Welcome

Distinguished guests, esteemed members of the Panel, ladies and gentlemen,

I am honoured to have this opportunity to address this meeting. I was given the brief to share the experiences of the South African Human Rights Commission in promoting and protecting the rights of older persons. I beg your indulgence as I am here as both the Chairperson of the South African Human Rights Commission and the Chairperson of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights and will thus speak from both my Commission’s experiences and share the opportunities for national human rights institutions more broadly.

INTRODUCTION: Role of NHRIs in promoting and protecting the rights of older persons

National human rights institutions or NHRIs are independent state institutions with legislative mandates to promote and protect human rights. In recent years, the United Nations has given increasing recognition to the potential for NHRIs to contribute to the advancement of human rights. Through a number of resolutions both at the General Assembly and the Human Rights Council, NHRIs have become the “natural partners” for the UN and its human rights mechanisms to not only promote and protect human rights at the domestic level but to also follow up on State implementation of their recommendations.

I take this opportunity to also refer briefly to the work of the ICC in the area of Ageing. The ICC recently presented a statement at the 5th session of the UN Open-ended working group on ageing and
highlighted the need for NHRIs to be formally included in the work of the Working Group. The ICC also presented a statement at the 27th session of the Human Rights Council in Geneva following the appointment of the Independent Expert on the enjoyment of all human rights of older persons. In addition, the ICC also constituted a Working Group on Ageing and I would encourage NHRIs here present to engage with this working group as it works in tandem with the UN Open-ended working group to ensure that the role that NHRIs can play is adequately reflected in both the work of the Open-ended working group and in the treaty once adopted.

THE SOUTH AFRICAN CONTEXT

I will now provide a brief overview of the context of Older Persons in South Africa.

In South Africa, ageing occurs within a complex context. Older persons tend to live in poorer households and the households headed by older persons with access to social security bear the brunt of taking care of several generations who have no income of their own. The impact that HIV and AIDS has had on the burden of care for older persons is tremendous but few resources have been allocated for older persons to alleviate this burden. Older persons also bear a disproportionate burden of care for orphans. In South Africa as in several southern African states, some studies indicate that up to 60% of orphaned children live in a grandparent-headed household usually with little if any support from the State.

South Africa was one of the countries that committed to implementing the Madrid International Plan of Action on Ageing (MIPAA) and submitted an initial report on progress made in 2006 to the United Nations Department of Economic and Social Affairs. However, a draft South African Plan of Action on Ageing still awaits finalisation.

The rights of older persons are governed broadly by the Constitution, various pieces of national legislation and more specifically by the Older Persons Act 13 of 2006. This Act provides a comprehensive framework for advancing the rights of older persons and gives effect to rights guaranteed in the Constitution. In essence the Act criminalises elder abuse, provides for community care and services, institutional care of older persons and generally ensures the advancement of the rights and interests of older persons.

THE ROLE OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The South African Human Rights Commission is mandated by the Constitution and the South African Human Rights Commission Act to promote and protect human rights in South Africa. In line with this mandate and having recognised the particular vulnerability of older persons in South Africa, the Commission has a focus area on the Rights of Older Persons and a Commissioner dedicated to the advancement of these rights.

The Commission processes complaints, engages in public education, actively lobbies government on the observance of the rights of older persons and also monitors and formulates assessment of the observance of rights of older persons in South Africa. The Commission has also created a working group under Section 11 of its enabling legislation that serves as an expert advisory group that facilitates the Commission’s effective promotion and protection of the rights of older persons.

**Highlights of the Commission’s activities**

I would like to briefly share with you highlights of the Commission’s work

Ensuring that domestic legislation and policies conform with fundamental human rights principles is one of the Commission’s core areas of work. As a result of this, the Commission played a pivotal role in the drafting of the Older Persons Act. The Commission made submissions to Parliament to ensure that the Bill once enacted was in line with international human rights norms and standards.

In 2005, the Commission together with the Department of Social Development held a national convention on the rights of older persons following nation-wide public hearings on the plight of older persons. This resulted in the creation of the South African Older Persons Forum (Forum). The Forum now plays an important role of promoting the rights of older persons for instance by consulting and advising government on policies and aiding with the development of legislation. One of the key highlights of the Forum has been the development of the Older Persons’ Charter which was launched in 2011. The Charter sets forth the rights of older persons and considerations for implementation.

**OPPORTUNITIES FOR NATIONAL HUMAN RIGHTS INSTITUTIONS**

In line with this session overall theme, I will now propose some opportunities that are available for NHRIs

- **Policy:** In terms of policy frameworks and programme design, it is essential for NHRIs to promote the use of a human rights approach be adopted. The use of existing policy frameworks and principles such as the AU Framework and the UN principles to guide legislation and development of interventions would ensure that best minimum standards are set and guarantee a higher level of accountability.

- **International and Regional engagement:** At the regional level the declaration the Network of African NHRIs (NANHRI) held a conference in 2011 on “Advancing the Human Rights of Older Persons and Persons with Disabilities”. Conclusions from this conference need to be implemented and NHRIs are required to report on their progress in implementing the conclusions. NHRIs can commit themselves through aligning their work plans to include the conclusions drawn from the conference.

NHRIs can also engage with the African regional mechanisms such as the African Commission on Human and People’s Rights (ACHPR) through its working group on older persons and persons with disabilities particularly given the identified need for the Working Group to promote and protect the rights of older persons beyond the Protocol on the Rights on Older Persons.
Internationally, NHRIs can actively contribute to the discussions on drawing up an international treaty on the rights of older persons. While the UN Open-ended Working Group has yet to formalise its working relationship with NHRIs, it has recognised NHRIs as key players. NHRIs are critical in the process as their contribution will ensure that the resultant rights framework provides an effective baseline for the promotion and protection of the rights of older persons.

For Africa, an international treaty would complement the Protocol to the African Charter on Human and People’s Rights on the Rights of Older Persons once adopted and provide States, NHRIs and other actors an additional point of reference for advancing the rights of older persons.

The ICC working group on ageing provides an additional important avenue for such engagement with international processes on ageing and should be explored in full. In addition the newly created Special Procedure, the Independent Expert on the enjoyment of all human rights of older persons is an important resource for both NHRIs and other actors promoting and protecting the rights of older persons.

CONCLUSION

Ladies and gentlemen,

In conclusion, while South Africa has made commendable steps in terms of creating legislation and instituting a policy framework for older persons, challenges still remain. The complex situations within which older persons exist compound the challenges in attempting to address the realization of their rights. The Madrid International Plan of Action on Ageing called for mainstreaming ageing into policy frameworks. A challenge that has been highlighted is the lack of consultation with older persons and limited reflection on the impact that programmes and interventions have on the welfare and dignity of older persons. Taking up this call will go a long way in contributing to changing public opinion on the need to pay special attention and care to older persons. This is a task that the Commission remains committed to through its focused attention on this particularly vulnerable and often sidelined group.