



Elder Abuse

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**Resolution adopted by the General Assembly
[on the report of the Third Committee (A/66/454 (Part II))]
66/127. Follow-up to the Second World Assembly on
Ageing**

20. *Further calls upon* Member States to address the well-being and adequate health care of older persons, as well as any cases of neglect, abuse and violence against older persons, by **designing and implementing more effective prevention strategies and stronger laws and policies to address these problems and their underlying factors...**

9th March 2012

The issues

- Complex dynamics of elder abuse
- Environmental factors
- Social attitudes
- Redress and resolution
- Capacity
- Under reporting
- Infantilising older people

Dynamics of elder abuse

Typified by:

- Relationship of dependency
 - Abuser may be the principal carer – victims ‘autonomy’ relies on abuser
- A power relationship
 - Control by the abuser of most aspects of the victim’s life
- Family and societal loyalties
 - Mixed emotions if abuser is, say, a grandchild
- An expectation of trust
 - A critical element to distinguish it from stranger crime
 - Trust arising out of a caring relationship – professional, family or community

Environmental factors

- Abuse most often happens in sequestered space – domiciliary or institutional
 - *Scream Quietly or the Neighbours will hear* – Erin Pizzey
- Isolation of older people from the rest of the community
 - Emotional and/or physical
 - ‘Maltreatment worsens social isolation, thereby perpetuating a vicious cycle in which older people who are isolated are more likely to be maltreated.’

(WHO Regional Office for Europe)

Society's attitudes

- Ageism
- Unwillingness to accept that it happens
- Marginalisation of older people - within society
 - depiction of older people as frail, weak and dependent;
 - erosion of the bonds between generations within a family;
 - systems of inheritance and land rights, affecting the distribution of power and material goods within families;
 - migration of young couples, leaving elderly parents alone, in societies where older people were traditionally cared for by their offspring;
 - lack of funds to pay for care (WHO 2011)
- Marginalisation of older people – application of international human rights law
 - Evidence that despite existing international commitments, older people throughout the world are still marginalised and discriminated against – existing provision is failing to protect the human rights of older people.
- Gender
 - the inferior status of women

Redress, resolution and elder abuse

- Emphasis on a solely welfare response (if any)
 - ‘More care is the answer’ – it may be, but not always
 - ‘well intentioned ageism’
 - Denial of ‘remedy’ – *X v Netherlands* (ECtHR)
- De-criminalisation of abuse
 - Most forms of abuse are also crime, but are not treated as such by police and prosecuting authorities
- What are the alternatives and what are the implications for the victim?
- Restorative justice approach?

Capacity

- It is a feature of abuse – particularly financial abuse and sexual abuse
- Capacity to ensure that any state agency involvement is something done with older people rather than done to them
- Presumptions of *incapacity* in older person
- Capacity within the criminal or civil justice systems
 - Initiating action
 - Being involved in prosecution

Under-reporting

- Shame and embarrassment
- Acceptance that this is some kind of unwritten social norm for older people
 - Older people may take this view!
- ‘Nothing will be done about it if I do report’ state of mind.
 - Lack of any support by the state to provide alternative support or help them navigate the criminal justice system
 - ‘It would probably take a Charles Dickens to do full justice to the labyrinth of indifference, red tape, callousness, and simple incompetence that exists between people in need and so many of the agencies that are meant to help them ...’

Pizzey E, Scream quietly or the neighbours will hear,

UDHR – “... or other status.”

- Art 1 – free and equal in dignity and rights (‘all human beings’ – ‘... or other status’)
- Art 2 –UDHR rights and freedom without distinction (‘everyone’)
- Art 3 - life, liberty and security of person (‘everyone’)
- Art 7 – equality before the law (‘all’)
- Art 22 - right to social security (‘everyone, as a member of society’)

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UDHR and older people

Article 25(1)

‘**Everyone** has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.’

International Covenant on Civil and Political Rights

Art 2(1)

‘Each State Party to the present Covenant undertakes to respect and to ensure to **all individuals** within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth **or other status**.’

United Nations Principles on Ageing – UN GA Res 46/91

- Independence
- Participation
- Care
- Self-fulfilment
- Dignity

Elder abuse
violates each
of these
principles

Other UN activity

- UN International Year of Older People - 1999
- Proclamation on Ageing
- UN Second World Assembly on Ageism – 2002
 - Political Declaration
 - Madrid International Plan on Ageing

Madrid International Plan of Action on Ageing

Not legally enforceable

Second World Assembly on Ageing, Madrid,
Spain 8-12 April 2002

**Political Declaration
and
Madrid International
Plan of Action on Ageing**

- Eliminate age discrimination
- Incorporate ageing within social and economic strategies
- Protect older persons in armed conflict and foreign occupation
- Provide older persons with universal and equal access to health care and services

Second review and appraisal of the Madrid International Plan of Action on Ageing, 2002 Report of the Secretary-General

Emerging research suggests that abuse, neglect and violence against older persons, both at home and in institutions, are much more prevalent than currently acknowledged, and that prevention of such cases should be high on the policy agenda.

Law – national, regional and international

Law's role:

- Law on its own will not end elder abuse!
- What is required is a change in attitudes (worldwide) to older people and a recognition that their human rights are as absolute as those of anybody else
- Law may:
 - Help to change attitudes
 - Provide abused older people with a sense of justice
 - Protect older people

Key principles for national and international law

- Respect the autonomy of older people
- A definition of ‘older person at risk of abuse or neglect’
- Recognise
 - the older person’s right to protection
 - the older person’s right to redress – to see justice done
 - the need for state intervention (in exceptional circumstances) to protect an older person
 - the criminal nature of most forms of abuse
 - coercive conduct by the abuser
- Provision of support beyond welfare support for abused older people, for example within the criminal and civil justice systems
- A safe environment in which to report abuse
- An expectation of state agencies, the third sector and practitioners working together and sharing information
- Restore family and caring relationships where appropriate and safe

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