

**EXPERT GROUP MEETING
Human rights of Older Persons**

New York, 29-31 May 2012

**PANEL 2
VIOLENCE AND ABUSE AGAINST OLDER PERSONS IN THE PUBLIC AND
PRIVATE SPHERES**

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Women and old age

As is the case with many aspects and stages of life, as people become older, they face different experiences and challenges. In some contexts, older women experience more discrimination and abuse as compared to men; and they have less access to effective remedies. Globally, female life expectancy is longer than male life expectancy and this specificity needs to be factored into when examining the life-cycle experiences to men and women. The UN Population Division estimates that in 2009 there were 83 men for every 100 women aged 60 or older, and only 59 men for every 100 women aged 80 or over.¹

Furthermore, older women are more likely to be single, taking into account that they marry younger and that they do not necessarily remarry/enter into intimate live-in relationships after death or divorce. Therefore, while about 80 per cent of older men are still married, only 48 per cent of older women are.² It is important to take into consideration this difference when addressing the needs and challenges faced by older women, as widowhood/divorce may be a source of discrimination and violence in some contexts, thus adding an extra layer to the discrimination already faced by older persons, regardless of their gender.

In General Recommendation 27, the Committee on the Elimination of Discrimination against Women (CEDAW) recognized that, although both men and women suffer discrimination as they become older, the inequality and discrimination experienced by women throughout their lifetime is exacerbated in old age.³ Often based on deep-rooted cultural and social norms, discrimination against older women may result in a lack of (or limited access to) basic resources for subsistence, health care, adequate housing, social services and income security. It may also give rise to situations of abuse in which older women are subjected to maltreatment, neglect, and isolation.⁴

The discrimination experienced by older women is often multidimensional, with the age factor compounding other forms of discrimination based on gender, ethnic origin, disability, poverty levels, sexual orientation and gender identity, migrant status, marital and family status, literacy and other grounds. Older women who are members of minority, ethnic or indigenous groups, internally displaced or stateless often experience a disproportionate degree of discrimination.⁵

¹See: <http://www.un.org/esa/population/publications/ageing/ageing2009chart.pdf>

²Ibid.

³CEDAW/C/GC/27, para. 11

⁴ CEDAW/C/GC/27, paras. 11-12

⁵ CEDAW/C/GC/27, para. 13

The mandate of the Special Rapporteur on violence against women has continually advocated for the adoption of a holistic approach that considers these multiple and intersecting forms of discrimination. I have stressed that all women are at risk for violence in every society in the world, but not all women are equally vulnerable to acts and structures of violence. Violence against women results from a complex interplay of individual, family, community and social factors.⁶ Likewise, older women are not a homogeneous group, but represent a great diversity of experiences, knowledge, ability and skills. Their economic and social situation is dependent on a range of demographic, political, environmental, cultural, social, individual and family factors.⁷

The multiplicity of forms of violence against older women as well as the fact that this violence frequently occurs at the intersection of different types of discrimination makes the adoption of multifaceted strategies to effectively prevent and combat this violence a necessity.⁸

Manifestations of violence against older women

Throughout the world, violence against women is pervasive, widespread and unacceptable. Rooted in multiple and intersecting forms of discrimination and inequalities, and strongly linked to their social and economic situation, violence against women constitutes a continuum of exploitation and abuse. Whether it occurs against the girl child, the young adult, women of child-bearing age or elderly woman, the various forms and manifestations of violence against women are simultaneously causes and consequences of discrimination, inequality and oppression.

Since 1994, the mandate of the Special Rapporteur on violence against women has studied the forms, prevalence rates, causes and consequences of violence against women. Based on an approach that recognizes the intersectionality and the continuum of violence suffered by women throughout their lives, my mandate analyses violence against women in four main spheres:

- 1) Violence in the family, both domestic violence and harmful or degrading practices that are violent to and/or subordinate women;
- 2) Violence against women in the community, including but not limited to rape/sexual assault, sexual harassment and stalking;
- 3) Violence against women that is perpetrated or condoned by the State, including violence during conflict, in custodial settings and/or perpetrated by State agents; and
- 4) Violence in the transnational sphere, including violence against migrant, refugee and asylum seeking women.

Although my mandate analyses violence against women at every stage of life, through thematic research, country missions, and consultations, reports have highlighted the specific situations of discrimination and violence suffered by older women.

Violence against older women in the family

Violence against older women in the home is an invisible and underreported phenomenon. There is a tendency to assume that domestic violence is mainly experienced by younger

⁶A/HRC/17/26, para. 21.

⁷CEDAW/C/GC/27, para. 8.

⁸E/CN.4/2006/61, para. 16.

women at the hands of partners or spouses. Driven by limited institutional definitions of the family, State responses to domestic violence have conventionally focused solely on spousal violence.⁹ Therefore, there is no accurate data about the extent of domestic violence against older women, perpetrated by a wider range of family members and caregivers.

The problem is exacerbated by the fact that older women who experience violence are usually reluctant to speak out due to shame, humiliation, and fear. Furthermore, older women may not even be aware of their rights or of the avenues available to seek redress. This is particularly so if they have limited mobility or live in remote rural communities with little or no access to support or redress mechanisms.¹⁰

Domestic violence against older women not only includes physical or sexual violence. Psychological violence, which can be equally devastating, includes verbally abusing, threatening, slandering, humiliating, or bullying older women. Older women may also be forbidden from meeting or making contact with relatives and/or friends.¹¹ Older women are also subjected to economic forms of domestic violence, such as misappropriation of assets and savings, coercion to change wills or other documents, financial control over personal assets or lack of financial support. It is also not uncommon for older women to suffer neglect, inadequate care, and /or insufficient attention to basic needs with regard to food, clothing, or medical care.¹² Many older women face neglect as they are no longer considered useful in their productive and reproductive roles, and are seen as a burden on their families.¹³

As with most cases of domestic violence, fear of retaliation, family or community pressure not to reveal domestic problems, poor awareness of rights, lack of support services, economic dependency, and perceptions that the authorities will not respond adequately, are all factors that lead to the underreporting of such abuses.¹⁴

Violence against older women in the community

In terms of violence against women in the community, I have witnessed how some manifestations are more prevalent against elderly women, such as violence related to widowhood and violence resulting from sorcery accusations.

During my country mission to Papua New Guinea, I received alarming reports of violence perpetrated against persons accused of sorcery/witchcraft, with women being affected disproportionately, particularly older women who were widows and had no male kin to protect them. I was shocked to witness the brutality of the assaults perpetrated against suspected sorcerers, which in many cases included torture, rape, mutilations and murder. According to many interviewees, sorcery accusations are commonly used to deprive women of their land, property and/or their inheritance. Factors at the community level which allow for impunity

⁹A/HRC/11/6/Add.5, para. 31

¹⁰ Help Age International Newsletter, *Right to life without violence in old age*, February 2012. Available at: <http://www.helpage.org/resources/publications/>

¹¹Ibid.

¹²Ibid.

¹³CEDAW/C/GC/27, para. 13

¹⁴ A/66/215, p.28.

for perpetrators include the unwillingness to intervene prior to, or during, such attacks; and the fear of reporting and/or providing information to the police.¹⁵

Also, during my country missions to Zambia, I noticed how older women who were widows and/or living on their own were at a particularly high risk of violence, as they are often deprived of all assets, of family and community support, and living in very precarious situations.¹⁶ In some contexts, customary practices dictate that a man's property traditionally returns to his birth family upon his death, so a widow's possessions might be seized with no regard to her health, well-being, or ability to support herself.¹⁷ In some societies, older women are treated like children and brought back under the control of male leaders in the family or the community.

The country mission report on Ghana by my predecessor examined the practice of "levirate marriage" or "widow inheritance", which requires a widow to marry (formally or informally) her late husband's brother. In some communities, the woman is "inherited" by one of the sons born to another wife of the deceased husband. Although seen as a social support arrangement for the widow, this practice is violent against women as the new husband is permitted to have sexual relations with the widow and women are in no position to refuse as they could be violently ejected from their homes and left destitute.¹⁸ The thematic report on the Intersections of Violence against women and HIV/AIDS also analysed the linkages between certain harmful cultural practices and the contraction and the transmission of HIV/AIDS, including wife inheritance, which not only entails the remarrying of a widow within the husband's family or ethnic group but also often forcing the women to have unprotected sex in order to "cleanse" her of the spirit of the deceased.¹⁹

Other humiliating and sometimes cruel widowhood rites include being expected (or otherwise forced) to cry loudly; drinking of the water that is used in bathing the husband's corpse; widows sleeping with their husband's corpse overnight; or the heckling of the widows after the funeral.²⁰ Many of these practices affect older women.

Violence against elderly women that is perpetrated or condoned by the State

In many cases, it is the State itself that perpetrates violence against elderly women. The most common manifestation I have witnessed throughout my mandate refers to the conditions faced by older women in institutional settings, such as prisons and detention centres.

While visiting a prison during my recent country mission to Italy, I met an elderly woman who was confined to an overcrowded, cigarette-smoke filled cell, sharing a bathroom with no access to hot water.²¹ Overcrowding and unhealthy conditions are common problems in prisons that I visit, and while these conditions affect all women and men, the specific consequences in terms of health and wellbeing for elderly inmates are rarely taken into consideration by prison authorities. Another example seen in a US prison is that of an elderly

¹⁵ See full end of mission statement. Available at:

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12013&LangID=E>

¹⁶ A/HRC/17/26/Add.3, para. 14 and A/HRC/17/26/Add.4, para. 65.

¹⁷ A/HRC/11/6, page 21

¹⁸ A/HRC/7/6/Add.3, para. 72.

¹⁹ E/CN.4/2005/72, para. 20.

²⁰ Michael Martey Tei-Ahontu, Widowhood rites in the Ga traditional area of Accra-Ghana, a review of traditional practices against human rights, Norwegian University of Life Sciences, May 2008.

²¹ See A/HRC/20/16/Add.2

woman, who had enormous difficulty climbing up and down the high bunk-bed she was allocated in her prison cell.

Inadequate access to health services in prison and detention facilities is characterized by delays, neglect, and mistreatment of inmates and detainees. This has even more devastating effects for older women who are facing chronic health concerns. Not only do they face long delays in seeing a doctor, they also have to face intrusive and humiliating body searches every time they leave the prison facilities for therapy or hospital visits.²² At a Federal prison in the United States, I met an older woman who had consistently complained of a lump in her breast but was only examined by a doctor eight months after her initial complaint. She was then immediately sent to surgery to have her breast removed and was facing chemo and radiotherapy treatment. Despite the willingness and possibility of her family to support her throughout her treatment, her petitions to be released on humanitarian grounds, based on her old age and her health situation, had been consistently rejected by the authorities.²³

Other institutional settings, such as hospitals, nursing homes or assisted living settings can be places in which elderly abuse takes place. While some of these facilities may provide good services, challenges such as understaffing, underpayment and poor training may lead to situations of neglect or even abusive treatment.

In some societies, there has been a shift from caring for the elderly within the extended family home, to resorting to State sponsored, private, or charitable long-term care facilities. This is sometimes also prompted by the inability or unwillingness among nuclear families to take care of elderly relatives with age-related physical and mental disabilities. A 2007 report by the OECD confirms that the rapid ageing of population in the next decades will lead to increasing numbers of people at older ages with a severe disability and in need of long-term care.²⁴

Disability is an important risk factor with regards to violence against elderly women. Women have higher rates of morbidity late in life when compared with men of the same age. This, coupled with the fact that women tend to live longer, makes them more likely to acquire an age-related disability. Research has also found that women are twice as likely as men to live in residential settings and more likely to experience restrictions in daily functioning. Disability is a factor that increases the risk of assault for elderly women as they become particularly dependent on the caregivers that may be actually perpetrating the abuse.²⁵

Other risk factors include the isolation and exclusion from society in residential institutions. Women with intellectual and psychosocial disabilities, and in particular those living in institutionalized settings, are the most vulnerable to violence.²⁶

Violence against older women and the transnational sphere

²²Ibid.

²³A/HRC/17/26/Add.5, para 38.

²⁴Trends in Severe Disability Among Elderly People:
Assessing the Evidence in 12 OECD Countries and the Future
Implications, <http://www.oecd.org/dataoecd/13/8/38343783.pdf>

²⁵A/HRC/20/5, para. 20.

²⁶A/HRC/20/5, para. 15.

Older women are not spared from the risks and heightened vulnerability to violence faced by women in the transnational arena. The transnational arena merely reflects the continuum of women's life experiences of discrimination and violence, but across state boundaries. Irregular women migrants, women asylum seekers and refugees are particularly vulnerable to violence occurring in these settings.²⁷ However, for older women the risk is also present when they are left behind by migrating family members. Both economic and forced migration: 1) remove younger workers and wage earners, who are the basis of support on which many older persons rely; and 2) leave in their wake orphaned, sometimes sick and disabled people who must be cared for.²⁸ Older women are especially affected by both of these outcomes because they generally control fewer economic resources than older men, and thus must rely more heavily on the support of younger adults; but also because the care of needy children and others is most likely to fall to them, in the absence of younger women to do the job. Therefore, even when an older woman does not herself undergo a situation of displacement or forced migration, she is still very likely to be severely affected by these phenomena.²⁹

Access to Justice

Regardless of the context and the specific manifestation of violence, older persons encounter important barriers when attempting to report these abuses and access legal remedies. Factors such as poverty, illiteracy, lack of knowledge of their own rights, lack of information on where to seek advice and guidance, or language barriers, can prevent older people from accessing justice or from fully comprehending legal procedures when/if their cases are brought before a court. For example, in a survey carried out by Help Age International in Tanzania, only 8 per cent of older women and 39 per cent of older men were aware of their rights under the law.³⁰ Likewise, research carried out in Latin America showed how illiterate indigenous rural older people, especially older women, found it particularly hard to access justice. Of the total of cases brought to a free legal advice centre for older persons in Bolivia, 59 per cent of cases were from people who came from rural areas and 24 per cent of clients had an indigenous language as their mother tongue, 66 per cent of whom were women.³¹

Access to justice is also hindered by factors that disempower and increase the dependence of elderly people on other persons. Factors such as "the absence of mobility aids or assistive devices; laws that allow for deprivation of legal capacity, resulting in the appointment of a legal guardian to make and express legally binding decisions; lack of access to information and counselling services; fear of reporting the abuse due to concerns about losing needed care; and fear of institutionalization if the abusive home environment is reported", lead to impunity and to the invisibility and continuation of the abuse.³²

Recognizing multiple forms of discrimination throughout a lifetime

As is clearly stated by CEDAW in General Recommendation 27, "the full development and advancement of women can only be achieved through a life-cycle approach that recognizes

²⁷A/66/215, paras. 43-44

²⁸See: WHO, Gender, Health and Ageing, at http://www.who.int/gender/documents/en/Gender_Ageing.pdf

²⁹Ibid.

³⁰HelpAge International's submission for the Consultation on the Human Rights of Older Persons Follow-up to the Second World Assembly on Ageing. Available at:

<http://www.ohchr.org/Documents/Issues/OlderPersons/Submissions/HelpAgeInternational.pdf>

³¹Ibid.

³²A/HRC/20/5, para. 16.

and addresses the different stages of women's lives –from childhood through adolescence, adulthood and old age– and the impact of each stage on the enjoyment of human rights by older women".³³

The consequences of gender inequalities faced early in the life cycle determine women's economic independence throughout their lives. This is particularly visible in pension systems, the gender pay gap and other gender inequalities in the labour market which have lifelong effects on women and which become more visible at retirement.³⁴ As a result of experiencing gendered discrimination patterns throughout their lives, including lack of, or limited access to, land, inheritance, education and employment opportunities/ benefits, older women are often in a situation where they have accumulated lesser wealth than men.³⁵ In developing countries, the great majority of women work all their lives in the informal sector or on unpaid activities.³⁶ In both developed and developing countries, women are less likely to receive a large contributory pension due to discriminatory pension laws³⁷, or because they are more likely to have stopped working at some point - to take on the burden of child rearing and are more likely to have received lesser wages for their work than men.³⁸

Therefore, a fair and balanced analysis of the situations of discrimination and violence faced by older women requires acknowledging the effects of discriminatory practices against women at the earlier stages of their lives.

Older women are not only more likely to be poorer than men, but they are also likely to be burdened with caregiving responsibilities for other family members, especially grandchildren, whether in their care while parents work, or orphaned due to war or HIV/AIDS, among others.³⁹ According to the WHO, half of the world's 15 million AIDS orphans are currently being cared for, solely by their grandparents. The majority of older caregivers are women who face serious financial, physical and emotional stress due to such caregiving responsibilities.⁴⁰ These responsibilities are undertaken by older women with few resources, recognition or support, and at a time in their lives when they would normally have expected to be the recipients of care and support.⁴¹

Adopting a holistic approach to addressing violence against older women

I would like to conclude by sharing with you my proposal of a holistic approach to understanding and addressing discrimination and violence against women. This approach targets both societal transformation and the empowerment of women at every stage of their lives.

³³A/HRC/17/26/Add.3, para 15.

³⁴See European Women's Lobby Report on Intergenerational solidarity from a gender equality perspective (April 2012). Available at:<http://womenlobby.org/spip.php?article3412&lang=en>

³⁵A/HRC/14/31, para.19.

³⁶A/HRC/14/31, para. 20.

³⁷A/HRC/20/16/Add.1, para. 69.

³⁸A/HRC/14/31, para. 20.

³⁹A/HRC/14/31, para. 21.

⁴⁰See. <http://www.who.int/ageing/projects/hiv/en/index.html>

⁴¹Tavengwa M Nhongo, Impact of HIV/AIDS on Generational roles and intergenerational relationships, available at: <http://www.un.org/esa/socdev/unvin/workshops/Windhoek-backgroundpaper2.pdf>

The holistic approach, which is further developed in my 2011 thematic report to the Human Rights Council⁴², has four main recommendations:

- 1) Firstly, rights must be treated as universal, interdependent and indivisible. Everyone is entitled to have their human rights respected, protected and fulfilled regardless of their geographic location or social position, and this includes the right of women to be free from violence. Yet, understanding rights as universal should not preclude States from taking into consideration the specificities of violence against women and engaging at a local level to adequately recognize the diverse experiences of oppression faced by women. A holistic approach requires that attention be paid to the particular in order to fully realize the universal. This means also grappling with the fact that the rhetoric of universality is not borne out by the material reality in which women live. Human rights are also interdependent and indivisible. States should move beyond the more common focus that privileges civil and political rights and recognize how the denial of social, economic, and cultural rights restricts women from meaningfully exercising civil and political life.
- 2) A holistic approach to dealing with violence against women requires an understanding that such violence is situated along a continuum, both in terms of time and location; and the varied forms and manifestations reflect this. Violence crosses public and private domains and ranges from intimate and interpersonal violence to structural, systematic, and institutional forms of violence. States must acknowledge that violence against women is not the root problem, but that violence occurs because other forms of discrimination are allowed to flourish. If a woman experiences violence in her home and is then denied security and protection by the legal system, she is encountering more than one form of violence. Hence, the response required to ensure that women's lives are free of violence must occur on multiple levels, from the individual to the institutional, from the local to the transnational, and in times of peace to times of post-conflict.
- 3) The holistic approach requires States to recognize the existence of structural and institutional inequalities related to both individual and structural discrimination. Whether based on age, race, ethnicity, national origin, ability, socio-economic class, sexual orientation, gender identity, religion, culture, tradition or other realities, discrimination often intensifies acts of violence against women. The acknowledgement of structural aspects and factors of discrimination is necessary for achieving non-discrimination and equality. Efforts to end all forms of violence against women must consider not only how individual lives are affected by the immediate impact of abuse, but how structures of discrimination and inequality perpetuate and exacerbate a victim's experience. Interventions that seek to only ameliorate the abuse, and which do not factor in women's realities, are not challenging the fundamental gender inequalities and discrimination that contribute to the abuse in the first place.
- 4) Adopting a holistic model with regards to violence against women requires an understanding of the ways in which inter- and intra-gender differences exist. Women are differently positioned within social, economic and cultural hierarchies, which lead to certain women not being able to enjoy universal human rights. Discrimination affects women in different ways depending on how they are positioned within such hierarchies. This approach also reveals critical aspects of intra-gender discrimination and inequality, which up until now have been invisible in inter-gender efforts that treat all women homogenously in the

⁴²See A/HRC/17/26

responses to violence. A holistic approach for the elimination of all forms of violence against all women requires addressing systematic discrimination and marginalization through the adoption of measures that address inequality and discrimination among women, and between women and men.

It is my hope that as the United Nations analyses the existing international framework on the human rights of older persons, identifies the current gaps, and reflects on how to better address them, it will continue to do so in a gender responsive manner. It mustfully recognize and address the different stages of women's lives and the impact of discrimination and inequalities at each stage on the enjoyment of human rights by older women.

I thank you for your attention.