Remarks by William L. Pope, ABA Liaison to the Working Group

For more than 30 years, the Commission on Law and Aging has served as a focal point for The American Bar Association’s work to strengthen and secure the legal rights, dignity, autonomy and quality of life of older persons, particularly low income and vulnerable elders.

The August 2013 meeting is the second meeting of the Working Group at which the ABA has had the privilege to participate. The ABA is deeply committed to securing and strengthening the rights of older persons both in the United States and internationally. In a world that is rapidly aging, we see it as imperative to clarify and strengthen the rights-based standards and protections of all older persons.

After the Open-Ended Working Group on Aging was created by the General Assembly in 2010, the ABA adopted a policy urging:

“The United States Department of State and the United Nations and its member States to support the ongoing processes at the United Nations and the Organization of American States to strengthen the protection of the rights of older persons, including the efforts and consultations toward an international and regional human rights instrument on the rights of older persons.”

The meetings of the Open-Ended Working Group have been very effective in shining a light on many of the discriminatory barriers and human rights abuses suffered by elders around the globe, including barriers to access to justice. Charles Sabatino, Director of the ABA Commission on Aging, spoke on a panel at the August 2012 meeting of this Working Group, providing examples of serious access to justice barriers that continue to pose challenges here in the United States. Those examples were but a small subset of human rights challenges of the aging population worldwide. As the August 2012 report of the Office of the High Commissioner for Human Rights concluded:

There is a demonstrable inadequacy of protection arising from normative gaps, as well as fragmentation and a lack of coherence and specificity of standards as they relate to the experience of older persons. (Normative Standards in International Human Rights Law in relation to Older Persons: Analytical Outcome Paper, p. 3)

The recent compilation by the High Commissioner of existing international legal instruments, documents and programs that directly address the situation of older persons, dated July 11, 2013, provides another insight into the lack of normative coherence and disparate fragmentation of human rights standards as they relate to the experience of older persons. Some 89 different references are included in this compilation. They all address, directly or indirectly, the situation of older persons. If combined, added to, and properly configured they can bring together the multifaceted experiences of aging persons in a coherent, clear, indivisible design, reflecting clearly on older persons as right-holders and on member states as duty-bearers. This should be our goal.
Statements and testimony across several working group meetings have highlighted progressive policies and best practices that make a tangible positive difference in the lives of older persons. But overall, we believe the human rights landscape exhibits significant deficiencies in both normative standards and implementation efforts intended to safeguard and promote the rights of older persons.

The timely question now is what to do about it. Many useful suggestions have been offered to strengthen existing human rights implementation and monitoring mechanisms to focus more clearly on the situation of older persons, short of embarking on a dedicated convention on the rights of older persons. Many of these recommendations will make a difference and are deserving of strong support; but ultimately, they will not be able to create a truly comprehensive and cohesive framework specific to the multidimensional circumstances of older persons.

To the extent the ABA can help advance this effort, we offer our assistance. But in the end, as was learned in the process that resulted in the Convention on the Rights of Persons with Disabilities, it will be far more important to ensure that non-governmental organizations representing older persons from all walks of life are brought into this discussion and fully engaged in the process.

Thank you.