

Elder Abuse

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The World Health Organization (“WHO”) has reported that globally 1 in 6 people aged 60 years and older people experience abuse in the community every year (rates in institutions are even higher. In the Toronto Declaration on the Global Prevention of Elder Abuse WHO defined elder abuse as “a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person”, and WHO and the UN Office of the High Commissioner for Human Rights have noted that it can be of various forms, often hidden, including physical, psychological, emotional, sexual, financial or simply reflect intentional or unintentional neglect, and assessing the extent of the problem remains difficult due to lack of reliable statistics and information.

Ellison et al. explained elder abuse to be a frightening phenomenon for older people that could include financial abuse (e.g. abuse of power of attorney, theft, pressure to change their will or to become guarantors); psychological abuse (e.g. social isolation, verbal abuse, treating them like children); physical abuse, including violence, physical restraint and neglect; sexual abuse; neglect (e.g. inadequate food, shelter, clothing, medical care/assistance, hygiene, medication); and multiple abuses, which are kinds of the aforementioned abuses that occur at the same time or on a continuum with a single relationship of trust.

WHO has declared elder abuse to be a violation of human rights and a significant cause of injury, illness, lost productivity, isolation and despair and has noted that abuse of older people can have serious consequences, including premature mortality, physical injuries, depression, cognitive decline, poverty and placement in long-term care institutions.

The number of older people who experience abuse is predicted to increase, even if its prevalence remains constant, as the rapid aging of the population comes to more and more countries; however, while the impact of elder abuse is extensive and severe, WHO has expressed concern that abuse of older people remains a low global priority and receives relatively little attention and resources from international and national organizations and governments. WHO has called the UN Decade of Healthy Ageing 2021–2030 “a unique 10-year opportunity for a step change in how abuse of older people is tackled” and argued for prioritization of the following actions to prevent and respond to abuse of older people: combat ageism; generate more and better data on prevalence and on risk and protective factors; develop and scale up cost-effective solutions; make an investment case for addressing the issue; and raise funds to tackle the issue.

This chapter discusses the findings and recommendations of various international organizations with respect to the adverse impacts of elder abuse and the steps that should be taken to prevent such abuse and provide protection to older persons who are in need. The chapter pays particular attention to the challenges faced by older women, who are particularly vulnerable to violence, exploitation and abuse, including economic abuse, when their legal capacity is deferred to lawyers or family members, without their consent. Specifically, the chapter covers gender-based violence, domestic violence and sexual harassment in the workplace and abuse of older women in residential institutions.

The World Health Organization (“WHO”) reported that “[g]lobally 1 in 6 people aged 60 years and older people experience abuse in the community every year ... (rates in institutions are even higher)”.¹ WHO considers “elder abuse” or “abuse of older people” to be a sub-set of the broader category of violence against older people, which itself is

¹ [Tackling abuse of older people: Five priorities for the UN Decade of Health Ageing \(2021-2030\) \(Geneva: World Health Organization, 2022\)](#), 1.

one of several difference types of violence (e.g., violence against women, violence against children etc.).² In the Toronto Declaration on the Global Prevention of Elder Abuse WHO defined elder abuse as “a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person”, and WHO and the UN Office of the High Commissioner for Human Rights (“OHCHR”) have noted that it can be of various forms, often hidden, including physical, psychological, emotional, sexual, financial or simply reflect intentional or unintentional neglect, and assessing the extent of the problem remains difficult due to lack of reliable statistics and information.³

Violence against older people includes both violence that occurs within a relationship in which there is an expectation of trust (i.e., abuse of older people) and violence which occurs outside such relationships (i.e., violence against an older person by a stranger in a public space. WHO defines violence as the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation.⁴

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² The UN Committee on Economic, Social and Cultural Rights (“CESCR”) noted that the terminology used to describe older persons varies considerably, even in international documents and includes: “older persons”, “the aged”, “the elderly”, “the third age”, “the ageing” and, to denote persons more than 80 years of age, “the fourth age”. The CESCR opted for the use of “older persons”, the term employed in General Assembly resolutions 47/5 and 48/98, and this work generally follows that descriptive convention. [UN Committee on Economic, Social and Cultural Rights: The Economic, Social, and Cultural Rights of Older Persons: General Comment 6, UN Doc. E/C.12/1995/16/Rev. 1 \(August 12, 1995\)](#), Paragraph 9. The use of the descriptive term “older persons” in this work also reflects the findings of surveys of persons over a certain age that they find terms such as “elderly,” “aged,” and “old,” to be disrespectful and supportive of an inaccurate stereotype of frailty. See [M. Falconer and D. O’Neill, “Out with “the old,” elderly, and aged”, BMJ, 334 \(7588\) \(February 10, 2007\), 316](#). For further discussion of the debate surrounding the use of terms based on chronological age, see [A. Gutterman, Ageism: Where It Comes From and What It Does \(Oakland CA: Older Persons’ Rights Project, 2022\)](#).

³ [Toronto Declaration on the Global Prevention of Elder Abuse \(World Health Organization, 2002\)](#) and [E/2012/51](#), and [Report of the UN High Commissioner for Human Rights on Human Rights Situation of Older Persons \(E/2012/51\)](#), Paragraph 32.

⁴ [Tackling abuse of older people: Five priorities for the UN Decade of Health Ageing \(2021-2030\) \(Geneva: World Health Organization, 2022\)](#), 1, footnote 1 (citing [E. Krug et al. \(Editors\), World Report on Violence and Health \(Geneva: World Health Organization, 2002\)](#)).

⁵ [Active Ageing: A Policy Framework \(Geneva: World Health Organization, 2002\)](#) and [Tackling abuse of older people: Five priorities for the UN Decade of Health Ageing \(2021-2030\) \(Geneva: World Health Organization, 2022\)](#), 1 (citing [M. Baker, “Elder mistreatment: risk, vulnerability, and early mortality”, Journal of American Psychiatric Nurses Association, 12\(6\) \(2007\), 313](#); [X. Dong and M. Simon, “Elder abuse as a risk factor for hospitalization in older persons”, JAMA Internal Medicine, 173\(10\) \(2013\), 911](#); and [M. Lachs et al., “The mortality of elder mistreatment”, JAMA, 280\(5\) \(1998\)](#)).

issued in 2002 as a dynamic “call to action aimed at the prevention of elder abuse” that included the following points for consideration⁶:

- Legal frameworks are missing and there is a lack of proper legal instruments that can be used to respond and deal with cases of elder abuse once they are identified
- Prevention of elder abuse requires the involvement of multiple sectors of society to develop structures that provide the range of services (i.e., health, social, legal protection, police referral etc.) to effectively respond and ultimately prevent the problem
- Primary health care workers have a particularly important role to play as they deal with cases of elder abuse regularly, yet often fail to recognize them as such
- Education and dissemination of information regarding elder abuse are vital and must be done both in the formal sector (e.g., professional education) and through the media (e.g., combating stigma, tackling taboos and helping to change negative stereotypes of older persons)
- Responses to elder abuse must take into account the cultural context of any particular community in which it occurs and the challenges faced by sub-groups of older persons who are particularly vulnerable such as the very old, those with limited functional capacity, women and the poor
- Elder abuse will only be successfully prevented if a culture that nurtures intergenerational solidarity and rejects violence is developed

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The OHCHR has expressed concern regarding the level of violence, abuse and neglect that older persons are subjected to on a regular basis, noting that approximately one in ten older persons experience abuse every month and that abuse against older persons can take a number of different forms (i.e., physical, psychological, financial and neglect) and cut across different social, economic, political and cultural contexts.⁸ The UN Committee on the Elimination of Discrimination against Women has noted that “[o]lder women are particularly vulnerable to exploitation and abuse, including economic abuse, when their legal capacity is deferred to lawyers or family members, without their consent”.⁹ Sadly,

⁶ [Toronto Declaration on the Global Prevention of Elder Abuse \(World Health Organization, 2002\)](#).

⁷ [S. Ellison, L. Schetzer, P. Mullins, J. Perry and K. Wong, The legal needs of older people in NSW \(Sydney: Law and Justice Foundation of NSW, 2004\), Executive Summary, xxx-xxxi.](#)

⁸ [Older Persons Access to Justice and Remedies \(OHCHR\)](#).

⁹ [UN Committee on the Elimination of Discrimination against Women: General recommendation No. 27 on older women and protection of their human rights, CEDAW/C/GC/27 \(December 16, 2010\), Paragraph 27.](#)

elder abuse often remains hidden within families and the most serious forms of abuse, physical and sexual, has a gender face and frequently goes without reporting by victims or service systems. The OHCHR has also been critical of the fact that there is still no explicit protection for older persons against violence, abuse and neglect in international human rights law.

Elder abuses can occur within the context of a variety of different relationships including those between an older person and his or her adult children, spouse, other family members, friends, caregivers or institutions.¹⁰ The OHCHR noted that physical violence against older adults by their caretakers is one of the most serious complaints, often requiring long periods of recuperation, causing severe and lasting emotional distress (i.e., depression, fear, anxiety and post-traumatic stress) and eventually leading to premature mortality.¹¹

The OHCHR has noted that “[o]ne of the most serious complaints regarding the treatment of older persons in care is that of physical violence” and that physical violence has seriously adverse long-term consequences for older persons including long periods of recuperation even from minor injuries, severe and lasting emotional distress, premature mortality and mental health concerns such as depression, fear and anxiety reactions and post-traumatic stress.¹² The OHCHR also pointed out that physical violence is a particular concern for older persons receiving institutionalized care, a situation which itself threatens their dignity and autonomy, and that violence against older persons in care settings often goes unreported. The extent of the problem is difficult to gauge due to the lack of reliable statistics and information and the reluctance of many victims to report abuse by family members and others on whom they have become dependent for their basic daily needs. The OHCHR also expressed special concerns regarding various types of financial exploitation of older persons such as “threats to their property, income or goods, including fraud, arbitrary deprivation of their property, theft, expropriation of land, property or goods, and fraudulent loss of the enjoyment and exercise of their legal capacity, with the purpose of taking control of their financial affairs”.¹³

WHO noted that elder abuse is a universal problem, one that can be found in both the developed and developing world, and a situation that is particularly vexing and hurtful because more often than not the abuser is well known to the victim from the abuser’s relationship as a family member or caregiver.¹⁴ Older persons suffer from elder abuse because of an inability or unwilling to report the problems for various reasons including a lack of community and professional awareness and understanding of the problem; a lack of knowledge of services that may be available to provide support and assistance; isolation, which not only contributes to lack of access to assistance but also allows

¹⁰ [S. Ellison, L. Schetzer, P. Mullins, J. Perry and K. Wong, The legal needs of older people in NSW \(Sydney: Law and Justice Foundation of NSW, 2004\), Executive Summary, xxx-xxxii.](#)

¹¹ [E/2012/51](#), Paragraph 33.

¹² [Report of the UN High Commissioner for Human Rights on Human Rights Situation of Older Persons \(E/2012/51\)](#), Paragraph 33.

¹³ *Id.* at Paragraph 34.

¹⁴ [Toronto Declaration on the Global Prevention of Elder Abuse \(World Health Organization, 2002\).](#)

abusers to persist due to lack of scrutiny; fear of retribution or of being institutionalized; shame of being abused by people they should be able to trust and fear of putting important relationships with family or friends into jeopardy; and a lack of procedures for health professional to following in order to address abuse.¹⁵

Older persons' rights to freedom from violence, abuse and neglect are especially at risk during times of emergency, such as the Covid-19 pandemic. As a result of the lockdowns imposed in response to the pandemic many older persons, particularly older women, became increasingly isolated and thus exposed to increased risk of violence, abuse and neglect in their communities and in the care homes where they lived. In care homes, restrictive visitation policies made it impossible for family members to monitor the health, wellbeing and standard of care given to residents, causing emotional distress to residents and their families.¹⁶ HelpAge International reported on estimates that one in six older people were subject to abuse before the Covid-19 pandemic and also noted that these estimates likely understated the problem given that the WHO believes that only one in 24 cases of elder abuse is reported.¹⁷ Also problematic is the results of a survey of 133 countries that showed that only 41 had national laws to prevent violence, abuse and neglect of older people that are fully enforced.¹⁸

WHO pointed out that the number of older people who experience abuse is predicted to increase, even if its prevalence remains constant, as the rapid aging of the population comes to more and more countries; however, while the impact of elder abuse is extensive and severe, WHO expressed concern that abuse of older people remains a low global priority and receives relatively little attention and resources from international and national organizations and governments.¹⁹ According to WHO, ageism should be considered to be both the major reason for the low global priority of and a major risk factor for abuse of older people, and described ageism “as causing older people to be devalued and viewed as expendable, which means that violence against them is taken less seriously than violence against members of other vulnerable groups such as women and children”. Shame and stigmatization associated with the abuse of older people is also a contributing factor to the low priority of the issue.²⁰ WHO argued that the UN Decade of Healthy Ageing 2021–2030 “offers a unique 10-year opportunity for a step change in how abuse of older people is tackled” and called for prioritization of the following actions to prevent and respond to abuse of older people: combat ageism; generate more

¹⁵ [S. Ellison, L. Schetzer, P. Mullins, J. Perry and K. Wong, The legal needs of older people in NSW \(Sydney: Law and Justice Foundation of NSW, 2004\), Executive Summary, xxx-xxxii.](#)

¹⁶ [A. Byrnes, N. Georgantzi, B. Mitchell and I. Doron, Time for a UN Convention on the Rights of Older Persons \(Discussion Paper, August 2020\), 12.](#)

¹⁷ [UN must deliver convention on older people's rights as COVID-19 exposes systemic ageism \(HelpAge International\).](#)

¹⁸ *Id.*

¹⁹ [Tackling abuse of older people: Five priorities for the UN Decade of Health Ageing \(2021-2030\) \(Geneva: World Health Organization, 2022\), 1.](#) See also [UN Advocacy Brief on Older Women: Inequality at the Intersection of Age and Gender \(UN Department of Economic and Social Affairs, UN Women and others, 2022\), 4](#) (elder abuse is expected to increase as the world continues to age, leading to “serious healthy, financial and social consequences to older persons and their communities”).

²⁰ *Id.* at 20.

and better data on prevalence and on risk and protective factors; develop and scale up cost-effective solutions; make an investment case for addressing the issue; and raise funds to tackle the issue.

WHO conducted a systematic review of the literature and interviews with key informants to identify the fundamental challenges that have led to the low global prioritization of the abuse of older people.²¹ WHO began by acknowledging that “[t]he issue is inherently complex, due for instance, to the many different types of abuse of older people and their variation by culture” and noted that “[t]here is both a lack of awareness and doubts about the validity of current estimates of the prevalence of abuse of older people.” According to WHO, “[t]here has been difficulty in reaching a common understanding of the problem of abuse of older people and of solutions to it” and, in fact, “[t]here is a wide agreement among high quality evaluations that currently almost no interventions (ranging from narrowly focused programs to societal level policies and laws) have been proven to work”. WHO called this “a major impediment to the issue’s advancement, as policymakers are more likely to prioritize issues for which there are effective and cost-effective solutions”. WHO also noted that lack of consensus in the field of abuse of older people “on the standards of evidence required to consider a solution effective”.²²

Lack of coordination and alliances has been a problem in marshalling support and resources for combatting the abuse of older people. WHO explained that “abuse of older people has been framed in different ways in different countries over the years—e.g., as a social problem, a medical problem, an ageing issues, a criminal issue, and so forth”²³, but that at the global level “[d]ual framing of abuse of older people as an issue of human rights and public health has dominated the field”. According to WHO, these two framings have generally existed side-by-side and potential synergies in the dual framing have not been investigated. WHO noted that with respect to human rights framing of the issue, progress toward a global Convention on the Rights of Older Persons would increase the prioritization of actions to combat abuse of older persons. WHO also bemoaned the lack of alliances with external actors working on other complementary issues, particularly those involving in violence prevention (i.e., violence against women and children), combatting ageism and/or ableism and dementia. Another failing cited by WHO was the inability of policy makers to capitalize on windows and processes such as the 2030 Sustainable Development Goals and the response to the Covid-19 pandemic.

Justice systems need to improve their responses to elder abuse to empower victims and provide them with access to appropriate legal services provided by lawyers who understand the risk factors associated with elder abuse and how to provide support in reporting abuse (e.g., interpreters and supporting in overcoming barriers such as testing

²¹ Id at 4, 20-22. WHO identified ten challenges and organized them into three groups: factors relating to the nature of the issue, factors related to the policy environment and factors related to proponents of tackling abuse of older persons. See also [C. Mikton et al., “Understanding the factors shaping the global political priority of addressing elder abuse”, SSRN Electronic Journal, 4011904 \(2022\).](#)

²² Id. at 21.

²³ Id. at 22.

for mental capacity) and pursuing legal options for prevent and addressing elder abuse.²⁴ While discussing the international human rights obligations of Australia to older people, Lacey argued as follows²⁵:

“Australia’s legal and policy frameworks for dealing with elder abuse are so weak is a national disgrace and it is time that lawyers joined the calls for a better system of adult protection in Australia. However, any system must be framed from a rights perspective to ensure that ageist and paternalistic approaches are not adopted, thereby avoiding the erosion of the rights and freedoms of vulnerable adults under the guise of safeguarding or protecting those people. We should adopt a progressive approach to the interpretation and implementation of existing international human rights norms.”

WHO argued that “[l]egal frameworks are missing” and that “[c]ases of elder abuse, when identified are often not addressed for lack of proper legal instruments to respond and deal with them”.²⁶ WHO called for involvement of multiple sectors in responding to elder abuse, particularly primary health care workers who deal with victims of abuse and need to be able to recognize the signs of abuse in order to ensure that the appropriate care and support is provided. WHO urged that more resources be channeled toward education and dissemination of information regarding elder abuse, both through professional education and via popular media, to combat the stigma associated with elder abuse, address and eliminate negative stereotypes of older persons that often trigger the abusive behavior and strengthen intergenerational bonds. WHO also pointed out that any response needed to take into account the cultural context within the community in which the abuse is occurring particularly when there are a number of older persons from population subgroups that are known to be especially vulnerable to abuse such as the very old, people with limited functional capacity, women and older people living in poverty. Finally, WHO called for develop of frameworks that include all the services necessary to combat elder abuse including health, social services, legal protections and access to justice and police referrals.²⁷

WHO observed that “[a]lthough global data is scarce, the field of abuse of older people appears to receive less funding than the fields of violence against children or violence against women”.²⁸ Lack of funding is frequently cited as an issue by advocates for combatting abuse of older people; however, WHO noted that “it is not clear whether it is the lack of funding that accounts for the low global priority of abuse of older people or vice-versa”. WHO noted that there was “a dearth of data on the costs of abuse of older people and the cost effectiveness of solutions required to make a case for investment” and

²⁴ [S. Ellison, L. Schetzer, P. Mullins, J. Perry and K. Wong, The legal needs of older people in NSW \(Sydney: Law and Justice Foundation of NSW, 2004\), Executive Summary, xxx-xxxi.](#)

²⁵ W. Lacey, “Neglectful to the Point of Cruelty: Elder Abuse and the Rights of Older Persons in Australia”, *Sydney Law Review*, 36 (2014) 99, 130.

²⁶ [Toronto Declaration on the Global Prevention of Elder Abuse \(World Health Organization, 2002\).](#)

²⁷ *Id.*

²⁸ [Tackling abuse of older people: Five priorities for the UN Decade of Health Ageing \(2021-2030\) \(Geneva: World Health Organization, 2022\), 22.](#)

conceded that while providing financial, technical and other support to combat elder abuse was justified on moral grounds and from a human rights perspective it was nonetheless important to make the investment case for action.²⁹ WHO counseled that the following actions were required in order to make an investment case:

“... ”

Review studies on the full range of costs of abuse of older people (e.g., health, social and economic), identifying relevant studies on the prevalence and consequences of abuse of older people included in the mega-map to estimate such costs.

Develop a program of research to begin to fill the gaps.

Once the program of research on the cost effectiveness of interventions has yielded sufficient findings, produce a report making the case for investing in addressing abuse of older people.

Use the report to raise awareness of abuse of older people in ministries of finance, the donor community and others.”

When preparing and using the report referred to above, WHO recommended that an effort be made to demonstrate to donors how investing in the field of abuse of older people is linked to achievement of the Sustainable Development Goals and other human rights instruments and linked to issues that are “higher up the political agenda (e.g., dementia, disability, lesbian, gay, bisexual, transgender, queer and intersex rights and rights of domestic workers and professional caregivers, including those working in institutional care)”.³⁰

Organizations can begin to reduce violence against and abuse of older persons by creating an internal culture of respect and non-violence. Beyond that, they can support the development of products and services that promote safety and security for older persons including developing technology, such as personal emergency response systems, that can help older persons quickly and easily call for help in the event of an emergency, and developing home security systems that are specifically designed for older persons, such as systems that can be easily operated and that include features like remote monitoring. Organizations can also create and offer self-defense classes and workshops for older people and online resources that older people can access to obtain information on how to stay safe and protect themselves against financial and other forms of abuse. Another way that organizations can contribute to reducing elder abuse is by supporting and partnering with other groups that work to prevent abuse against older persons and advocate for their rights. When deciding on how to invest in reducing elder abuse, organizations should pay attention to the specific needs of vulnerable groups who may be

²⁹ Id. at 13-14.

³⁰ Id.

at greater risk such as older women, older persons who also have disabilities and older persons who have not had opportunities to obtain the education necessary for them to protect themselves in financial transactions.

Gender-Based Violence

At a special 2018 event at the UN Headquarters to mark International Day for the Elimination of Violence Against Women, the UN Secretary General described violence against women and girls as a “global pandemic” and “a mark of shame on all our societies”.³¹ It has been estimated that gender-based violence—including physical, sexual, psychological and economic—affects about 1-in-3 women (30%) globally during their lifetime, with physical and sexual violence carried out by intimate partners, generally referred to as “domestic violence”, being the most widespread.³² Domestic violence is not specifically addressed in the Convention on the Elimination of All Forms of Discrimination against Women; however, in 1992 the UN Committee on the Elimination of Discrimination against Women (“CEDAW”) made it clear that discrimination within the scope of the prohibitions in the Convention “includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately ... [gender-based violence] ... includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty ... [and] ... may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence”.³³

The CEDAW took particular note of family violence as being “one of the most insidious forms of violence against women” and argued that in societies all over the world women in family relationships “are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence”, which are perpetuated by traditional attitudes and lack of economic independences which force many women to stay in these relationships.³⁴ The CEDAW called on States to take appropriate and effective legal and other measures to overcome all forms of gender-based violence, whether by public or private act and provide effective protection of women against gender-based violence.³⁵

³¹ [Violence against women “mark of shame on society” — UN \(premiumtimesng.com\)](#).

³² [A. Allan, “How Businesses Can Take the Lead in Combatting Gender-Based Violence”, Stanford Social Innovation Review \(September 16, 2019\) and Violence against women \(World Health Organization\)](#).

³³ [UN Committee on the Elimination of Discrimination against Women: General recommendation No. 19 on violence against women, A/47/38 \(Eleventh Session of the Committee on the Elimination of Discrimination against Women in 1992\)](#), Paragraph 6. For further discussion, see [A. Gutterman, Ageism and Gender \(Oakland CA: Older Persons’ Rights Project, 2023\)](#).

³⁴ *Id.* at Paragraph 23.

³⁵ *Id.* at Paragraph 24. See also the [Declaration on the Elimination of Violence against Women adopted by the UN General Assembly in 1993 \(Resolution 48/104\)](#), which defines the term “violence against women” to mean any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” and sets out steps that States are expected to take in order to ensure the elimination of all forms of violence against women.

Goal 5 of the UN’s Sustainable Development Goals (“SDGs”) is achieving gender equality and empowering all women and girls, and Target 5.2 of SDG 5 calls for elimination of all forms of violence against all women and girls (“VAWG”) in the public and private spheres, including trafficking and sexual and other types of exploitation.³⁶ The Equality Institute has written that “VAWG is both a product, and a cause, of gender equality and both mutually reinforce the other” and has warned that “the world is failing to achieve its targets in achieving gender equality” as progress is lagging related to key indicators such as equal pay, equal political representation and rates of gender-based violence.³⁷ WHO has called out “[v]iolence against women—particularly intimate partner violence and sexual violence—[as] a major public health problem and a violation of women’s human rights”, declared that violence against women is preventable and argued that the health sector has an important role to play to provide comprehensive health care to women subjected to violence, and as an entry point for referring women to other support services they may need.³⁸

Domestic Violence and Sexual Harassment in the Workplace

Allan wrote that “[d]omestic violence and sexual harassment interfere with women’s full and equal participation in the workforce ... impair[s] employees’ physical and mental health and well-being, leading to stress, anxiety, loss of self-esteem, motivation, and even job loss ... contributes to the gender pay gap ... [and] ... affects women's opportunities for advancement and career progression”.³⁹ She also noted that in addition to the serious adverse impacts on the individuals who experience gender-based violence, the businesses that they work for are also damaged by such actions. For example, she referred to one study conducted in the US that found that “women who have suffered from intimate partner violence work 10 percent fewer workdays per year than women who have not been subject to violence”. In addition, studies discussed in the *Harvard Business Review* found that “a single sexual harassment claim can dramatically reduce public’s perceptions of an *entire* organizations’ gender equity (i.e., how fair men and women are generally treated, including in terms of hiring and promotion)”, which means that

³⁶ [Sustainable Development Goals \(SDG 5\), United Nations Western Europe \(unric.org\)](#). The two indicators for measurement of progress toward Target 5.2 are: **5.2.1** Proportion of ever-partnered women and girls aged 15 years and older subjected to physical, sexual or psychological violence by a current or former intimate partner in the previous 12 months, by form of violence and by age; and **5.2.2** Proportion of women and girls aged 15 years and older subjected to sexual violence by persons other than an intimate partner in the previous 12 months, by age and place of occurrence. For further discussion of SDGs, see A. Gutterman, *Sustainability Standards and Instruments* (New York: Business Expert Press, 2021), 51-62 and A. Gutterman, “SDG-Related Reporting” in *Sustainability Reporting and Communications* (New York: Business Expert Press, 2021), 77-103.

³⁷ [Sustainable Development Goals and Violence Against Women and Girls \(The Equality Institute, 2021\)](#) (discussing the links between SDG 5 and achieving other SDGs).

³⁸ [Violence against women \(World Health Organization\)](#).

³⁹ [A. Allan, “How Businesses Can Take the Lead in Combatting Gender-Based Violence”, Stanford Social Innovation Review \(September 16, 2019\)](#).

businesses that fail to be pro-actively responsive to sexual harassment claims risk substantial damage to their brands, reputations and bottom lines.⁴⁰

In June 2019, the International Labour Organization agreed to the Violence and Harassment Convention, 2019 (No. 190), which was proposed as a comprehensive framework for addressing violence and harassment in the world of work.⁴¹ In the Preamble to the Convention, it was acknowledged and recognized that violence and harassment in the world of work affects a person’s psychological, physical and sexual health, dignity, and family and social environment” and “also affects the quality of public and private services, and may prevent persons, particularly women, from accessing, and remaining and advancing in the labor market”. The Preamble also noted that violence and harassment “is incompatible with the promotion of sustainable enterprises and impacts negatively on the organization of work, workplace relations, worker engagement, enterprise reputation, and productivity”.⁴²

Article 4(2) of the Convention calls for Members to “adopt, in accordance with national law and circumstances and in consultation with representative employers’ and workers’ organizations, an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work” that includes:

“... ”

- (a) prohibiting in law violence and harassment;
- (b) ensuring that relevant policies address violence and harassment;
- (c) adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment;
- (d) establishing or strengthening enforcement and monitoring mechanisms⁴³;
- (e) ensuring access to remedies and support for victims⁴⁴;
- (f) providing for sanctions;

⁴⁰ [S. Does, S. Gundemir and M. Shih, “Research: How Sexual harassment Affects a Company’s Public Image”, Harvard Business Review \(June 11, 2018\).](#)

⁴¹ [Violence and Harassment Convention, 2019 \(No. 190\) \(ilo.org\)](#). Article 3 of the Convention provides: “This Convention applies to violence and harassment in the world of work occurring in the course of, linked with or arising out of work: (a) in the workplace, including public and private spaces where they are a place of work; (b) in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities; (c) during work-related trips, travel, training, events or social activities; (d) through work-related communications, including those enabled by information and communication technologies; (e) in employer-provided accommodation; and (f) when commuting to and from work.”

⁴² Article 1 of the Convention noted that the term “violence and harassment” in the work of work for purposes of the Convention referred to “a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”, and that the term “gender-based violence and harassment” for purposes of the Convention meant “violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment”.

⁴³ Article 10 of the Convention describes steps that Members are expected to take regarding enforcement and remedies.

⁴⁴ *Id.*

- (g) developing tools, guidance, education and training, and raising awareness, in accessible formats as appropriate⁴⁵; and
- (h) ensuring effective means of inspection and investigation of cases of violence and harassment, including through labour inspectorates or other competent bodies.”

As for employers, Article 9 of the Convention expects Members to adopt laws and regulations requiring them to “take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment, and in particular, so far as is reasonably practicable, to:

- (a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;
- (b) take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;
- (c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them; and
- (d) provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned in relation to the policy [referred to above].”

Business Fights Poverty, a social impact platform, partnered with businesses and NGOs to develop the following five-step framework for actions that businesses can take to combat gender-based violence⁴⁶:

- Prevent violence and harassment by identifying potential risks and continuously assessing the effectiveness of existing policies, programs, culture, leadership, and strategy are tackling violence and harassment to identifying areas where they are doing well and where they are lagging.
- Commitments from the board of directors, CEO and other senior leaders to diversity, gender equality and respect across the workplace to form a necessary foundation for addressing gender-based awareness, build the trust required for developing violence and harassment policies and practice and ensure that efforts to “raise awareness” about gender-based violence are not dismissed as tokenistic and illegitimate.⁴⁷
- Protect employees with clear and supportive policies and procedures—including reporting and grievance mechanisms—based on recognized standards (e.g.,

⁴⁵ Article 11 of the Convention describes steps that Members are expected to take regarding providing guidance and training and raising awareness.

⁴⁶ Description of the framework adapted from [A. Allan, “How Businesses Can Take the Lead in Combatting Gender-Based Violence”, Stanford Social Innovation Review \(September 16, 2019\).](#)

⁴⁷ See [H. Campbell and S. Chinnery, What Works? Preventing and Responding to Sexual Harassment in the Workplace: A Rapid Review of Evidence \(CARE Australia, November 2018\).](#)

International Labour Organization Violence and Harassment Convention) that both empower staff to take appropriate action when necessary but also reassure survivors, bystanders, accused perpetrators, and whistle-blowers that the company will handle cases effectively.⁴⁸

- Collaborate and campaign beyond the immediate workplace to raise standards throughout the sectors in which the company operates and influence societal norms and behaviors on gender-based violence.
- Accept accountability for actions taken to address gender-based violence and monitor the effectiveness of those actions (e.g., set up feedback mechanisms to assess employees' uptake of new policies and programs including regular employee surveys and meetings and interviews to solicit staff input on prioritization of resources to tackle the issue) to determine whether they are benefitting employees and other stakeholders.

Campbell and Chinnery compiled and analyzed evidence on sexual harassment in the garment industry in Cambodia, Laos, Myanmar and Vietnam in order to assist businesses and governments in designing and implementing workplace models and mechanisms for preventing and responding to sexual harassment.⁴⁹ They found that the evidence showed “significant convergence around several themes, including [t]he importance of sustained leadership engagement and commitment; [b]roader efforts to prevent sexual harassment by shifting social norms; “[w]hole of organization’ approaches that include formalized governance approaches and policies, effective complaints mechanisms and ongoing staff training; and [e]mbedding organizational approaches in a broader commitment to gender equality”. Campbell and Chinnery went on to contextualize their findings with a “whole-systems (ecological) approach” they believed could provide guidance to leadership on how to “address sexual harassment in the workplace through systemic and sustainable efforts”.⁵⁰ The five pillars of this approach included the following:

- **Society:** Organizations have a societal obligation to prevent and address sexual harassment and should engage with social movements for assistance and support in conceptualizing the issue in their workplaces and galvanizing external support.
- **Community and Stakeholder:** Organizations should work with policymakers to develop comprehensive legislation to protect against sexual harassment and nurture academic and other partnerships to collect the evidence necessary to build the business case for internal changes and convince policymakers to act.

⁴⁸ [Allan](#) argued that implementing the framework effectively should promote “a new spirit of openness” and increase the number of staff members who report incidents, use hotlines, and participate in training, and noted that more reporting and surveys will allow the company to collect the data necessary to analyze the success or failure of policies and approaches.

⁴⁹ See [H. Campbell and S. Chinnery, What Works? Preventing and Responding to Sexual Harassment in the Workplace: A Rapid Review of Evidence \(CARE Australia, November 2018\)](#), 4.

⁵⁰ Id. at 2 and 26 (explaining that “[t]he socio-ecological model, locates workplaces at the community level” and that “[w]orkforces may overlap with multiple communities depending on the organization’s employee profile, the location of housing and the nature of the employment relationship with the organization”).

- **Organizational Policies:** Widely share new workplace policies and practices; utilize “whole of organization” approaches to prevention and establish and maintain leadership capacity to design and implement prevention approaches.
- **Organizational Leadership:** Promote leadership “buy-in”, develop and clearly communicate policies and work with informal leaders to shift organizational norms.
- **Workplace Norms and Practices:** Develop comprehensive training programs, promote positive bystander models and provide opportunities to build new norms, beliefs and behaviors.

Abuse and Violence against Older Women

The UN has pointed out that “[t]he intersecting forms of discrimination experienced by older women, coupled with their higher life expectancy, suggest that abuse and violence against older women is an issue of concern”.⁵¹ In a 2022 UN Advocacy Brief on Older Women, several UN agencies reported that “[f]inancial abuse or exploitation, whereby an older person’s money, property, or assets are illegally or improperly used, has been found to be higher among older women than among older men”, and the Brief also mentioned a 2013 UN study that found that “older women who are in receipt of care services, divorced, separated, lonely, or isolated are at greater risk of financial abuse”.⁵² The Brief also noted that the Covid-19 pandemic had also exacerbated violence against women, including against older women.⁵³

The CEDAW noted that “[o]lder women are particularly vulnerable to exploitation and abuse, including economic abuse, when their legal capacity is deferred to lawyers or family members, without their consent”.⁵⁴ The CEDAW has also expressed concerns regarding violence against older women, calling on States to “draft legislation recognizing and prohibiting violence, including domestic, sexual violence and violence in institutional settings, against older women, including those with disabilities” and “investigate, prosecute and punish all acts of violence against older women, including those committed as a result of traditional practices and beliefs”.⁵⁵ The CEDAW noted that special attention should be placed on violence suffered by older women in times of armed conflict, including sexual violence on older women who have been forcibly displaced or forced into refugee status, and the impact of armed conflicts on the lives of older women.⁵⁶

⁵¹ [UN Advocacy Brief on Older Women: Inequality at the Intersection of Age and Gender \(UN Department of Economic and Social Affairs, UN Women and others, 2022\)](#), 4.

⁵² *Id.* (citing [Neglect, Abuse and Violence Against Older Women, ST/ESA/351 \(UN DESA, 2013\)](#)).

⁵³ *Id.* For further discussion, see [A. Gutterman, Covid-19 and Older Persons \(Oakland CA: Older Persons’ Rights Project, 2022\)](#).

⁵⁴ [UN Committee on the Elimination of Discrimination against Women: General recommendation No. 27 on older women and protection of their human rights, CEDAW/C/GC/27 \(December 16, 2010\)](#), Paragraph 27.

⁵⁵ *Id.* at Paragraph 37.

⁵⁶ *Id.* at Paragraph 38 (also calling on States to be mindful of “the contribution that older women can make to the peaceful settlement of conflicts and to reconstruction processes”).

In its comprehensive 2013 report on neglect, abuse and violence against older women, the UN Division for Social Policy and Development in the Department of Economic and Social Affairs surveyed many of the barriers mentioned above and identified several gaps in the services available to older women subject to domestic abuse including a need for practical information about how to leave abusive situations, where to find places of safety or available housing, how to access pensions and other benefits, how to manage personal financial issues and how to obtain a divorce.⁵⁷ The report also identified other issues that created struggles for older battered women such as professional assumptions that older women do not experience intimate partner abuse, exposure to long-term abuse, lack of dependable income, isolation, lack of familiarity with service systems and traditional marriage values.⁵⁸ With regard to the quality and availability of services, the report noted that service systems for older adults “may not identify power and control dynamics that are inherent in intimate partner abuse of older women” and that domestic violence services “are not always well-suited to older women’s needs”, shortcomings that suggested a need for an integrative service collaboration approach and services such as support groups and community outreach.⁵⁹ The report included a comprehensive list of recommendations for interventions on behalf of older women subject to domestic abuse including interventions for older women caregivers of abusive men, services for older women with care needs, legal services for older women victims of abuse, support groups for older women victims of abuse, domestic violence shelters for older women victims of abuse, training and education on abuse in later life for professionals and students, interventions aimed at perpetrators and national legislative approaches.⁶⁰

The adverse impacts of domestic abuse were described as follows by the Welsh Government in 2017: “All forms of domestic abuse have a profound effect on those who experience it. It can result in short- and long-term consequences for the individual’s mental health and wellbeing, an increased risk of physical injury, and in some cases, death. The consequences of abuse can lead to homelessness, isolation and long-term social exclusion.”⁶¹ With regard to older adults, Knight and Hester found a strong association between being a victim of domestic abuse and experiencing increased rates of mental and physical health problems⁶², and Carthy and Holt documented several specific issues associated with domestic abuse among older women including increased likelihood of depression, anxiety and risk of suicide; negative impact on cognitive functioning, such

⁵⁷ [Neglect, abuse and violence against older women \(UN Division for Social Policy and Development: Department of Economic and Social Affairs, 2013\)](#), 31.

⁵⁸ *Id.* at 32.

⁵⁹ *Id.* (citing [L. Vinton, “A model collaborative project toward making domestic violence shelters elder ready”, *Violence Against Women*, 9\(12\) \(2003\), 1504](#)).

⁶⁰ *Id.* at 37-45.

⁶¹ [Information and guidance on domestic abuse: Safeguarding older people in Wales \(Older People’s Commissioner for Wales, 2017\)](#), 8 (as cited in [A. Allcock, *ESSS Outline: Older women and domestic abuse \(August 13, 2018\)*](#)). The Welsh Government report also noted: “The abuse experienced by older people, as with others, can vary from emotional abuse to physical, sexual, financial, psychological abuse and neglect. Many victims will often experience a combination of these behaviors. Domestic abuse has the highest rate of repeat victimization of all violent crimes.”

⁶² [L. Knight and M. Hester, “Domestic violence and mental health in older adults”, *International Review of Psychiatry*, 28\(5\) \(2016\), 464](#).

as memory lapses and difficulties with concentrating; chronic pain, including bone and joint problems, digestive problems and high blood pressure; and substance misuse, such as heavy alcohol use, smoking and the use of prescription and non-prescription drugs.⁶³ Women's Aid explained that abused older women are vulnerable to controlling tactics that are often compounded by wider social types of oppression, such as ageism.⁶⁴

Ageing Equal argued that “[o]lder women face the accumulated effects of ageism and sexism in several areas of their lives” including a higher likelihood of encountering ageist attitudes than their male counterparts; dual discrimination in access to employment and pensions and to key goods and services in the health and insurance sectors; and high poverty rates than older men due to “life-long differences in pay and working time, different pension ages for men and women, and the fact that older women live longer and most often alone”.⁶⁵ Ageing Equal also called out gender abuse and discrimination over the lifecycle that eventually leads to “greater inequalities, vulnerability and poverty in old age”, citing studies of older women across multiple European countries that found that almost 30% of them had experienced some kind of violence of abuse in the previous 12 months prior to being surveyed and that many of them felt vulnerable and dependent and challenged in their efforts to report the abuses and seek protection from legal authorities and victim support services.⁶⁶

Allcock prepared a comprehensive evidence summary in 2018 based on academic research in the fields of criminology, nursing, social work, public health and law that explored identifying effective interventions for older women experiencing domestic violence and abuse.⁶⁷ She began by noting that the full scope of domestic violence and abuse among older women is unknown due to significant underreporting and confusion around terminology (e.g., there is no uniform consensus regarding the age threshold of “older”, with studies running from 45 years old to over 60). Interestingly, she also chose to exclude literature on elder abuse because “these resources tend to ignore the gendered element of domestic abuse”.⁶⁸

According to Allcock, “[m]ultiple disadvantages grounded in traditional gender roles, economic disparities and barriers to health and mental health services shape the ageing process of women, and make older women more vulnerable to violence and abuse than their male counterparts”.⁶⁹ The UN has noted that data collection methods for obtaining prevalence rates on neglect, abuse and violence against older women can be “complex, expensive and time-consuming” and others have also conceded that it is difficult to

⁶³ [N. Carthy and A. Holt, “Domestic abuse and older adults”, British Psychological Society, North East of England Branch Bulletin; Issue 5; Winter 2016.](#)

⁶⁴ [Survival and Beyond: The Domestic Abuse Report \(Women’s Aid, 2017\).](#)

⁶⁵ [Ageism and Gender \(Ageing Equal\).](#)

⁶⁶ *Id.*

⁶⁷ [A. Allcock, ESSS Outline: Older women and domestic abuse \(August 13, 2018\).](#)

⁶⁸ *Id.* See also [Neglect, abuse and violence against older women \(UN Division for Social Policy and Development: Department of Economic and Social Affairs, 2013\)](#) (stating that “lack of agreed definitions” contributes to the invisibility of older women in domestic abuse evidence).

⁶⁹ *Id.* (citing [M. Choi et al., “International movement to promote human rights of older women with a focus on violence and abuse against older women”, International Social Work, 60\(1\) \(2017\).](#))

obtain clear evidence on the scale of abuse and violence against older women, particularly women over the age of 60.⁷⁰ Older women have been described as “invisible victims” of domestic abuse.⁷¹ Researchers who searched several databases to identify studies reporting on the mental health and domestic violence in older adults found that, although prevalence figures are variable, the likely lifetime prevalence for women over the age of 65 is between 20–30%.⁷²

Allcock reported that research has shown that “[t]he experience of domestic abuse amongst older people varies; for some they will have experienced abuse at the hands of their partner for many years, while for others, the abuse may be a characteristic of a new relationship started in later life”.⁷³ According to Carthy and Holt, “[a]lthough older victims report similar patterns of abuse to younger victims, changes in behavioral forms and severity of the abuse have been identified among older samples”.⁷⁴ For example, they referred to several studies that have found that many older women report a decline in the physical and sexual aspects of abuse as their male partners age; however, those same studies indicate that “the reduction in physical aspects of abuse appears to correlate with an escalation of psychological abuse and non-violent controlling behaviors”.⁷⁵ Carthy and Holt noted that “[t]he impact of psychological and controlling behaviors should not be underestimated” and “can take many forms, such as partners conducting extramarital affairs, controlling finances, and isolation from friends and family, to name a few; each can have a detrimental effect on the victim’s health and well-being”.⁷⁶

Researchers have found that older women are more likely to be living with their abusers than younger women and that women who were retired have a higher probability of abuse compared with those who were still working.⁷⁷ This led Allcock to argue that “[d]ependence, particularly financial, and isolation are common experiences for older women affected by domestic abuse”, and she also noted that “women’s dependence seems to be a product of limited economic assets, constricted access to income and housing, and progressively fewer avenues for obtaining financial independence as they age”.⁷⁸

⁷⁰ [Neglect, abuse and violence against older women \(UN Division for Social Policy and Development: Department of Economic and Social Affairs, 2013\)](#).

⁷¹ [N. Carthy and A. Holt, “Domestic abuse and older adults”, British Psychological Society, North East of England Branch Bulletin; Issue 5; Winter 2016](#).

⁷² [L. Knight and M. Hester, Domestic violence and mental health in older adults, International Review of Psychiatry, 28\(5\) \(2016\), 464](#).

⁷³ [A. Allcock, ESSS Outline: Older women and domestic abuse \(August 13, 2018\)](#).

⁷⁴ [N. Carthy and A. Holt, “Domestic abuse and older adults”, British Psychological Society, North East of England Branch Bulletin; Issue 5; Winter 2016](#).

⁷⁵ *Id.*

⁷⁶ *Id.* On controlling and coercive abusive behavior, see also [Information and guidance on domestic abuse: Safeguarding older people in Wales \(Older People’s Commissioner for Wales, 2017\)](#), 11-12.

⁷⁷ [A. Allcock, ESSS Outline: Older women and domestic abuse \(August 13, 2018\) \(citing Older Women and Domestic Violence in Scotland \(Centre for Research on Families and Relationships, 2008\) and Neglect, abuse and violence against older women \(UN Division for Social Policy and Development: Department of Economic and Social Affairs, 2013\)\)](#).

⁷⁸ *Id.*

Allcock surveyed the research that had been conducted on the barriers that older women victims of domestic abuse must confront and overcoming when seeking help and noted that these barriers “may be both internal, such as feelings of hopelessness and concern for the abuser, or external, for example, lack of services specifically designed for older women victims’ needs”.⁷⁹ Moreover, it should not be surprising that age and the ageism that comes with it present significant challenges for older women in accessing the necessary services.⁸⁰ Categories of barriers identified by Allcock included⁸¹:

- *Attitudes and beliefs*: Various attitudes and beliefs among older women create barriers to seeking help including a lack of faith in authorities; social and religious expectations around marriage; preconceptions that as a mature person they should be more able to cope living with abuse, particularly in rural areas where “self-sufficiency” is more highly valued; a degree of acceptance surrounding domestic abuse; and a belief that home is a private domain, and it is not socially acceptable to discuss matters that occurred behind closed doors.⁸²
- *Financial concerns*: Older women often have significant concerns surrounding their financial situation when seeking support for domestic abuse. For example, older women who are victims of abuse are more likely to be financially dependent on their abuser than younger people. In addition, many older women may have no formal education, work experience outside of the home, independent economic resources or access to opportunities to learn future work skills, all of which increases their financial vulnerability. When older women do have savings or pension income, they may be ineligible for access to social housing, benefits, legal aid and community care grants.⁸³
- *Caregivers*: Older women are often placed in the position of providing care to partners who abuse them as a result of the partner’s age-related mental or physical illness and may refuse to seek help because they are concerned about how the abuser would be able to manage without the carer.⁸⁴ Knight and Hester found that “older women may feel guilty about leaving a now frail, albeit abusive, partner who may rely on them for care and support with everyday living”.⁸⁵

⁷⁹ Id. (citing [Neglect, abuse and violence against older women \(UN Division for Social Policy and Development: Department of Economic and Social Affairs, 2013\)](#)).

⁸⁰ [Survival and Beyond: The Domestic Abuse Report \(Women’s Aid, 2017\)](#).

⁸¹ [A. Allcock, ESSS Outline: Older women and domestic abuse \(August 13, 2018\)](#).

⁸² Id. (citing [N. Brossoie and K. Roberto, “Community professionals’ response to intimate partner violence against rural older women”, *Journal of Elder Abuse & Neglect*, 27\(0\) \(2015\), 470](#); [N. Carthy and R. Taylor, “Practitioner perspectives of domestic abuse and women over 45”, *European Journal of Criminology*, 15\(4\) \(2018\), 503](#); [M. Rogers, *Barriers to help-seeking: older women’s experiences of domestic violence and abuse - briefing note* \(2016\)](#); [Safe later lives: older people and domestic abuse \(Safelives, 2016\)](#); and [The Silver Project : domestic abuse service for women over 55 - evaluation report \(Solace Women’s Aid, 2016\)](#)).

⁸³ Id. (citing [N. Carthy and A. Holt, “Domestic abuse and older adults”, *British Psychological Society, North East of England Branch Bulletin; Issue 5; Winter 2016* and \[The Silver Project : domestic abuse service for women over 55 - evaluation report \\(Solace Women’s Aid, 2016\\)\]\(#\)](#)).

⁸⁴ Id. (citing [M. Rogers, *Barriers to help-seeking: older women’s experiences of domestic violence and abuse - briefing note* \(2016\)](#)).

⁸⁵ Id. (citing [L. Knight and M. Hester, “Domestic violence and mental health in older adults”, *International Review of Psychiatry*, 28\(5\) \(2016\), 464](#)).

- *Care Recipients*: Older people, both women and men, “are statistically more likely to suffer from health problems, reduced mobility or other disabilities, which can exacerbate their vulnerability to harm” and “[p]erpetrators may deliberately emphasize and reinforce dependency as a way of asserting and maintaining control”.⁸⁶ Carthy and Holt argued that “[m]any older women have special care needs or disabilities that are not catered for in current service provision” and Safelives believed that older women with disabilities are often forced to remain in abusive relationships due to their inability to access specialized services outside of the relationship.⁸⁷

According to the UN Independent Expert on the Enjoyment of All Human Rights by Older Persons, “[e]conomic insecurity, challenges in access to quality and affordable health and care services, limited autonomy and independence and other disadvantages mean that older women are at greater risk of violence, abuse and neglect”.⁸⁸ The Independent Expert noted that the “specific experiences of older women ... remain largely invisible and unaddressed” due to the failure of laws, policies and awareness-raising campaigns on elder abuse to integrate a gender perspective; however, she reported that based on information shared with her it was clear that “older women face diverse forms of violence and abuse, with emotional, financial and material, physical and sexual abuse as well as neglect”.⁸⁹

Another issue in assessing the level of violence against older women is the relative lack of specific data on the experiences of women above the age of 50. The Independent Expert noted that in global estimates on intimate partner violence and non-partner sexual violence published in 2018 by WHO, less than 10% of the eligible data included women aged 50 and older and the data that was included came mainly from high-income countries where it could be expected that prevalence rates would be lower compared to lower-income countries.⁹⁰ She did refer to one study conducted in five European countries that specifically addressed domestic abuse and violence against older women and found that 28.1% of women reported experiencing violence or abuse, most commonly emotional abuse, followed by financial abuse.⁹¹ Others have argued that insufficient data has led to poorer understanding about patterns of gender-based violence

⁸⁶ Id. (citing [Safe later lives: older people and domestic abuse \(Safelives, 2016\)](#) and [Information and guidance on domestic abuse: Safeguarding older people in Wales \(Older People’s Commissioner for Wales, 2017\)](#)).

⁸⁷ Id. (citing [N. Carthy and A. Holt, “Domestic abuse and older adults”, British Psychological Society, North East of England Branch Bulletin; Issue 5; Winter 2016](#) and [Safe later lives: older people and domestic abuse \(Safelives, 2016\)](#)).

⁸⁸ [Report of the Independent Expert on the Enjoyment of All Human Rights by Older Persons, A/76/157 \(July 16, 2021\)](#), Paragraph 49.

⁸⁹ Id. at Paragraphs 50 and 54 (noting also that in a significant number of cases, adult children were reported to be the perpetrators).

⁹⁰ Id. at Paragraph 51 (citing [Violence against Women Prevalence Estimates, 2018: Global, Regional and National Prevalence Estimates for Intimate Partner Violence against Women and Global and Regional Prevalence Estimates for Non-partner Sexual Violence against Women \(Geneva: World Health Organization, 2021\)](#), 22).

⁹¹ Id. at Paragraph 54.

against older women than for their younger counterparts, and that older women are often left out of research on gender-based violence and protection services due to “ageist assumptions about rape, rape victims, and sexual abuse”.⁹²

Abuse of Older Women in Residential Institutions

According to WHO’s 2021 Fact Sheet on Elder Abuse, around one in six people aged 60 or over experienced some form of abuse in community settings in 2020, and rates of abuse of older people are high in institutions with two out of three employees in nursing homes and long-term care facilities admitting that they committed abuse against older persons in that same year.⁹³ For older women in institutional settings, where women are often the majority of the residents, the prevalence of violence, abuse and neglect is estimated to be even higher, with older patients of both sexes being exposed to overmedication (especially patients with dementia), administration of antipsychotic drugs with free and informed consent in order “manage” the patient in care homes where the number of staff members and their level of training is inadequate.⁹⁴

The UN Independent Expert on the Enjoyment of All Human Rights by Older Persons has expressed concern that older women were prevented from speaking out about abuse and seeking help due to various factors including dependence on others for care, medicines, mobility, housing, food and financial and other support; their own feelings of embarrassment, self-blame and shame and a failure to recognize that their rights have been violated by the abusive actions of others. As a result, older women “may remain in abusive relationships because of social expectations and beliefs, as well as pressure to care for an ageing partner or to not leave a long-lasting relationship”.⁹⁵

Unwillingness or inability to report abuse is exacerbated by the lack of accessible and adequate support from protective mechanisms that are responsive to the needs of older women, and the Independent Expert cited the example of shelters that “may not be able to accommodate older women with bathing, dressing, mobility and other care needs, while social workers, caregivers and the police are not sufficiently sensitized and trained to recognize, respond and cooperate in cases involving older women”.⁹⁶ Older women are also rightly reluctant to report abuse because of expectations that their claims will “be with disbelief and skepticism because of ageist and sexist assumptions” and their

⁹² [UN Advocacy Brief on Older Women: Inequality at the Intersection of Age and Gender \(UN Department of Economic and Social Affairs, UN Women and others, 2022\)](#), 4 (citing [S. Perel-Levin, Abuse, Neglect and Violence against Older Persons \(UNDESA Expert Group Meeting on “Older Persons in Emergency Crises”, New York, May 2019\)](#)).

⁹³ [WHO Fact Sheet on Abuse of Older People \(2022\)](#) (as reported in [UN Advocacy Brief on Older Women: Inequality at the Intersection of Age and Gender \(UN Department of Economic and Social Affairs, UN Women and others, 2022\)](#), 4).

⁹⁴ *Id.* at Paragraph 55 (citing information submitted by Human Rights Watch). According to [estimates from the World Health Organization](#) published in 2021, one in six people over the age of 60 experience abuse in community settings, two-thirds of staff in care institutions reported having committed abuse and the incidence of abuse increased during the COVID-19 pandemic. *Id.* at Paragraph 50.

⁹⁵ *Id.* at Paragraph 58.

⁹⁶ *Id.* at Paragraph 59.

credibility as witnesses will be undermined by memory problems and other cognitive issues that ultimately make it difficult for cases of violence and abuse to be brought and convictions obtained.⁹⁷

In its 2021 submission to the Independent Expert on violence against older women, Human Rights Watch (“HRW”) noted that older women may be at heightened risk of domestic violence, abuse and neglect in residential institutions and abuses during armed conflict and humanitarian emergencies.⁹⁸ HRW reported that it had documented how nursing homes in the US and Australia routinely give older people, including older women, antipsychotic drugs as chemical restraints and collected evidence of serious concerns regarding the health and wellbeing of older women in US nursing homes including extreme weight loss, dehydration, untreated bedsores, inadequate hygiene, mental and physical decline, and inappropriate use of psychotropic medications among nursing home residents. HRW was critical of chronic staffing shortages in US nursing homes and lack of transparency and reporting from governments and institutions all around the world about conditions in nursing homes during times of emergency, particularly during the Covid-19 pandemic. HRW reported on evidence that older women must not only overcome serious risks during armed conflict and humanitarian emergencies due to difficulties in escaping and staying out of harm’s way and breakdowns in support systems, including pension systems, that they had relied on before the crisis ensued, but are also subject to gendered and disproportionate impacts in such situations particularly sexual violence. HRW concluded its report by offering the following recommendations⁹⁹:

“...

- Governments should ensure transparency and effective monitoring of all residential institutions, including where older women live, and ensure meaningful penalties in the event of abuse, neglect, inappropriate use of medication, or other concerns.
- Governments should ensure that older women, including those living in residential facilities, have access to complaint mechanisms, protection measures, and justice.
- Governments should ensure quality, accessible, affordable home-based and community-based services so that older people, including older women, may live at home, if they choose to do so.
- The UN and UN member states should act to prevent violence against civilians, adopt policies that mitigate disproportionate harm to women and girls during situations of conflict and crisis, and ensure effective protection and assistance, including for older people.

⁹⁷ Id. at Paragraph 60 (noting that perceived weaknesses in the credibility of older women as witnesses in their own cases means that additional evidence and witnesses may be required for legal cases to succeed and these can be difficult to obtain).

⁹⁸ [Human Rights Watch: Submission to the UN Independent Expert on the enjoyment of all human rights by older persons on the human rights of older women \(April 16, 2021\)](#).

⁹⁹ Id.

- Governments should ensure older people caught up in armed conflict have access to basic services, unimpeded and inclusive humanitarian assistance, and avenues of redress for violations of their rights.
- Governments should ensure people have access to their pensions, including during armed conflict and humanitarian crises.”

Additional Resources

- [Allcock, ESSS Outline: Older women and domestic abuse \(August 13, 2018\)](#)
- [H. Campbell and S. Chinnery, What Works? Preventing and Responding to Sexual Harassment in the Workplace: A Rapid Review of Evidence \(CARE Australia, November 2018\)](#)
- [N. Carthy and A. Holt, “Domestic abuse and older adults”, British Psychological Society, North East of England Branch Bulletin; Issue 5; Winter 2016](#)
- [S. Ellison, L. Schetzer, P. Mullins, J. Perry and K. Wong, The legal needs of older people in NSW \(Sydney: Law and Justice Foundation of NSW, 2004\), Executive Summary](#)
- [L. Knight and M. Hester, “Domestic violence and mental health in older adults”, International Review of Psychiatry, 28\(5\) \(2016\), 464](#)
- [E. Krug et al. \(Editors\), World Report on Violence and Health \(Geneva: World Health Organization, 2002\)](#)
- [Mikton et al., “Understanding the factors shaping the global political priority of addressing elder abuse”, SSRN Electronic Journal, 4011904 \(2022\)](#)
- [S. Perel-Levin, Abuse, Neglect and Violence against Older Persons \(UNDESA Expert Group Meeting on “Older Persons in Emergency Crises”, New York, May 2019\)](#)
- [M. Rogers, Barriers to help-seeking: older women's experiences of domestic violence and abuse - briefing note \(2016\)](#)
- [Active Ageing: A Policy Framework \(Geneva: World Health Organization, 2002\)](#)
- [Declaration on the Elimination of Violence against Women adopted by the UN General Assembly in 1993 \(Resolution 48/104\)](#)
- [Human Rights Watch: Submission to the UN Independent Expert on the enjoyment of all human rights by older persons on the human rights of older women \(April 16, 2021\)](#)
- [Information and guidance on domestic abuse: Safeguarding older people in Wales \(Older People's Commissioner for Wales, 2017\)](#)
- [Neglect, Abuse and Violence Against Older Women, ST/ESA/351 \(UN DESA, 2013\)](#)
- [Older Persons Access to Justice and Remedies \(OHCHR\)](#)
- [Report of the Independent Expert on the Enjoyment of All Human Rights by Older Persons, A/76/157 \(July 16, 2021\)](#)
- [Report of the UN High Commissioner for Human Rights on Human Rights Situation of Older Persons \(E/2012/51\)](#)
- [Survival and Beyond: The Domestic Abuse Report \(Women's Aid, 2017\)](#)
- [Sustainable Development Goals \(SDG 5\), United Nations Western Europe \(unric.org\).](#)
- [Sustainable Development Goals and Violence Against Women and Girls \(The Equality Institute, 2021\)](#)
- [Tackling abuse of older people: Five priorities for the UN Decade of Health Ageing \(2021-2030\) \(Geneva: World Health Organization, 2022\)](#)
- [Toronto Declaration on the Global Prevention of Elder Abuse \(World Health Organization, 2002\)](#)
- [UN Advocacy Brief on Older Women: Inequality at the Intersection of Age and Gender \(UN Department of Economic and Social Affairs, UN Women and others, 2022\)](#)
- [UN Committee on the Elimination of Discrimination against Women: General recommendation No. 27 on older women and protection of their human rights, CEDAW/C/GC/27 \(December 16, 2010\)](#)
- [Violence against women \(World Health Organization\)](#)
- [Violence and Harassment Convention, 2019 \(No. 190\) \(ilo.org\)](#)

- [WHO Fact Sheet on Abuse of Older People \(2022\)](#)

About the Author

This Work was written by Alan S. Gutterman, whose prolific output of practical guidance and tools for legal and financial professionals, managers, entrepreneurs and investors has made him one of the best-selling individual authors in the global legal publishing marketplace. His cornerstone work, *Business Transactions Solution*, is an online-only product available and featured on Thomson Reuters' Westlaw, the world's largest legal content platform, which includes almost 200 book-length modules covering the entire lifecycle of a business. Alan has also authored or edited over 100 books on sustainable entrepreneurship, leadership and management, business law and transactions, international law and business and technology management for a number of publishers including Thomson Reuters, Practical Law, Kluwer, Aspatore, Oxford, Quorum, ABA Press, Aspen, Sweet & Maxwell, Euromoney, Business Expert Press, Harvard Business Publishing, CCH and BNA. Alan has extensive experience as a partner and senior counsel with internationally recognized law firms counseling small and large business enterprises in the areas of general corporate and securities matters, venture capital, mergers and acquisitions, international law and transactions, strategic business alliances, technology transfers and intellectual property, and has also held senior management positions with several technology-based businesses including service as the chief legal officer of a leading international distributor of IT products headquartered in Silicon Valley and as the chief operating officer of an emerging broadband media company. He has been an adjunct faculty member at several colleges and universities, including Berkeley Law, Golden Gate University, Hastings College of Law, Santa Clara University and the University of San Francisco, teaching classes on corporate finance, venture capital, corporate governance, Japanese business law and law and economic development. He has also launched and oversees projects relating to promoting the civil and human rights of older persons and a [human rights-based approach to entrepreneurship and impact investing](#). He received his A.B., M.B.A., and J.D. from the University of California at Berkeley, a D.B.A. from Golden Gate University, and a Ph. D. from the University of Cambridge. For more information about Alan and his activities, please contact him directly at alanguutterman@gmail.com, follow him on [LinkedIn](#), subscribe to his newsletters ([Older Persons' Rights Project](#) and [Entrepreneurship | Investment | Human Rights](#)) and visit his website at alanguutterman.com. Many of Alan's research papers and other publications are also available through [SSRN](#) and [Google Scholar](#).

Alan launched and leads the [Older Persons' Rights Project](#), which is a California nonprofit public benefit corporation with tax exempt status under section 501(c)(3) of the Internal Revenue Code dedicated to advancing awareness of the challenges and opportunities associated with increased longevity; combatting and eliminating prejudice against older persons and age discrimination in all its forms; defending the human and civil rights of older persons secured by law, with particular attention to the rights of members of vulnerable groups; and promoting and advancing the interests of older persons in society as a whole through education and efforts to enhance intergenerational solidarity. The Project engages in high-quality, independent research with the goal of providing innovative, practical recommendations for policymakers, businesses and civil society on addressing ageism and improving the lives of older persons.

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