



Joint submission on the Draft General Recommendation No.19 (1992): accelerating elimination of gender-based violence against women CEDAW/C/GC/19.Add.1

Introduction

Violence against older women

Women all over the world continue to be subjected to violence in older age and yet the majority of legislation on gender-based violence¹, prevention programmes, support services, data collection, including WHO and Demographic Health Surveys with upper age limits of 49 years old, and guidelines exclude older women.

Research that has been done on violence against women in older age shows that older women can be subjected to various forms of violence, including financial and emotional violence and neglect, harmful traditional practices and widowhood rites, and in settings such as residential or institutional care facilities, which are not captured in existing surveys on violence against women:

- A 2016 study in Moldova found that 14% of those older women surveyed had been humiliated or threatened, 10% had been victims of financial abuse and 4.5% had been subjected to physical violence.²
- A study in Mozambique in 2011 showed 62% 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%).³
- In Thailand, in a study of 240 older people in metropolitan Bangkok, older women were up to five times more likely to have been abused by family members than older men.⁴
- An EU prevalence study in Finland, Austria, Belgium, Lithuania and Portugal on violence against older women in 2011 found that overall 28.1% of women between 60 and 97 years

¹ A UN Department of Economic and Social Affairs report of 2013 *Neglect, Abuse and Violence against Older Women*, highlighted the fact that domestic violence legislation does not, in general, specifically include older women. The World Bank's *Women, Business and the Law* online database not only highlights the number of countries who have no domestic violence legislation at all, it also shows that for many that do, their domestic violence legislation often excludes financial and emotional abuse, two forms of violence that women are subjected to in older age.

² HelpAge International, *Breaking the silence: Elder abuse in the Republic of Moldova*, 2016

³ Machafa S, *Violence and violation of rights against older women*, HelpAge International, December 2011

⁴ Chompund, M, Charoenyooth, C, &Palmer, MH, "Prevalence, associated factors and predictors of elder abuse in Thailand", *Pacific Rim International Journal of Nursing Research*, 14(1), pages 283-296

of age had experienced some kind of violence and abuse in the past 12 months. The most common type of violence was emotional (23.6%), followed by financial (8.8%). In most cases perpetrators of the abuse were partners/spouses but older women were also abused by their adult children or children in law.⁵

Invisibility of violence against older women in human rights accountability mechanisms

Despite this, States parties still fail to report on their obligations to end violence against older women in their periodic reporting. For example, in a recent review of 51 countries across Asia and Europe⁶ (Asia Europe Meeting, ASEM, countries), only 22 made reference to violence and abuse against older persons in their most recent periodic reports on their implementation of the following four international human rights treaties: CEDAW, ICESCR, ICCPR and CRPD. Of those that did, only four were from Asia: Australia, Japan, Singapore and Thailand. Reporting also remains sporadic. Only eight of the 22 reporting countries reported on their efforts to address violence and abuse in older age to more than one Treaty Body and none of these reported consistently across the four treaties. Issues reported on varied widely from general statements about how violence against older persons will receive special attention to more specific references to policies for example, on ensuring a restraint-free environment or providing special victim support.

In a review of available Common Core Documents for the 51 countries reviewed, only three, Japan, Portugal and Slovenia, refer to violence and abuse against older persons, and of these only Slovenia recognized gender-based violence across the lifecycle. Croatia reported that since 2006 Croatian legislation has included age as ground for hate crime.

There have also been remarkably few recommendations, notes of concern or requests for information to the 51 countries reviewed from the Treaty Bodies and Special Procedures. A search of the Office of the High Commissioner for Human Rights' Universal Human Rights Index found only six specific references between 1999 and April 2016. Three of these were by the CEDAW Committee: welcoming Japan's adoption of its elder abuse law in 2006, recommending Poland adopt a comprehensive strategy to eliminate all violence against women including against older women, and to Austria recommending they pay attention to violence against older women. The Special Rapporteur on violence against women recommended that Sweden pay attention to violence against women with special needs, including older women. The Committee on Economic Social and Cultural Rights noted its concern about the abandonment of older women in China.

Violence and abuse against older women has also been practically invisible in 51 countries reviewed in the Universal Periodic Review system, with only four recommendations to date: to Brunei Darussalam, Kazakhstan and two recommendations to Portugal, all of which looked at violence in older age more broadly and not gender-based violence specifically.

Violence against older women has also been invisible in the reporting and monitoring of the Beijing Platform for Action, which recognises older women are particularly vulnerable to violence (116). As part of 20-year review of implementation of the Beijing Platform for Action in 2015, governments were asked by UN Women to provide information on the situation of older women wherever possible. However a review of 131 government reports showed that only 13 recognised that women are at risk of violence in older age and only two referred to a specific form of violence that disproportionately affects older women: medication abuse and witchcraft related killings. There was no reference to the violence older women may experience in the different settings where they receive care and support, to neglect or to financial exploitation and abuse.⁷

⁵ Daphne III AVOW study quoted in UNDESA, *Neglect, Abuse and Violence Against Older Women*, 2013, page 12

⁶ Conducted by HelpAge International for the National Human Rights Commission of Korea, April 2016, unpublished

⁷ E/CN.6/2016/NGO/160, Joint NGO written statement to the 60th session of the Commission on the Status of Women 2016

Growing recognition of violence against older women

Since General Recommendation 19 was adopted in 1992, there has been a growing recognition that women are subjected to different forms of violence throughout their entire lives and not just before the age of 49. For example:

- The 2010 General Recommendation No.27 on the rights of older women recognised that States parties to CEDAW have an obligation to recognize and prohibit violence against older women, investigate, prosecute and punish all acts of violence them, including those committed as a result of traditional practices and beliefs (paragraph 37) .
- The 2013 agreed conclusions of the Commission on the Status of Women (hereafter the Commission) recognised the vulnerability and particular risk of violence that older women face and the urgent need to address this (paragraph 26). The Commission urged Governments and others to adopt a life cycle approach to addressing violence and ensure that specific issues affecting older women are given greater visibility, are addressed through the fulfilment of obligations under international conventions and agreements, and are included in national policies and programmes to prevent violence against women (paragraph 34(bb)).The Commission urged the collection, collation, analysis and dissemination of data by age and sex (paragraph 34(nnn)) and action to prevent violence against older women in health care settings (paragraph 34 (aaa)).
- The mandate of the newly appointed Independent Expert on the full enjoyment of all the human rights by older persons (A/HRC/RES/24/20) includes specific attention to older women. The Independent Expert drew attention to violence against internally displaced older women in a joint statement with the Special Rapporteur on violence against women in November 2014. The Independent Expert has also highlighted violence against older women in her each of her country mission reports to date: to Slovenia (A/HRC/30/43/Add.1), to Austria (A/HRC/30/43/Add.2) and to Mauritius (A/HRC/30/43/Add.3). The Independent Expert also drew attention to violence against older women in her address to the General Assembly Third Committee on October 6th 2015.

Suggested edits to CEDAW/C/GC/19.Add.1

It is imperative that the update of General Recommendation 19 recognises and provides guidance on the elimination of violence against older women to ensure that measures taken respond to the violence older women are subjected to and that violence against older women is included in both States parties' reporting and in the Committee's concluding observations.

Recognition of violence against older women

Scope

7. *General Recommendation No. 28 (2010) on the core obligations of States parties indicates that their obligations under the Convention are to respect, protect and fulfil women's right to non-discrimination and the enjoyment of equality. [1]Aspects of the content of these obligations in relation to gender-based violence against women in particular contexts are addressed in General Recommendation No. 28 and other General Recommendations, including General Recommendations No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations; No. 31 (2014) on harmful practices; No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women; No. 33 (2015) on women's access to justice; [DELETE: and] No. 34 (2016) on the rights of rural women, [ADD: and, No. 27 (2010) on older women and protection of their human rights.] The current document cross-references, but does not repeat, the relevant elements of those General Recommendations.*

9. *Gender-based violence affects women throughout their life cycle; [1]accordingly references to women in this document include girls **[ADD: and older women]**. This violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty. [2]These are affected by cultural, economic, ideological, political, religious, social and environmental factors, as evidenced in the case of harmful practices [3] or in crimes against women human rights defenders or activists.*

11. *The Committee has observed that women affected by particular circumstances or who belong, or are perceived as belonging to certain groups, may be subject to specific and intersecting forms of discrimination. Its General Recommendation No. 28 on the core obligation of States parties under article 2 of the Convention confirms that discrimination against women is inextricably linked to other factors that affect their lives. General Recommendation No. 33 on women's access to justice, highlights that these may include indigenous or minority status, colour, marital and/or maternal status, urban/rural location, disability, property ownership, and being lesbian, bisexual, transgender or intersex. **[ADD: General Recommendation No.27 recognises that harmful gender stereotypes and traditional practices can result in violence against older women⁸ and that older women are particularly vulnerable to exploitation and abuse⁹.**] Accordingly, the Committee acknowledges that gender-based violence may affect some women to different degrees, or in different ways, than other women because they experience varying and intersecting forms of discrimination, which frequently have an aggravating negative impact.*

12. *Gender-based violence against women occurs in all spheres of human interaction, whether public or private. These include the family, the community, the workplace, **[ADD: residential care,]** leisure, sport, educational settings and technologically mediated environments, such as cyberspace. It may occur in both, urban and rural areas, and in the context of conflict, civil unrest, natural disasters, and the movement of people, including migration and displacement . It occurs in any area under the direct control of the State, for example, law enforcement or public health or where it has devolved tasks to private actors, such as where it engages privatised services to manage places of detention. In all these settings, it can result from acts or omissions of State or non-State actors.*

General Obligations

14 (a), *States are required to adopt legislation prohibiting all forms of gender-based violence against women. This legislation should include gender- **[ADD: and age-]**sensitive provisions and effective legal protection, including sanctions and reparation in cases of such violence....*

Prevention

a) *Adopt and implement effective legislative and other appropriate preventive measures to address the underlying causes of gender-based violence against women, including **[ADD: intersectional discrimination based on gender and other grounds including age]** and the denial of their civil, cultural, economic, political and social rights.*

c) *Adopt and implement effective measures to encourage the media, including advertising and information and communications technologies to eliminate discrimination against women in their work, including negative and stereotyped portrayal of women and girl **[ADD: based on gender and other intersecting grounds, including age]**, including women human right's defenders..*

Protection and redress

⁸ General Recommendation No. 27, paragraph 16

⁹ General Recommendation No. 27, paragraph 27

*a) i. Protecting their privacy and safety during legal proceedings, in line with General Recommendation No. 33, including through gender- **[ADD: and age-]** sensitive court procedures and measures, bearing in mind the defendant's due process rights.*

*a) iii. Ensuring access to financial aid and free or low-cost legal aid, medical, psychosocial and counselling services, education, training and employment opportunities for victims/survivors of gender-based violence against women, and their family members. Health-care services should be responsive to trauma and include reproductive health services. States should provide 24-hour helplines, and sufficient numbers of safe and adequately equipped crisis, support and referral centres, and shelters for women and their children, and other family members as required. These services should be available in the whole territory of the State party, and accessible to all women, in particular to those affected by intersecting forms of discrimination **[ADD: including older women]**, and take account of any specific needs of their children.*

*d) Disseminate accessible information aimed at women, in particular those affected by intersecting forms of discrimination such as **[ADD: older women,]** those who live with a disability, are illiterate, or have no or limited knowledge of the official languages of the country, on the legal and social resources available to victims/survivors of gender-based violence through diverse and accessible media.*

Data collection and monitoring

*b) Establish a system to collect, analyse and publish statistical data on the number of complaints about gender-based violence against women including gender-based killings of women, the number of protection orders issued, the rates of dismissal and withdrawal of complaints, prosecution and conviction rates. The system should include information on the sentences imposed on perpetrators and the reparation, including compensation, provided for victims/survivors. All data should be disaggregated by type of violence and the relationship between the victim/survivor and the perpetrator. **[ADD: Upper age limits should be removed from data collection tools, including household surveys.]** Data should also be disaggregated in relation to intersecting forms of discrimination against women. **[ADD: Specific surveys should be conducted targeting women over the age of 50 which include the intersection between ageism and gender-based violence.]***

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