

United Nation Human Rights 2023
Call for inputs: Violence, abuse and neglect against older persons
Evidence Submission from Dr Hannah Bows
Hannah.bows@durham.ac.uk
Durham Law School, Durham University

This submission responds to the following areas in the call for input:

- ❖ **Legal, policy and institutional frameworks;**
- ❖ **Manifestations of violence;**
- ❖ **Intersectionality;**
- ❖ **Data; and**
- ❖ **Access to Justice.**

1. Author bio

I am currently an Associate Professor in Criminal Law and Deputy Dean (Research) at Durham Law School (University of Durham). I am an Associate Editor of the British Journal of Social Work and Chair of the British Society of Criminology Victim's Network. I am currently a Specialist Advisor to the Women and Equalities Committee. My work over the last decade has focused on different forms of violence and abuse against older adults. I conducted the first national analysis of police recorded rape and sexual assault by penetration offences against older adults and the first analysis of domestic homicides of older adults. I have recently edited a two-volume book collection on violence against older women. My four current projects are:

1. Report to court – criminal justice decisions and outcomes in criminal cases against older adults

This four year study funded by the British Academy is examining how the criminal justice system (CJS) responds to older victims of crime and the experiences those victims have of the CJS. It involves quantitative tracking of 400 cases in live time from 'report to court' to identify factors affecting attrition and progression, as well as qualitative interviews with police, prosecutors and victims to examine how age affects decision making and responses. The findings will be available in 2024 but I am happy to **share early findings as they emerge**.

2. Domestic Abuse against adults aged 60-74 in England and Wales

This ongoing project is examining the first three 'sweeps' of the Crime Survey for England and Wales (CSEW) since the age-cap (previously 59) was increased to 74. Specifically, we are looking at the nature and characteristics of domestic abuse against older adults (60-74) and how this compares to younger adults (16-59). This will be the first time we have ever been able to analyse domestic abuse against older adults using a national sample/national victimisation survey. **Findings will be available late summer 2023 and I am happy to share early findings directly.**

3. Safeguarding responses to abuse of older adults

This recently completed study was funded by the Home Office and involved analysis of around 250 s24 enquiry case files from a large local authority to examine how local authorities manage cases of domestic abuse involving older adults. **The final report has been drafted and I am happy to share a copy with you.**

4. Mercy killings

I am in the early stages of a study examining so-called ‘mercy killings’ in England and Wales. The study will examine the empirical similarities and differences in the different types of mercy killing cases, grouping them into voluntary (where there is evidence the victim wanted help to die/it was an assisted suicide or assisted death) and involuntary (where there is limited or no evidence that the victim wanted help to die) mercy killings. It will also explore how the concept of ‘mercy’ is constructed in these cases, despite the variation in contexts, and the implications of this construction in legal and public arenas. **We expect to have findings from 2025 onwards but would be happy to share emerging findings at earlier points.**

2. Legal, Policy and Institutional Frameworks

Relevant legislation

2.1. There is currently no specific legislation on violence against older adults. Compared with other jurisdictions (for example, the USA), the UK does not have any laws which specifically criminalise abuse of older people through, e.g. through elder abuse laws.

2.2. Instead, older adults are captured by existing general legislation that applies to all citizens (or in some cases, adults). The three most relevant statutes are:

2.2.1. The Domestic Abuse Act 2021 – this recently enacted legislation provides a statutory definition of domestic abuse which applies to all adults aged 16 and over and captures abuse by partners, ex-partners and relatives. The Act amends the offence of Controlling or coercive behaviour in an intimate family relationship (Section 76 of Serious Crime Act 2015) which also applies to partners, ex partners and family members, and captures the specific behaviours relating control and/or coercion.

2.2.2. The Equality Act 2010 - this Act is designed to protect individual’s against discrimination on the basis of personal characteristics, including age. It covers direct and indirect discrimination, harassment and victimisation. It creates a Public Sector Equality Duty which requires public bodies to prevent discrimination, but the Act also covers other settings including commercial (e.g shops, hotels), health services, public services and employers. Discrimination can be legal in certain situations (defined as objectively justified) but in general it is illegal to discriminate on the basis of age, or any other personal characteristic.

- 2.2.3.** The Care Act 2014 – this Act places a statutory duty on local authorities to safeguard adults at risk of abuse or neglect, if the adult has care or support needs. It therefore only captures older adults who have such care/support needs, which requires the adult has needs resulting from a physical or mental impairment or illness and they are unable to look after themselves (meet outcomes) in at least two specified areas (outlined [here](#)).
- 2.2.3.1.** Where abuse or neglect is suspected or confirmed, the local authority is required to undertake an enquiry (Section 42) to establish the facts, understand the adult’s views and wishes, assess the needs of the adult for protection/support/redress, protect the person from abuse and neglect and make decisions about what action should be taken by the person or organisation responsible for the abuse or neglect.
- 2.2.3.2.** The Act further mandates each local authority establishes a Safeguarding Adults Board (SAB) (Section 43) for its area which is designed to help and protect adults from abuse. Additionally, the SAB must arrange a Safeguarding Adult Review (SAR) (Section 44) for all cases where there is reasonable concern about how SAB, its members or other persons with relevant function worked together and the adult needing care/support has either died and the SAB knows or suspects the death results from abuse and/or neglect OR the adult is still alive but the SAB knows or suspects the adult has experienced serious abuse or neglect.
- 2.2.4.** More generally, abuse of older adults comes under existing, general criminal offences including Stalking, Harassment, and Offences Against the Person. There is no specific provision for older adults however, the age and/or vulnerability of victims is an aggravating factor in the sentencing for many of these offences, meaning a harsher sentence may be imposed.
- 2.2.5.** Between 2018-2020 the three jurisdictions in the UK (Scotland, Northern Ireland, England & Wales) considered whether to amend hate crime laws to specifically incorporate older age which at the time was not a protected characteristic under the relevant legislation in any jurisdiction. I contributed to all three:
- 2.2.5.1.** In Scotland, I was seconded to the Scottish Parliament to support the Justice Committee in examining the merits and demerits of introducing specific ‘elder abuse’ laws and/or extending hate crime legislation to include age as a protective factor, which was being considered by the Scottish Parliament at that time. In [my report](#) I outline several reasons not to introduce a specific elder abuse offence nor include age in the hate crime framework.
- 2.2.5.2.** At the same time, I was asked to serve as a expert advisor to the [England and Wales Law Commission Inquiry into Hate Crime Legislation](#), where one of the areas under examination was whether age should be made a protective characteristic. As a result of my involvement in the Scottish and English and Welsh reviews, I was invited to contribute to the [Northern Ireland Independent Review of Hate Crime Laws](#).

2.2.5.3. Both Scotland and Northern Ireland decided to add age as a protected characteristic to the hate crime legislation, but this was not recommended by the the English and Welsh Law Commission Report. It is too early to assess what impact – if any – the changes in Scotland and Northern Ireland have had.

3. Manifestations of violence

3.1. My research has primarily focused on sexual violence, domestic abuse and domestic homicide involving adult victims aged 60 and over.

3.1.1. Sexual violence – my study on all recorded rape and sexual assault by penetration offences involving victims aged 60+ between 2009=2013 found that the number of police recorded offences is low – only around 130 per year across England, Wales and Northern Ireland, significantly lower than victimisation surveys and academic research tend to find. Mostly, older victims are female and are raped or assaulted by a male partner or someone they know, but 1 in 5 are a stranger. Most offences occur in the home but 1 in 5 occurred in a care home. In care home settings the perpetrator was either a carer or acquaintance.

3.1.2. Domestic homicide – my study on all recorded homicides of older adults between 2010-2015 in the UK included a specific analysis of ‘domestic’ homicides, where the perpetrator is either a partner/ex-partner or other family member found that 1 in 4 of all domestic homicides in the UK involves a victim aged 60+, yet those aged 60 and over account for only 18% of the population. In other words, older adults seem disproportionately at risk of domestic homicide. My analysis revealed overall most victims are female. Furthermore, around half of perpetrators are adult sons or grandsons – this is important as this is not the case in domestic homicides involving younger adults, where the perpetrator is almost always a partner/ex-partner.

3.1.3. I am currently examining the nature of domestic abuse against older people aged 60-74 through analysis of the Crime Survey for England and Wales, as detailed in the opening section of this submission, and expect findings to be ready by summer 2023.

5. Data

5.1 There are no specific national surveys that collect data on victimisation of older adults. Some official public bodies provide aggregated data which provides high level insights, but it is usually limited to specific circumstances and/or groups.

5.1.1 For example, the NHS publishes data relating to all s42 enquiries (see 2.2.3.1 above) and this can be assessed by age group and type of abuse, but further disaggregation is not possible.

- 5.2** Data on different forms of violence or abuse against older adults is captured under some other national surveys, for example the Adult Psychiatric Morbidity Survey and English Longitudinal Study of Ageing. However, these are not specific victimisation surveys.
- 5.3** The national Crime Survey for England and Wales (CSEW) samples a large number of households annually (approx. 35,000) on a range of different crime victimisations over both the preceding 12 months and over the lifetime of the participant. It has a dedicated module on domestic abuse, sexual violence and stalking but until 2017 had an age cap of 59 on this part of the survey. This was lifted to 74 and in 2020 the age cap was removed altogether. I am currently conducting the first analysis of the findings from 2017-2020 on domestic abuse against adults aged 60-74 and expect the findings to be available from summer 2023.

6. Access to justice/Criminal Justice System

- 6.1** Research from Northern Ireland suggests that older victims (in this case those aged 55+) are less likely to have a sanction outcome to their case than other adults. The likelihood of a sanction outcome drops further as older victims age with those in the 65+ category recording the lowest rates (Brown and Gordon, 2019).
- 6.2** An inspection of police practice relating to cases involving adult victims found a policies to support victims and enable the collection of importance evidence were often not applied.
- 6.3** Little is known about how and why convictions and prosecutions of crimes against older people are lower. However it is thought that a lack of awareness and knowledge of crimes against older people by the public and practitioners, and ageist attitudes and myths about older people (e.g. not willing to engage in the criminal justice system, older people not credible witnesses) contribute to these poor outcomes (e.g. Brown and Gordon, 2019).
- 6.4** I am currently conducting the first study examining criminal justice decision making and outcomes in cases where the victim is aged 60 and over (see section 1 of this submission). This involves tracking of cases from 'report to court' to assess which cases progress through the system, which don't, and the reasons why. I am also interviewing police officers, prosecutors and older victims about their experiences and views on how age affects decision making in cases involving older adults. The findings will be available in autumn 2024.