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**OHCHR public consultation on the human rights of older persons: submission of evidence by HelpAge International**

March 2013

**Introduction**

The UN Secretary General has cited violence and abuse against older people as a priority concern.[[1]](#footnote-1) The fact that older people continue to suffer physical, emotional, psychological, financial and sexual abuse both in their own homes and in other care settings gives rise to a number of human rights challenges including around the right to life; freedom from torture, inhuman and degrading treatment; the right to a private and family life; adequate remedies in national or international law; adequate monitoring; impunity of perpetrators; access to support services for victims; protection from discrimination on the basis of age and intersecting factors; standards for and regulation of services provided by both States and third parties; and, addressing negative social norms, attitudes and practices.

Population ageing is defining the 21st century. As the numbers of women and men living longer increases, so will the numbers exposed to different forms of violence and abuse in old age.

Surveys on violence are usually limited to women and then rarely collect data after the age of 49.[[2]](#footnote-2) What data is collected on violence against women over the age of 49 is limited to that of physical and sexual violence and does not include other forms of violence and abuse (for example economic, emotional, neglect) that both older women and older men experience. This critical information gap has significant implications. It makes it impossible for States to monitor progress on their human rights obligations on freedom from violence. It conceals patterns of violence and it results in older people’s subsequent exclusion from prevention and rehabilitation policies and programmes.

This submission focuses on this key area of older people’s rights. It provides evidence of the some of the main challenges that older women and men face at the country level as well as examples of the types of legislation, policies, strategies and plans in place to address these. It is not intended to provide a comprehensive or systematic global review of all forms of violence and abuse against older women and men. It does not, for example, deal with violence and abuse in every setting, for example formal care settings or in places of detention, nor explore all types of abuse, for example the denial of palliative care.

**1. Main challenges related to the promotion and protection of the human rights of older persons at the country level**

**Violence and abuse against older people**

Both older women and men experience different forms of abuse throughout their old age.

Initial findings from a HelpAge International 2012 survey that looked at 5 areas of violence and abuse (financial, psychological, physical, sexual and malicious accusations) among women and men over the age of 50 in Kyrgyzstan, Mozambique and Peru.[[3]](#footnote-3) The sample sizes were small and so we cannot draw inferences about the prevalence across the population as a whole but we can see multiple forms of violence are being experienced by older women and men across different social and cultural contexts.

Across all categories of abuse, of the women and men surveyed in Kyrgyzstan 39% of women and 31% of men, in Mozambique 75% of women and 66.5% of men and in Peru 83% of women and 82% of men reported experiencing at least one category of abuse since they turned 50.

In terms of financial abuse, in Kyrgyzstan 13 out of the 49 women (26.5%) and 10 out of the 51 men (19.5%) had experienced some form of financial abuse, most commonly being denied money, property or possessions that they were owed. The most common perpetrators were friends, neighbours or someone other than family that they knew. In Mozambique 21 out of the 56 women (37.5%) and 19 out of the 48 men (39.5%) experienced economic violence, most commonly stealing of money, property or possessions, the most common perpetrators being relatives, closely followed by and neighbours. In Peru 33 of the 54 women (61%) and 35 out of 46 (76.%) experienced economic violence, most commonly stealing of money, property or possessions, the most common perpetrators being relatives and then neighbours.

In terms of psychological abuse, in Kyrgyzstan 16% of women and 8% of men surveyed had been subjected to psychological violence, the most common form of which was being put down, belittled, degraded, humiliated or shamed most commonly by friends, neighbours, someone they knew other than family members or community leaders. In Mozambique 50% of women and 41.5% of men surveyed experienced psychological violence again most commonly being put down, belittled, degraded, humiliated or shamed most commonly by friends, neighbours or someone they knew other than family members and community leaders. In Peru 59% of the women and 43.5% of the men experienced psychological violence again most commonly being put down, belittled, degraded, humiliated or shamed most commonly by relatives, then friends, neighbours or someone they knew other than family members, followed by their current partner.

In terms of physical violence, in Kyrgyzstan 4% of women and 8% of men surveyed, mainly in urban areas but across all age ranges, had been subjected to physical violence. In Mozambique 18% of women and 21% of men surveyed, three quarters of whom lived in rural areas, were subjected to physical violence most commonly by relatives and neighbours. In Peru 39% of women and 41% of men were subjected to physical violence most commonly by their current partners, husbands or wives, relatives or neighbours.

In terms sexual violence, in Kyrgyzstan one woman out of the 49 surveyed reported sexual violence on more than one occasion by her current partner/husband. She did not report this to the authorities. In Mozambique 3 of the 56 women (5%) and 3 out of the 48 men (6%) surveyed reported sexual violence by a range of perpetrators: current partner or husband/wife; friends, neighbours or someone they knew; local militia and someone else. In Peru 11 of the 54 women surveyed (20%) and 3 out of the 48 men (6.5%) reported sexual violence by a range of perpetrators, but predominantly by their current partner or husband.

In terms of malicious accusations, no women and 3 men (6%) in Kyrgyzstan reported being the subject of malicious accusations. In Mozambique, however, 28 out of the 56 women (43%) and 17 out of the 48 men (35.5%) surveyed reported being subjected to accusations of witchcraft and 27 of those experienced physical or verbal abuse due to the witchcraft related accusation. The most common perpetrators were family members. In Peru 12 out of the 54 women (22%) and 4 out of the 46 men (8.5%) reported being subjected to accusations of being a witch and using witchcraft and 10 of those experienced physical or verbal abuse due to the witchcraft related accusation. The most common perpetrators were family members.

In a separate assessment HelpAge Kenya and HelpAge International found that there was an upsurge in the number of killings of older people accused of witchcraft in Kenya. They estimated that 42 older people were killed in three districts in 2008 and 23 older people were in three provinces in the first half of 2009.[[4]](#footnote-4) It was reported in the media that an average of six people were lynched every month in 2009 in Kisii district alone for allegedly practising witchcraft.[[5]](#footnote-5)

In a survey of older people in Zambia, 48 per cent said they had been abused three to four times. 19 per cent of those interviewed mentioned physical injury. 79 per cent surveyed mentioned emotional distress and 14 per cent mentioned loss of assets.[[6]](#footnote-6)

A study involving 5,600 older persons in 20 cities in India in 2012 found that 31 per cent of those interviewed reported facing abuse. Over half of those abused were maltreated for more than four years. Sons and daughters-in-law were the most common perpetrators. However, 56 per cent of those abused did not report the abusive act to anyone. The most common reason for not reporting was to uphold family honour.[[7]](#footnote-7)

**Violence against older women**

Older women are disproportionately affected by elder abuse and violence in old age. The physical and mental impact on older women of a lifetime of gender-based discrimination and violence can be profound, limiting their capacity to access services, make decisions and participate in their communities, rendering them more vulnerable to exploitation. Gender-based discrimination can also be exacerbated by ageism which can result in violence and abuse against older women in their homes or in institutional care settings. In many societies, being widowed or single, either because of divorce or never having married, profoundly changes older women’s status in society. Inheritance laws often deny women the right to own or inherit property. Family members and others often force widows off their land or seize their property.

A study in Kenya showed that 60 per cent of older women were being abused by their daughters-in-law who were preventing them from getting regular food, warm clothes, adequate shelter and medical attention.[[8]](#footnote-8)

A study in Mozambique in 2011 showed 62 per cent of women over the age of 50 had experienced violence in the six months before the interview. The most common form of abuse was economic abuse (47%) followed by emotional and psychological abuse (37%), witchcraft accusations (21%), physical abuse (11%) and sexual abuse (5%). Violence was more prevalent in peri-urban than rural areas and tended to increase with the age of the respondents. According to the study only 3 out of 10 older women report such cases.[[9]](#footnote-9)

Violence against older women can occur as a result of harmful traditional beliefs. Witchcraft related killings were condemned in the 2009 report to the Human Rights Council by the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HEC/11/2) and the 2012 report on gender-related killings by the Special Rapporteur on violence against women, its causes and its consequences (A/HRC/20/16). This is an issue of great concern to the many older women, who, because of their age and gender, are accused of witchcraft and, as a result, can be subjected to the most extreme forms of violence and murder, crimes that are often met with impunity. In Tanzania, for example, police reports from 8 regions between 2004 - February 2009 show that 2,585 older women were killed as a result of witchcraft accusations. In Mwanza region alone, 698 older women were killed during that period, which is two killings every two-three days.[[10]](#footnote-10)

What little data there is on elder abuse across Europe shows that more women than men are victims and being a woman is one of the main risk factors as is being over the age of 74.[[11]](#footnote-11)

A study on intimate partner violence against older women in Austria, Germany, Hungary, Poland, Portugal and the United Kingdom found that the older the woman is, the harder it is to cope and engage in help-seeking behaviour. Emotional attachment to where they have lived all their lives is the most common factor cited for not being able to leave home. Older women have often experienced a lifetime or very long periods of violence. This often results in very low self-esteem and high levels of dependency in older age, making it hard to end a long-term relationship. This older generation has a high level of family responsibility and family violence is considered a private matter. Younger women seem to seek help earlier and more often; older women assume they have to cope with their situation alone and in isolation.[[12]](#footnote-12)

**What older women and men themselves say about violence and abuse against them[[13]](#footnote-13)**

**Abuse and neglect at home**

“*Physical abuse by caregivers takes place in older people’s homes. There is also emotional abuse*.” Jamaica

“*I and my husband want to live in the Centre for the Elderly because we cannot stand our son anymore. I have suffered a lot from his psychological violence. We cannot do what he wants. When I could not stand it anymore, I reported this to the police, but they said they would only intervene when my son beats me*.” urban Viet Nam

**Property grabbing**

In some regions, land and property grabbing by younger family members is a serious form of economic violence against older people:

*“Abuse of older people by families, mainly adult children, by misappropriating their property, including land, livestock and farm produce, is a serious problem.”* rural Ethiopia

*“My own children fought with me over the ownership of the land. They told me, ‘This is Daddy’s land, it was bought with money Daddy had earned’.”* rural Philippines

**Financial abuse and economic violence**

*“Families take advantage of older people when it comes to inheritance. They force them to sign over their property documents to them.... It’s so sad.”* Belize

*“I know a family where the daughter abuses her old mother, takes her money, and doesn’t want to care for her, telling her ‘I hope you die soon’.”* rural Ukraine

**Violence against older women**

*“Particularly older mothers and mothers-in-law are in a terrible situation.... They are getting less food compared to other family members, experience physical torture and never get medicines or medical care when they are sick.”* rural Bangladesh

*“Our neighbour had bad children who did not take care of her so she died. We had helped her with food, when she was locked up and hungry. My son brought her bread but her children quarreled with him.”* rural Kyrgyzstan

**Barriers to tackling abuse**

*“The issue of abuse does not go outside of the family for the sake of family prestige and out of fear.”* rural Nepal

*“The problem is that if you are abused and you speak out, until the police come, you are in even greater danger.... They also know that justice is so slow that they can be abused many times in the meantime.”* rural Moldova

**2. Specific national legislation, national policies, strategies and plans of action adopted to ensure the equal enjoyment of rights by older persons**

Legislation, policies, strategies and plans of action to eliminate and provide redress for the different forms of elder abuse and violence against older women and men at the domestic level varies widely resulting in inconsistent levels of protection across different countries.

Kenya, for example, has provision in its constitution protecting older people from violence. Others have national legislation protecting older people from violence and abuse, for example, Mauritius, South Africa, China, India, Japan, Nepal and the USA. Others cite older people as specifically vulnerable in their domestic violence legislation, for example Ghana and Slovenia. Others, such as Malawi and Namibia, imply that elder abuse is a form of domestic violence.

This patchwork of protection undermines the universality of human rights and every woman and man’s right to freedom from violence and abuse throughout every stage of their lives.

**Examples of national legislation:[[14]](#footnote-14)**

In Belize, older women are included in the Domestic Violence Law in 2008. An ombudsman also provides legal support.

In Cape Verde, Article 72(1) of the Cape Verde Constitution (1992) declares that the elderly and persons with disabilities have “the right to special protection from their family, society and the state, which should guarantee to them priority in the public and private services attendance, special treatment and care, as well as the conditions necessary to avoid their marginalization.”

In Ghana, the Domestic Violence Act (2007) specifically recognises older persons as potential victims of violence and categorises them as a vulnerable group.

In Kenya, Article 57(c) of the Kenya Constitution (2010) guarantees older persons the right to live in dignity and be free from abuse.

In Malawi, the Protection against (Prevention of) Domestic Violence Act 5 of 2006 implicitly categorises older persons as a vulnerable group under the section entitled “any other person who is a member of the household”.

In Mauritius, the Mauritian Protection of Elderly Persons Act (2005) establishes an “Elderly Watch” mechanism, which serves to prevent abuse. The Act also provides for “Elderly Persons Protection Orders,” which are orders issued by the Court in cases of abuse. Finally, it describes elderly abuse as a crime punishable, upon conviction, to a fine and two years of imprisonment.

In Mozambique, Article 124(1) of the Mozambique Constitution (2004) broadly provides for special protection of the elderly and the prevention of marginalisation, particularly through the creation of housing, the promotion of family and community unity and the promotion of proper treatment and respect in private and public institutions. In addition, Article 25(1) guarantees persons with disabilities the right to special protection from their family, society and the state.

In Namibia, the Combating of Domestic Violence Act 4 (2003) does not specifically recognize older persons as a vulnerable group. Notwithstanding, elder abuse is implied, in Section 3(1)(e) of the Act, as a form of domestic violence.

In Nigeria, the National Plan for the Promotion and Protection of Human Rights (2006) promotes making courts more accessible for older persons, persons with disabilities and women. It further promotes the implementation of training programmes that sensitise service providers on the needs of vulnerable groups, such as the elderly.[[15]](#footnote-15)

In South Africa, a main objective of South Africa’s Older Persons Act (2006) is to combat abuse against older persons. The Act provides a specific procedure for filing complaints on elder abuse that coincide with the Act on Domestic Violence (1998).

In China, Article 4 of the PRC Law no. 73 on the Protection of the Rights and Interests of the Elderly (29 Aug. 1996) prohibits maltreatment of older persons. Article 46 thereof stipulates that insulting an elder in public, using violence or other means, is punishable in accordance with the relevant provisions of the Regulations on Administrative Penalties for Public Security. If the case constitutes a crime, his criminal responsibility shall be pursued according to law as well. Articles 10 and 11 requires family members, specifically sons, daughters, and spouses to maintain and care for their elders. Article 18 provides legal protection of elders in cases of abuse or other criminal acts. Article 7 requires the education system to indoctrinate school children on the importance of respecting and providing for the elderly. In December 2008, a Chinese court sentenced a Shanghai man to 18 months in prison for refusing to care for his 83-year-old mother and abandoning her in a public city square. (*See* Kurtenbach, Elaine, *Shanghai Man Jailed for Abandoning Mother*, Associated Press (20 Dec. 2008)).

In India, S.24 of the Maintenance and Welfare of Parents and Senior Citizens Act (2007) stipulates that the abandonment of an older person is punishable with imprisonment for up to three months, or a fine up to five thousand rupees, or both. The Sub-Group committee of the National Policy on Older Persons recommended that the XII Five Year Plan (2012-17) include safety and security measures, such as the implementation and enforcement of policies that prohibit and punish elder abuse; a comprehensive security plan and monitoring programme of senior citizens that is lead and enforced by the police; and the establishment of protective services linked to helplines, legal aid and other measures (*See* HelpAge India, India: Elderly and Human Rights (2011).

In Japan, Act no. 124, the “Act on Prevention of Elder Abuse, Support for Caregivers of Elderly Persons and other Related Matters was adopted by the parliament in 2005 and enforced in April 2006. This Act requires the state to protect older persons and prevent elder abuse through support mechanisms. Such mechanisms include the implementation of training programmes for caregivers on issues of elder abuse and adequate care. Also, in 1996, the Japan Elder Abuse Prevention Centre was established for the purposes of offering, inter alia, a volunteer-operated telephone counselling service to the victims of elder abuse (See, Etienne G. Krug, et al. (eds.), Chapter 5: Abuse of Elderly, World Report On Violence And Health, WHO 137 (2002)).

In Nepal the Senior Citizens Act, 2063 (2006) established various safeguards and protective clauses on elder abuse. Section 8 of the Act prohibits forcing senior citizens to beg, or become monks or hermits. The Act also established a special central welfare committee, which must formulate and review policies and plans for the protection and welfare of senior citizens. It further established the District Senior Citizen Welfare Committee to keep records of the senior citizens in the district and monitor their living conditions. Section 26 of the Act establishes criminal sanctions against employees of care centres or other facilities that commit elder abuse.  In cases of abandoned senior citizens, Section 21 of the Act requires citizens to inform a nearby care or service centre, police, or the local authority. Furthermore, an ordinance of the Nepal Police requires police to give priority to any emergency calls from senior citizens (Police Circular dated 2064/03/17 (2007)).

In Slovenia, Articles 3 and 4 of the Domestic Violence Prevention Act (2008) includes specific reference to elder abuse and violence against persons with disabilities or other who are unable to care for themselves (Maria van Bavel et al. at pp. 26-27). Article 193 of the Penal Code (Official Gazette of the RS No. 55/08) prohibits the abandonment of elders and imposes a sentence up to two years if the law is violate (Id.).”

In Thailand, Article 307 and 398 of the Penal Code and the Domestic Violence Victims Protection Act of 2007 make reference to elder abuse. (See <http://www.samuiforsale.com/law-texts/thailand-penal-code.html#305> and <http://www.samuiforsale.com/law-texts/thailand-penal-code.html#361> respectively)

In the USA, several laws have been passed to protect the rights of older people including the Older Americans Act of 1995 as amended in 2006 (which defines elder abuse, requires a National Center for Elder Abuse be opened, and designates a person within the Administration with the responsibility for elder abuse prevention and services, including the development of a long term plan to facilitate a co-ordinated multidisciplinary elder justice system; establishing Federal guidelines for data reporting by states; and conducting research related to elder abuse), Violence Against Women Act (which includes elder abuse against women) and the Elder Abuse Victims Act of 2009 (which establishes specialised elder abuse prosecution and research programs and activities to aid victims; provides training to prosecutors and law enforcement on elder abuse prevention and protection; and establishes programs of emergency crisis response to combat elder abuse). Individual states have adopted varying approaches: California passed the Elder Abuse and Dependant Adult Civil Protection Act to supplement the Elder Abuse Forensic Center in existence since 2003.

**Examples of national policies, strategies, plans of action and other initiatives:[[16]](#footnote-16)**

In Argentina, a National Programme on Prevention of Discrimination and Abuse towards Older Persons was set up in 2007. There is also a forum for older persons within the National Institute Against Discrimination, Xenophobia and Racism.

The Bolivia National Development Plan, To Live Well (2006-2010), aims to raise awareness about the rights of older persons and the relevant laws in order to eliminate mistreatment and discrimination. An ombudsman offers legal advice and support to older persons.

The Canadian Federal Elder Abuse Initiative (FEAI) (2008) has a budget of Can$13 million over three years. The Initiative is also responsible for a national awareness campaign and for research and data collection. These actions are part of the New Horizons for Seniors Programme.

Finland’s activities are mainly focused on research.  In addition to a European research project on the prevalence of elder abuse, there is another European research project of which Finland is part, Breaking the Taboo. It aims to empower health and social service professionals to combat family violence against older women.

In the Russian Federation, the 2002 federal programme, Older Generation, provides for the development and implementation of a programme of legal education of senior citizens.

In Serbia, since 2008, there has been a programme on the prevention of violence against older persons.

In Singapore, a social centre has been set up to undertake frontline work on elder abuse and training on elder protection work has been established.

The Department of Social Development in South Africa led a campaign on elder abuse awareness in 2009/10. The Government also provides financial support to the NGO, Action on Elder Abuse.

In Uruguay, there are centres which provide multidisciplinary advice to the general public and older victims of abuse.

In Hungary, the National Telephone Service for Crisis Management and Information in Hungary provides support to victims of abuse regardless of age. Since 2005, the Government has also provided shelters for victims of domestic violence in general.

In Mozambique, the National Five-year Plan 2010-2014 provides for the development of actions against physical and sexual abuse of older persons.

In New Zealand, the Ministry of Health collaborated with a national NGO, Age Concern New Zealand, in the development of Family Violence Intervention Guidelines.

The Singapore Family Violence Networking System includes seniors to ensure that older persons’ concerns are addressed.

**Conclusion**

As with all forms of violence, elder abuse and violence against older women and older men is preventable. Coordinated action to improve legislative and policy responses at the national and international level on elder abuse, with specific regard to violence against older women, is urgently needed. Education and awareness campaigns are essential to change negative social and cultural attitudes towards older people. Resources need to be allocated to prevention programmes. However, there is a paucity of quality research on prevalence and prevention, meaning that evidence-based programmes are few and far between. Data on violence against women and men beyond the age of 49 needs to be collected, disaggregated and disseminated and research on under-documented forms of violence, including psychological and economic violence needs to be improved and increased.

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1. UN Secretary General, *Follow-up to the Second World Assembly on Ageing*, A/66/173, 2011 [↑](#footnote-ref-1)
2. The majority of surveys on violence against women, e.g. WHO and DHS, have a cut off age of 49. The IVAWS has a cut off age of 69 but has been conducted in a limited number of countries. [↑](#footnote-ref-2)
3. The full analysis of this survey is still being carried out and the tables are being proofread and will be published later this year by HelpAge International. The survey was designed by the Centre for the Analysis of Social Exclusion at the London School of Economics and funded by the German Federal Ministry of Economic Cooperation and Development. [↑](#footnote-ref-3)
4. HelpAge Kenya and HelpAge International submission to the Kenyan Human Rights Commission, June 26 2009 [↑](#footnote-ref-4)
5. Groups join war against lynch mobs”, *Daily Nation*, Tuesday May 5 2009, page 14 [↑](#footnote-ref-5)
6. HelpAge International Africa Regional Development Centre, *The situation of older people in Zambia: Older people struggling to survive in a poor country*, 2006 [↑](#footnote-ref-6)
7. HelpAge India, *Elder Abuse in India,* A HelpAge India Report, 2012. Cited in, *Ageing in the 21st Century, A Celebration and A Challenge,* HelpAge International and UNFPA, 2012, page 97 [↑](#footnote-ref-7)
8. Nhongo T & Ogonda J, *Age discrimination in Africa*, Age Concern, IFA and DaneAge, May 2006, page 17 [↑](#footnote-ref-8)
9. Machafa S, *Violence and violation of rights against older women,* HelpAge International, December 2011 [↑](#footnote-ref-9)
10. Data from police reports, February 2009, extracted from the media by the Legal Human Rights Centre, Tanzania [↑](#footnote-ref-10)
11. WHO, *European report on preventing elder maltreatment*, 2011, page 29 - 30 [↑](#footnote-ref-11)
12. Nagele B et al, Intimate Partner Violence Against Older Women, 2010, page 62-63 [↑](#footnote-ref-12)
13. HelpAge International and UNFPA*, Ageing in the 21st Century, A Celebration and A Challenge*, 2012, p153 - 155 [↑](#footnote-ref-13)
14. The following examples are taken from two main sources unless otherwise stated: The Academy on Human Rights and Humanitarian Law website <https://www.wcl.american.edu/hracademy/elderlyrights/listofsources.cfm> Visited May 2012 and HelpAge International and UNFPA*, Ageing in the 21st Century, A Celebration and A Challenge,* 2012, p97 [↑](#footnote-ref-14)
15. National Action Plan for the Promotion and Protection of Human Rights (2006), Nigeria, pp. 20-21. [↑](#footnote-ref-15)
16. The following examples are taken from HelpAge International and UNFPA*, Ageing in the 21st Century, A Celebration and A Challenge, 2012, p97* [↑](#footnote-ref-16)