

Discrimination in old age: multiple, cumulative and on the increase

“I feel having to be made to retire at 55 is an unfair treatment for me because I know I can still work... I am still healthy.”

Wasiti, retired teacher, 55, Fiji

Discrimination in old age continues to be tolerated across the world. Ageist attitudes and stereotypes are common at every level: in the family, in the community, in the workplace and more broadly in society. Ageism and age discrimination may manifest themselves differently in different social, economic and cultural contexts but they remain rife, often unrecognised and accepted.

Discrimination in old age is rarely based on old age alone. More often it is based on multiple factors, complicated further by the cumulative impact of a lifetime of discrimination.

As populations age, the number of people facing age discrimination and denial of their rights will increase.

Discrimination in old age needs to be better understood, clearly recognised and universally prohibited.

Age discrimination is when someone is treated differently, with an unreasonable or disproportionate impact, simply because of their age. Age discrimination can be direct, for example, denying older people access to healthcare simply because they are old, or indirect, such as not collecting data on HIV infection in women and men over 49. This failure to collect data results in the exclusion of older people from HIV and AIDS prevention programmes, and, therefore, discriminates against them.

In some jurisdictions it is unlawful to discriminate against someone on the basis of their actual age, the age they are thought to be (perceived age discrimination) or the age of someone they are associated with (associative discrimination).

Harassment (creating an intimidating, humiliating or offensive environment for someone because of their age) and victimisation (being treated unfairly because of a making a complaint, or giving evidence when somebody else complains of, age discrimination) is unlawful under some employment law.

Unlike other types of discrimination such as racism or sexism, in some jurisdictions, age discrimination can be justified under some circumstances, for example when an employer can show that it is a proportionate way of achieving a legitimate aim.

Ageism is the stereotyping and prejudice against older people that can lead to age discrimination. At one end of the scale ageism may seem harmless, for example, when older people are patronised on TV, in films and in advertising.

However, research by Yale University showed that negative stereotypes of older people in the US had a harmful impact on older people's memory, balance and even how long they lived for.¹ At the other extreme, older people, especially women, can be accused of witchcraft because of age and gender stereotypes and then forced out of their homes or even murdered.

Age equality is securing equality of participation in society for people of every age.

Multiple discrimination

The discrimination that older men and women face is often complex, being based on two or more factors, such as age and gender, ethnic origin, language spoken, where they live, disability, poverty, sexuality, HIV status or literacy levels.

“When I take the grandchildren under my care to get treatment at the doctors I get treated differently than when a grandmother brings the child. They don't pay attention to the males who bring children.”

Grandfather, Durban, South Africa

Older women are also vulnerable to discrimination based on both age and gender. For example, of the residents in 11 refuge centres in Burkina Faso who had been accused of witchcraft and banished from their homes, the majority were women (90 per cent), not literate (97 per cent), belonging to the Mossi tribe (82 per cent), and over 50 years of age (75 per cent). In addition, 70 per cent were living in polygamous homes as first wives.² The discrimination that they experienced was not based on one single characteristic, but multiple factors.

Cumulative impact of a lifetime of discrimination

The cumulative impact of a lifetime of discrimination can be devastating in old age.

Women, for example, may have faced a lifetime of gender-based discrimination that has serious consequences in old age. They may have been denied an education as girls, married when they were young, forced to have many children close together, subjected to physical and sexual

abuse, denied access to decent or paid work and be unable to own or inherit property or accumulate other assets.

The cumulative impact of this discrimination has a profound effect on enjoyment of rights in old age, including little or no access to social security, limited access to information and lack of identity documentation to enable them to access entitlements such as subsidised healthcare.

Discrimination in old age in international human rights law

Discrimination based on age is only explicitly prohibited in the International Convention on the Protection of All Migrant Workers and Members of their Families (1990, Articles 1.1 and 7). Age discrimination falls under "other status" in the non-discrimination articles of other human rights conventions.

At a regional level, discrimination based on age is prohibited in the Charter of Fundamental Rights of the European Union (2000, Article 21.1).

Although different grounds for discrimination are listed in these non-discrimination articles of the human rights conventions, the issues of multiple discrimination and the cumulative impact in old age of a lifetime of discrimination are not addressed.

This lack of specific prohibition has resulted in inadequate and inconsistent attention to age discrimination and older people's rights by States Parties and the treaty bodies that monitor the implementation of these conventions.³

Discrimination in old age in national legislation

Discrimination in old age is dealt with inconsistently in national constitutions and other national equality and non-discrimination legislation.

Some constitutions explicitly prohibit discrimination on the grounds of age, some have more general non-discrimination provisions while others address old age from a welfare perspective.⁴ Some jurisdictions have equality legislation that includes age equality, though this may be limited to employment and not to the provision of all goods and services.

"They said they don't do bone scans for the over 80s, because they have nothing to compare it to. Well they never will if they don't start, will they? "

Dorothy, 88, UK

This failure to universally prohibit age discrimination contributes to a legal, moral and social environment where discrimination in old age continues to be tolerated and accepted.

The way forward

Discrimination in old age must be made visible and tackled at every level:

- As individuals we must challenge ageist attitudes and behaviour wherever they occur.
- Discrimination in old age should be prohibited in national legislation and existing discriminatory laws revised.
- Universal prohibition of discrimination in old age in a human rights instrument would provide a definitive, universal position that age discrimination is morally and legally unacceptable.

Written by Bridget Sleap, HelpAge International

¹www.sciencedaily.com/releases/2009/03/090310155607.htm and www.ageconcern.org.nz/mediawatch/ageism-shortens-older-peoples-lives-per-centE2per-cent80per-cent94-research (9 March 2011)

² HelpAge International and the Ministry of Social Action and National Solidarity, *Etude Exclusion Sociale des Personnes Agees au Burkina Faso*, 2006

³ Review by HelpAge International in March 2011 of documents from treaty bodies and special procedures since 2000 that were available on the Universal Human Rights Index. We searched for references to *older* or *elderly people/women* and to *old age*.

⁴ UNFPA and American University, Submission for the consultation on the Secretary General's Report (GA res. 65/182), April 2011 www.ohchr.org/Documents/Issues/OlderPersons/Submissions/UNFPA.pdf