape older persons' experiences of aging in their day-to-day lives. This aim encompasses such fundamental needs as health care, transportation, food, and housing. Another vital aim is to address the socio-economic determinants of healthy aging, such as Social Security, social support, and civic participation. We know that socio-economic circumstances (e.g., education, income, and peer acceptance) make a fundamental difference in health and well-being.[44] The final overarching objective is to adopt a life-course approach. It is of little value waiting until people are old, poor, and isolated before intervening. What is needed is to pay attention to special needs throughout the life spectrum, focusing on risk factors, poverty, and dignity.

As stressed above, no single intervention is likely to work. Rather, the use of various policies and practices using a well-planned, coordinated, and comprehensive approach will work best. Implementing these integrated goals—enhancing the experiences of older people in everyday life, addressing socio-economic determinants, and taking a life-course approach—requires political will, human and economic resources, and legal safeguards. If integrated effectively, it ought to be possible for every society to make substantial progress in achieving all of these worthy objectives.

Although political discourse often frames aging policy as matters of intergenerational equity, this is a highly divisive lens. It examines the life course as a snapshot in time where there are younger, middle-aged, and older people—all of whom are pitted against each other for attention and resources. But this ignores that aging is a gradual but inevitable process, and that all individuals aspire to grow old in comfort and dignity. Effectuating aging policy at the national level does not confer inequitable benefits on the elderly, or otherwise preference this age cohort. Rather, healthy aging will rebound to benefits of every individual. It will provide services throughout the course of life as we prepare for a healthy older age; it will relieve the

44. WHO, *Commission on the SocialDeterminants of Health: Report by the Secretariat* (Nov.23, 2012), available at http://www.who.int/social_determinants/B_132_14-en.pdf?ua=1.

worry of families concerned with the health of their parents and grandparents; it will give all of us a sense of comfort that when we become older, government and society will provide the services, income support, and environment conducive to a good life.

Undoubtedly, progress on the ground requires national and local action, as we have just explained. But international frameworks, global governance, and law can facilitate and support long-term changes at the state level. International instruments can set hard or soft norms, create targets, monitor progress, mobilize resources, and ensure accountability for results. With that in mind, we now turn to international law and governance to help fulfill the aspiration of healthy people living in aging societies.

III. An Early History of International Norms and Platforms: Towards the Madrid Plan

In the absence of binding treaties on aging the international community has historically looked to non-binding policy instruments to provide the key governance architecture. Non-binding instruments often contain similar norms, processes, and accountability mechanisms as harder treaty law. They are also easier to negotiate, and states are more likely to embrace bolder reform if they do not feel bound in international law.[45]

As the demographic shift increasingly drew political attention in the late twentieth century, states convened the First World Assembly on Aging in 1982 and adopted the Vienna International Plan of Action in Aging setting out 62 recommendations.[46] Nearly a decade later, in 1991, the General Assembly adopted the United Nations Principles for Older Persons[47]; although these principles mirrored the con-

45. *See generally* LAWRENCE O. GOSTIN, GLOBAL HEALTH LAW (2014).

46. World Assembly on Aging, July 26–August 6, 1982, *Vienna International Plan of Action on Aging* (1983), *available at* http://www.un.org/es/globalissues/ageing/docs/vipaa.pdf. Among the 62 recommendations of the Vienna International Plan of Action in Aging were those relating to "aging individuals" (e.g., health and nutrition, protection of elderly consumers, housing and environment, family, social welfare, income security, employment, and education) and to "policies and programs" (e.g., data collection, training, education, and research).

47. Implementation of the International Plan of Action on Ageing and related activities, G.A. Res. 46/91, U.N. Doc. A/RES/46/91 (Dec. 16, 1991), *available at* http://www.un.org/documents/ga/res/46/a46r091.htm. The United Nations Principles for Older Persons focused on five key areas across 18 principles: independence, participation, care, self-fulfillment, and dignity. *Id.*

tent of existing human rights treaties, they conspicuously declined to use the language of rights.[48] The following year, the General Assembly adopted eight global targets on aging for 2001.[49] In commemoration of the 10th anniversary of the Vienna Conference on Aging, the General Assembly adopted the Proclamation on Aging.[50] The General Assembly also marked the anniversary by designating 1999 as the International Year of the Older Persons.[51]

However, it took another decade from this cluster of early nonbinding instruments before the international community made a significant change in the global architecture. Twenty years after Vienna, in 2002, the Second World Assembly on Aging was held in Madrid, Spain. The Madrid International Plan of Action on Aging and accompanying Political Declaration adopted by the 159 governments represented, set out a major international agenda on aging—emerging perhaps as the most important international instruments on aging.[52]

The Plan is built around three priority directions: (1) older persons and development; (2) advancing health and well being into old age; (3) and facilitating supportive environments. The Plan lists 18 areas of concern and makes 239 recommendations under each of these priority areas, recognizing a crucial role for government in setting policy for an aging population. The Plan captures many of the policies and practices we endorse, including multiple factors contributing to the experience of aging in a multi-pronged policy agenda. It offers a clear road map for a comprehensive approach improving policy at the local and national levels.

There were, moreover, fundamental aspects of the Madrid Plan which signaled an important shift from earlier international instru-

48. *Id*. For example, Principle 11 under the heading "Care" states that "[o]lder persons should have access to health care" rather than framing it as an obligation as found in Article 12 of the International Covenant on Economic, Social and Cultural Rights.

49. Global targets on aging for the year 2001: A Practical Strategy, U.N. DOC A/47/339 as adopted in Implementation of the International Plan of Action on Ageing: Integration of Older Persons in Development, G.A. Res. 47/86, U.N. Doc. A/RES/46/91 (Dec. 16, 1991), *available at* http://undesadspd.org/LinkClick.aspx?fileticket=K7_hsQWDq0g%3d&tabid=502 (last visited Mar. 31, 2014).

50. Proclamation on Ageing, G.A. Res. 47/5, U.N. Doc. A/RES/47/5 (Oct. 16 1992), *available at* http://www.un.org/documents/ga/res/47/a47r005.htm (last visited Mar. 31, 2014). This proclamation encouraged implementation of the Vienna Plan of Action and dissemination of the Principles for Older Persons. *See id*. at art. 1).

51. *Id*. at art. III.

52. Second World Assembly on Aging, *supra* note 15.

ments on aging. First, by identifying "older persons and development" as a priority, the Madrid Assembly acknowledged that aging populations were not simply First World concerns, but also raised vital socio-economic concerns in low- and middle-income countries. The international community traditionally perceives the developing world as suffering from short and difficult lives—often precipitated by acute infectious diseases such as AIDS, tuberculosis, and malaria. But lower-income populations are living longer, and increasingly suffering from longer-term chronic diseases and disabilities, such as cancer, diabetes, heart disease, and respiratory disease.[53] This demographic shift will only increase as states move to middle-income status, exacerbated by the health perils that arise from that status—high-fat diets, excessive use of alcohol, physical inactivity, and smoking. It is therefore crucial to include healthy aging as an integral part of the development agenda.

Second, the Madrid Plan represented the first international framing of aging as a human rights concern. A focus on human rights shifts the lens of analysis beyond charitable assistance toward state obligations to rights holders.[54] It brings a badly needed focus on fair treatment and non-discrimination, which had been lacking in previous international instruments. And beyond civil and political rights, a human rights lens frames key social, cultural, and economic interests as human rights, such as the rights to health, to work, and to social security.

Thirdly, reflecting this human rights approach, the Madrid Plan sought integration of a gender perspective into all policies, programs, and legislation—recognizing the differential impact of aging on women. Although women generally live longer than men and are more socially connected, they also tend to disproportionately age in poverty. Their unique health and social needs are often forgotten, particularly in male-oriented societies. And their legal and social status in many societies is fragile, as they often have few rights to property and income.[55]

Fourthly, using the model of civil society action prevalent in human rights advocacy, the Plan endorsed a bottom-up participatory

53. *See* Bryan Thomas & Lawrence O. Gostin, *Tackling the Global NCD Crisis: Innovations in Law and Governance*, 41 J. L. MED. & ETHICS 16 (2013).

54. Office of the U.N. High Comm'r for Human Rights, *Human Rights and Poverty Reduction. A Conceptual Framework*, U.N. Doc. HR/PUB/04/1 (2004).

55. For further discussion see Population Fund, *supra* note 5, at 28.

strategy, including monitoring and review.[56] It is vital to stress the importance of civil society in advocating for the right to healthy aging. So many of the social and health advances that have emerged at the country level are due to the powerful advocacy of civil society groups. This has been evident in the AIDS movement, as well as movements for breast cancer research and for reproductive rights.[57]

Thus, from a content perspective the Madrid Plan offered a promising vision for aging policy moving into the twenty-first century. However, the bigger test for the Madrid Plan is whether states have effectively implemented its core content. The Plan set aspirational policy goals, but have these transformed national policy on the ground? As a non-binding policy framework, the Madrid Plan does not impose legal obligations on states to adopt its policy platforms. Nor does the Madrid Plan do anything to address the significant impact on resources required to implement a number of the policy goals. To be sure, the Plan itself established a periodic five year review of progress, but it provides limited accountability for governments. These are significant structural limitations on the implementation of the Madrid Plan present from its inception.

Despite these limitations, the recent 10-year review of the Madrid Plan suggests a modest cause for optimism, particularly with respect to institutional arrangements.[58] Since 2002, 48 countries have approved and published national policies on aging and ten have enacted overarching legislation; additional states reported enacting specific laws on various aspects of aging.[59] The Plan has spurred governments to commission reports and surveys on aging, and to establish official agencies and institutions, with the objective of facilitating coherent government policies on aging. In most countries, at least one ministry deals with aging or older persons.[60]

56. *Id*. at 32, 133.

57. *See*, *e.g.*, Friedman, Gostin & Buse, *supra* note 16, at 78–80, 83 (using the paradigm of AIDS advocacy to demonstrate the power of civil society engagement).

58. Population Fund, *supra* note 5, at 12–15 (reporting results of the ten-year review); U.N. Population Fund & Help Age Int'l, *Overview of Available Policies and Legislation, Data and Research, and Institutional Arrangements Relating to Older Persons - Progress Since Madrid*, at iv–vii (July 11) [hereinafter *Overview of Progress Since Madrid*] (reviewing existing policies, legislation, data, research and institutional arrangements to assess the implementation of MIPAA).

59. *Overview of Progress Since Madrid*, *supra* note 58.

60. *Id*. at v.

Not only has the Madrid Plan spurred action at the national level, but it also has influenced international organizations. For example, the WHO launched the "Active Aging Policy Framework,"[61] which evolved into its current program on "Aging and Life Course." "Active Aging" adopts the human rights approach championed at Madrid—optimizing opportunities for health, participation, and security to enhance quality of life as people age.[62] Some of the stronger initiatives in this program are focused on providing practical policy advice for local implementation and the exchange of relevant information across the world, for example the WHO Global Health Network of Age-friendly Cities and Communities and the guide to "Global Age-friendly cities."[63]

Undoubtedly, the Madrid Plan has inched national governments and international institutions toward greater inclusiveness for aging populations. However, the Madrid success stories cannot mask an overall lack of major improvements in the lives of older people in many societies. Many, perhaps most, of the policy and practice reforms we have urged above in this Article and were included in the Madrid Plan remain unfulfilled. This is particularly true of those interventions requiring more intensive investment of public resources. The Madrid Plan review found that, while many countries made progress in mainstreaming aging into policy, they failed to allocate the resources needed for effective implementation of these policies.[64]

Beyond overall failure to invest in healthy aging, the periodic review found major gaps in meeting the needs of older people apparent in most countries, such as adequate services for persons with mental and physical disabilities.[65] States have similarly failed to focus on the vital functions of care and support givers.[66] Finally, states failed to give systematic attention to the experiences of older people when developing more overarching policies, such as care and rescue in crisis situations, internal and international migration, and food and nutrition.[67]

61. WHO, *Active Ageing: A Policy Framework* (2002), *available at* http://whqlibdoc.who.int/hq/2002/WHO_NMH_NPH_02.8.pdf?ua=1 (last visited Mar. 31, 2014).
62. *Id*.
63. WHO, *supra* note 34.
64. *Overview of Progress Since Madrid*, *supra* note 58.
65. *Id*. at vi.
66. *Id*.
67. *Id*. at v–vi.

The Madrid Plan certainly has provided a tool for policy reform, civil society advocacy, and even the private sector. But it has not influenced social and cultural attitudes, or led to major campaigns to focus attention on the rights and needs of an aging population. The Madrid Plan is largely unknown to the general population.[68] And in many ways it has failed to improve lives because of the failure to mobilize resources. As we stated earlier, even the WHO devotes precious few resources or programs to healthy aging, despite its strong normative support.

The glaring shortcomings in the Madrid Plan have now energized innovative states and international organizations to try to strengthen international governance on aging—with particular attention to integrating healthy aging into human rights law and the post-2015 sustainable development agenda. As we explore next, both human rights and the SDGs could significantly advance the rights and interests of aging populations, addressing the inherent weaknesses in the Madrid Plan. What is important is to integrate aging into national and global governance, using international law to buttress soft-law normative development.

IV. Human Rights Framework for Healthy, Dignified Aging

In December 2010, as part of the decade follow up to Madrid, the General Assembly established an "Open-ended Working Group on Aging,"[69] with the mandate to identify gaps in existing human rights instruments, as well as the feasibility of new treaties.

Currently, no treaty explicitly targets the human rights of older people in the way that treaties have been developed for other disadvantaged populations, such as children,[70] persons with disabilities,[71]

68. *See generally* Population Fund, *supra* note 5, at 41–59.

69. Follow-up to the Second World Assembly on Ageing, G.A. Res. 65/182, U.N. Doc. A/RES/65/182 (Dec. 21. 2010), *available at* http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/523/46/PDF/N1052346.pdf?OpenElement.

70. Convention on the Rights of the Child, G.A. Res. 44/25, U.N. Doc A/RES/44/25, *available at* http://www.refworld.org/docid/3ae6b38f0.html (last visited Mar. 31, 2014).

71. Convention on the Rights of Persons with Disabilities, March 30, 2007, *available at* http://www.un.org/disabilities/convention/conventionfull.shtml (last visited Apr. 22, 2014).

and migrant workers.[72] There are also few explicit references to older persons within relevant human rights guarantees of existing treaties,[73] rendering it more difficult to ensure state implementation and civil society advocacy.

Nevertheless, core human rights treaties implicitly speak to the experiences and challenges of aging, including the rights to enjoyment of the highest attainable standard of physical and mental health,[74] the right to social security,[75] the right to an adequate standard of living,[76] and the right to work.[77] There are no age restrictions on the application of these, and other civil, political, social, and economic entitlements. Treaty monitoring bodies have offered guidance on the application of treaty rights to older people. For example, in 1995, the Committee on Economic, Social and Cultural Rights (CESCR) examined state obligations to older people in General Comment Number 6,[78] followed in 2009 with General Comment No. 19 on the right to social security.[79]

Locating aging within the traditional safeguards against discrimination afforded under human rights law is also vital. Age-related discrimination not only speaks directly to the experiences of many older persons, but also contributes to multiple challenges faced by older persons across societies, including access to health care and Social Security, as well as overcoming physical barriers to full participation. "Age" is not an explicitly prohibited ground of discrimination in most human rights treaties, reflecting an era before aging was solidly on the political agenda.

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72. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Dec. 18, 1990, 30 I.L.M. 1517 (entered into force July 1, 2003), *available at* http://www2.ohchr.org/english/bodies/cmw/cmw.htm [hereinafter U.N. Migrant Worker Convention].

73. Only the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (see *id.* at art. 7), the Convention on the Rights of Persons with Disabilities (see art. 25(b) and art. 28(2)(b) and additional references in arts. 13 and 16), and the Convention of the Elimination of All Forms of Discrimination Against Women (see art. 11(e)) have provisions explicitly addressing aging. The International Covenant on Economic, Social and Cultural Rights has an implicit reference to age through the right to social security (see art. 11).

74. International Covenant on Economic, Social and Cultural Rights, *supra* note 10, at art. 12.

75. *Id*.

76. *Id*. at art. 11.

77. *Id*. at art. 6, 7.

78. CESCR, *Gen. Comment No. 6*, *supra* note 31.

79. CESCR, *Gen. Comment No. 19*, *supra* note 31.

Aging could, of course, be captured within open-ended categories in existing human rights treaties (e.g., "other status"). The Committee on Economic, Social and Cultural Rights (CESCR), for example, interprets the ICESCR to include age as a "prohibited ground of discrimination."[80] Despite the possible capture of age discrimination in existing treaty language, what is needed are platforms specifically encompassing aging in such realms as anti-discrimination, the right to health, violence against and abuse of older persons, social security, long-term care, and so forth.[81]

Perhaps the most contested but powerful idea being advanced is the negotiation of a treaty expressly on the rights of older persons. A treaty-based framework would incorporate both civil and political rights (e.g. individual freedoms and equitable treatment) and economic, social, and cultural rights (e.g., health, social security, employment). Such a treaty would create binding obligations on states specifically targeted to improving the health and lives of older people.

The open-ended working group deliberations, however, reflect the fundamental political obstacles to ushering in a new generation of human rights law relating to aging. Although a number of states, particularly in Latin America, strongly support development of a new treaty as they have done for a number of years,[82] other states prefer to facilitate more effective implementation of existing human rights law.[83] In an environment where binding international agreements, particularly in the realm of human rights, are highly contested, the future remains uncertain. That would be a lost opportunity as the case for a new, dedicated human rights instrument on the rights of older

80. CESCR, *Gen. Comment No. 20: Non-Discrimination on Economic, Social and Cultural Rights* (Art. 2 of the Covenant) May 4-May 22, 2009, U.N. Doc. E/C.12/GC/20, ¶ 2 (May 25, 2009).

81. Office of the High Comm'r for Human Rights, Normative standards in International Human Rights Law in Relation to Older Persons: Analytical Outcome Paper 4 (August 2012), *available at* http://social.un.org/ageing-working-group/documents/ohchr-outcome-paper-olderpersons12.pdf.

82. The Brasilia Declaration adopted at the Second Regional Intergovernmental Conference on Aging in Latin America and the Caribbean called for such a treaty, with the UN Economic Commission for Latin America endorsing it the following year. Resolution 644 (XXXII) urged participating governments to work towards the development of an international convention on the rights of older persons and to designate a special rapporteur. The 2012 San Jose Charter on the rights of older persons in Latin America and the Caribbean similarly urged the adoption of such a convention.

83. The Future We Want, G.A. Res. 66/2888, U.N. Doc. A/RES/66/288 *available at* http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/476/10/PDF/N1147610.pdf?OpenElement (last visited Mar. 31, 2014).

people is powerful; it would provide an important supplement to the Madrid Plan in global governance.

A new treaty would further develop an impactful normative human rights framework underpinned by effective global governance. It would solidify a human rights approach to aging, creating rich detail on addressing the unique problems of an aging population, such as end of life care, dementia, social security, supported living, and equitable treatment. Perhaps most importantly, a new treaty would create binding international legal obligations on States to protect, respect, and fulfill the rights of older people.

Although compliance with such a treaty—as with most treaties—will remain an ongoing challenge, it would give the force of international law to the principles that underpin the Madrid Plan. States would then have an added incentive to use the Madrid Plan to fulfill their legal and ethical obligations to older persons. Moreover, transparency and monitoring mechanisms established as part of a new treaty would provide a measure of public accountability to member states. International law is only useful, of course, if it changes reality on the ground. A treaty on the rights of older persons could create the governance and binding obligations that were absent from the Madrid structure. A convention that protects people's rights in old age would also raise political and public awareness, much in the way that rights-orientated domestic and international law have done for other disadvantaged populations, such as persons with disabilities, which could build political support for better implementation of the Madrid Plan.

Despite its potential to transform societies, a treaty on the rights of older persons is at best a long way off, and at worst far from becoming a reality. What is needed, then, is a parallel course that enhances application of existing human rights law to older persons, while still fiercely campaigning for a robust treaty. Focusing on the current human rights architecture would immediately support the Madrid Plan from the human rights law perspective as well as build a body of knowledge and support, buttressing the case for a new treaty.

Treaty monitoring bodies, for example, should continue to issue General Comments (e.g., CEDAW's General Recommendation No. 27 on older women and protection of their human rights) to provide normative guidance on the content of general rights in the con-

text of the experience of older people.[84] This normative development can be supported by existing special rapporteurs continuing to use reports to the Human Rights Council to consider older people as a group requiring special protection in the context of their mandates.[85] Additionally, treaty bodies can use existing monitoring mechanisms, as well as the Universal Periodic Review reporting to the Human Rights Council to hold states accountable for their treatment of older persons. The Human Rights Council could similarly make use of available special procedures, such as by creating a special rapporteur on the rights of older persons, with a strong mandate. While these steps would all be beneficial, it will also be important to consider avenues outside of the United Nations Human Rights system to build effective global governance on aging. Perhaps the most promising current international forum to advance the rights of older persons is the United Nations' sustainable development agenda, a topic to which we will now turn.

V. Dignified Aging in a Healthy Lifespan: The Sustainable Development Agenda

With the Millennium Development Goals (MDGs) due to expire in 2015, the United Nations has initiated a global process for a renewed commitment to social and economic development—the "Sustainable Development Goals (SDGs).[86] The SDGs are framed as a holistic, sustainable development framework addressing critical challenges faced by all countries, such as extreme poverty, income inequality, health challenges, climate change, and food.

Achieving agreement on the final text of the SDGs will entail an extended and complex process, with working groups, consultations, expert reports, and ultimately diplomatic negotiation. Yet, it offers an opportunity to rectify a glaring omission from the MDGs. The

84. Comm. (CEDAW), *Gen. Recommendation No. 27 on Older Women and Protection of Their Human Rights*, U.N. Doc. CEDAW/C/GC/27 (Dec. 16, 2010), http://www.refworld.org/docid/4ed3528b2.html.

85. *See e.g.*, HUMAN RIGHTS COUNCIL, THEMATIC STUDY ON THE REALIZATION OF THE RIGHT TO HEALTH OF OLDER PERSONS BY THE SPECIAL RAPPORTEUR ON THE RIGHT OF EVERYONE TO THE ENJOYMENT OF THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH, ANAND GROVER, U.N. Doc. A/HRC/18/37 ¶ 59 (4 July 2011), available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A-HRC-18-37_en.pdf (last accessed Mar. 31, 2014).

86. *See also A New Global Partnership: Eradicate Poverty And Transform Economies Through Sustainable Development* 5 (May 2013), http://www.post2015hlp.org/wp-content/uploads/2013/05/UN-Report.pdf.

Goals did not explicitly address social and economic development for one of the world's poorest demographic sectors—older persons and aging populations. Consequently, policies and programs designed to reach MDG targets did not include older people, while states were not even required to report disaggregated data to demonstrate progress for older people as a critically important sub-population.[87] Moreover, the MDGs did not address vital aspects of healthy aging, such as NCDs and accompanying risks (e.g., tobacco, alcohol, diet, and physical activity) and mental health (e.g., depression and dementia).

The premise and underlying philosophy of the SDGs fits well with advancing a robust agenda on healthy aging. The United Nations aims to integrate economic, social and environmental objectives into the SDGs—goals that should be universal and universally applicable.[88] All countries face a crisis in meeting the needs and fulfilling the rights of a growing aging population.

Fundamental demographic transformations, moreover, are crucially important to achieving sustainable development. It is simply not possible to advance the development agenda without meeting the needs of current and future generations. Critical questions include, how many people are living on the planet? How many more people will be added in the next decades? How old are these people and how will the age distribution change in the future? How will a top-heavy aging society pay for the increased costs of care? Cross-cutting themes run through the sustainable development agenda, such as income inequality, discrimination, and social exclusion that directly impact the aging experience.

It is possible to see some initial momentum for an aging agenda within SDG negotiations. The United Nations is encompassing aging under the broader theme of "population dynamics," which is among 11 themes identified for the post-MDG agenda.[89] Rio+20,

87. Anders Hylander, MDGs: No Room for the World's Older People, http://www.helpage.org/blogs/anders-hylander-11964/mdgs-no-room-for-the-worlds-older-people-440/ (last accessed Mar. 31, 2014); *see also* Population Fund, *supra* note 5, at 162.

88. For further discussion see Jeffrey Sachs, *From Millennium Development Goals to Sustainable Development Goals*, 379 THE LANCET 2206 (June 9, 2012).

89. UN System Task team on the post-2015 U.N. Development Agenda, Realizing the Future We Want for All (June 2012) at paragraph 115 states that: "[Development] Targets should take proper account of population dynamics and different demographic structures across countries and regions and within countries. The clearest expression of these is the changing weights of youth and older persons in societies; different rates of fertility, morbidity and mortality; and urbanization

which launched the SDG process, stressed that development targets should consider population projections and demographic changes, including "changing weights of youth and older persons in societies."[90] Ban ki Moon, the U.N. Secretary-General, similarly urged the incorporation of population aging in the development agenda.[91]

Thematic clusters in the SDG process include "health and population dynamics." Technical Support Team (TST) issue briefs on "population dynamics"[92] and "health and sustainability"[93] have been submitted to the working group on Health and Population Dynamics. These submissions contain key statements on non-discriminatory policies to enable older persons to contribute fully to society, while receiving the care, services and social protection they need.[94] It is, therefore, foreseeable that with vigorous state and civil society advocacy, the SDGs could embrace a development platform at the intersection of health and aging.

Even though it is still uncertain whether the SDGs will expressly tackle the problems of healthy aging, it offers an opportunity for robust campaigns aimed toward that goal. The linking of health and population demographics could squarely place healthier lifespans on the international agenda. Indeed, a healthy lifespan is currently one of the leading candidates for "health-related" SDGs. (The others are universal health coverage, as well as child/maternal health).[95] The proposed principle of "invest[ing] in human capital throughout the life course" also should be embraced, together with detailed targets towards achieving that goal and resources to get there.[96]

If the SDGs do integrate the priority directions of the Madrid Plan of Action (e.g., economic development, healthy aging, and enabling and supportive environments) as well as a life course approach

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rates. A combination of absolute and relative targets will be needed for an all-inclusive development agenda that takes shifting demographics into account." *available at* http://www.un.org/en/development/desa/policy/untaskteam_undf/untt_report.pdf (last accessed Feb. 2, 2014).

90. The Future We Want, *supra* note 83.

91. Population Fund, *supra* note 5.

92. U.N. TST: Population Dynamics (2013), *available at* http://sustainabledevelopment.un.org/content/documents/18310406tstissuespopdyn.pdf (last visited Mar. 31, 2014).

93. U.N. TST: Health & Sustainable Development (2013), *available at* http://sustainabledevelopment.un.org/content/documents/18300406tstissueshealth.pdf (last visited Mar. 31, 2014).

94. U.N. TST: Population Dynamics, *supra* note 92, at 3.

95. U.N. TST: Health & Sustainable Development, *supra* note 91, at 6–7.

96. U.N. TST: Population Dynamics, *supra* note 90.

that shapes healthy aging (e.g., poverty reduction and NCD and mental health risk factors), it will place aging firmly within the broader development agenda.[97] Although sustainable development goals do not rise to the level of international law, they nonetheless represent a high profile, impactful instrument to promote accountability on aging policy.

Civil society embraced the MDGs as a powerful advocacy tool rooted in numerical benchmarks and time sensitive targets.[98] While Madrid has not become a rallying cry for addressing the demographic shift, sustainable development goals on aging could provide the catalyst. Equally important, the SDG negotiations are very much about resource mobilization and priority setting that could close the glaring gaps in the Madrid Plan and its subsequent implementation. The SDG negotiations must build upon the Madrid Plan, fully integrating it into the post-MDG development agenda.

VI. Towards Building Comprehensive Governance for Healthy and Dignified Aging

In last decade or so, we have witnessed vastly increased public and political attention to the changing demographics of aging. At the same time, the international community has strengthened global governance frameworks adopting a human rights-based approach. The Madrid Plan of Action has erected a firm foundation to shape aging policy into the future. What is required now is to increase the political will, resources, and accountability frameworks to ensure effective implementation at the national and local level. Despite its limitations, the Madrid Plan remains well placed to be the cornerstone of a governance framework on aging into the future—whether through an age-specific convention and/or through the sustainable development agenda.

The challenge and opportunity will be to use growing political attention for far-reaching implementation of the Madrid Plan, along with effective global governance to complement, supplement, and reinforce the Plan. A Convention on the Rights of Older Persons and the Sustainable Development Agenda offer the two most promising global processes to raise the status of an aging population.

97. Population Fund, *supra* note 5, at 162.
98. Sachs, *supra* note 88, at 2210.

Global health—in areas from infectious and non-communicable diseases, as well as injuries and mental health—has transformed in the last decade, with massive injections of resources.[99] This has brought celebrity status (e.g., Bill and Melinda Gates, Michael Bloomberg, and Bono) as well as a transformed architecture (e.g., the Global Fund for AIDS, Tuberculosis and Malaria, UNITAID, the GAVI Alliance, and UNAIDS). But it has also brought a dizzying proliferation of new actors—private, non-profit, governmental, and public/private partnerships. The global architecture, therefore, requires priority setting, coordination, and effective governance.[100] The mechanisms we have examined in this paper—better utilization of existing human rights mechanisms, an age-specific convention, and the SDG negotiation process—would transform global governance building on the promise of the Madrid Plan. Other initiatives such as the Global Commission on Aging in Developing Countries (a partnership between WHO and Partners in Population and Development)[101] could help catalyze these innovations.

Effective governance also needs to be at the national and local levels—actively supported by international law, governance, and financing. We have offered a suite of domestic policies that would fundamentally improve the lives, not only of an aging population but also everyone in society. Changing life experiences for aging societies requires legal and policy reforms that alter the environments in which we live and the services to which we are entitled.

Ultimately, building nations and a world that promotes health for all will become critically important to ensure that older persons remain fully engaged, cared for, and respected. And the most vital part of a good life is a long healthy life, lived in dignity. Therein lies the true opportunity in achieving the dream of healthy people in aging societies. We have the know-how and the resources to build open, non-discriminatory, and participatory societies where individuals of all ages have a valued place. Social inclusion throughout the course of life will enable each of us to make meaningful contributions to our

99. *See* GOSTIN, *supra* note 45.

100. *See generally*, Lawrence O. Gostin, *A Framework Convention on Global Health: Health for All, Justice for All*, 307 JAMA 2087 (2012); Lawrence O. Gostin, *Meeting Basic Survival Needs of the World's Least Healthy People: Toward a Framework Convention on Global Health*, 96 GEO L.J. 331 (2008).

101. For further information see http://partners-popdev.org/medarchs/preleases/pr2013_3009_1.asp (last accessed Mar. 31, 2014).

families, friends, communities, and countries. Nothing could be more important to human well-being.