**Mandate of the Independent Expert on the enjoyment of all human rights by older persons**

**Call for inputs: Violence, abuse and neglect against older persons**

Each year, the Independent Expert on the enjoyment of all human rights by older persons presents two thematic reports, one to the Human Rights Council and one to the General Assembly. In 2023, the Independent Expert will dedicate her thematic report to the 54th session of the Human Rights Council to address and analyse violence, abuse and neglect of older persons.

To inform her report, the Independent Expert wishes to receive written contributions (max. 1,500 words) from relevant stakeholders, including national and local governments, national and international non-governmental organizations, national human rights institutions, international and regional inter-governmental organizations, United Nations agencies and entities, activists, academics and older persons.

The Independent Expert strongly encourages sharing concrete examples of good practices on how to eliminate violence, abuse and neglect against older persons.

The Independent Expert kindly invites all interested stakeholders to share their views and provide information on any or all the following issues:

1. **Legal, policy and institutional frameworks**: is there a non-discrimination law that prohibits discrimination based on age? Is there a legislation on violence against persons and/or domestic violence that includes violence, abuse and/or neglect of older persons? Does the law establish a specialised independent body receiving complaints of discrimination based on age? Is there a national plan, policy or strategy to address violence against older persons, that is overseen by a national mechanism to monitor and implement it? Please provide detailed information and relevant documents, if applicable.

New Zealand does not currently have legislation or a dedicated body that specifically addresses age-related discrimination and/or violence. We rely on generic human rights legislation that is aimed at protecting the general population. Therefore, in the absence of a formal government mechanism, it lies in the domain of community organisations such as Age Concern to raise awareness, monitor, intervene and prevent such occurrences to the best of its ability.

1. **Manifestations of violence**: what forms of violence, abuse and neglect are older persons facing? In which settings does it happen? Please provide detailed information.

Physical, psychological, financial, institutional, sexual and neglect (including self-neglect)

Violence, abuse and neglect of older people can manifest across an entire spectrum of physical, psychological, financial and institutional involvement.

* Physical abuse may include (but is not necessarily limited to) hitting, pushing, over-medicating, the inappropriate use of restraints and/or confinement.
* Psychological abuse may include ridicule and humiliation, threats, coercion, bullying, control, social isolation, prevention of choice, hostility and/or lack of affection, and being cut off from family and loved ones.
* Financial abuse is very common (over 50% of abuse cases are financial) and generally involve theft from an older person. Victims report losing anything from a few dollars to millions of dollars. Furthermore, older people are highly susceptible to scams and online fraud, and therefore commonly experience devastating financial losses through these channels.
* Institutional abuse can be insidious and less visible. For example it may manifest as rigid routines that disregard the preferences of individuals, or a lack of respect for a person's culture or customs and inappropriate rationing of continence products. In the past three years of the pandemic there was huge pressure on staffing, and may cases of neglect came to light that were a direct result of low staff-to-patient ratios. Smaller towns have significantly fewer residential providers, and this means that there are less residential options for an elderly person. When an abusive or neglectful situation arises, they are often unwilling to complain for fear of reprisal and no alternative residence to transfer to.
* Sexual abuse of elderly people is unfortunately only infrequently reported to community services. This does not mean there is no incidence of it, rather that due to under-reporting its actual prevalence is an unknown. Our organisation is very concerned about how extensive this issue may actually be.
* Self-neglect by the elderly is a very complex issue. In New Zealand, we deal with many older people who have developed a hoarding disorder, but our service is not equipped with sufficient skills and resources to adequately address this and to help these individuals. Supporting someone with a hoarding disorder requires a multi-faceted approach, including ongoing psychological and emotional support plus practical help and physical input.

1. **Intersectionality**: how does violence, abuse and neglect affect specific groups of older persons (e.g. older women, older LGTBI persons, older persons belonging to ethnic and indigenous groups, older refugees and internally displaced persons, older persons with disabilities, etc.) Please provide detailed information.

In New Zealand, there are culturally and linguistically appropriate services that provide services and support to older people who need support and guidance in dealing with situations of abuse and/or neglect. These include larger organisations such as Age Concern Auckland’s Asian Services (Chinese, Japanese and Korean peoples), Shanti Niwas (South Asian peoples), Vaka Tautua (Pacific Islanders) and other agencies. However, many smaller agencies often lack the capacity, capabilities, experience and core competencies to adequately support older people in need, and while having the best of intentions can sometimes offer a substandard level of service to those they are wanting to help.

1. **Data**: are data available at national and local level about violence, abuse and neglect of older persons? Are national surveys about violence including experiences of older persons? If available, please provide figures and data.

New Zealand does not currently have a cohesive national or regional database that catalogues the incidence of abuse and neglect of older people. Rather, all localised elder abuse response services maintain their own database of cases that go through their service. A national database that catches and compiles all reported cases of elder abuse across many different sectors (eg health, criminal justice, social welfare etc) would be ideal, but currently does not exist in this country.

1. **Access to justice**: how does the State fulfil its obligations to ensure older persons’ access justice, and to obtain remedies and reparations, when their human rights have been violated as a result of violence, abuse and neglect?

There is limited legislative protection in New Zealand to support elderly people experiencing abuse and/or neglect. The Protection of Personal and Property Rights Act 1988 (PPPRA) aims to protect the personal and property rights of people who cannot fully manage their own affairs. However there still is a need for equitable access to an Enduring Power of Attorney for the at-risk older population.

There are many variables that contribute to inequitable access to justice, and fair outcomes, for older people. The main obstacles are outlined below:

* Family Court delays: in large cities in New Zealand there can be delays of up to six months to obtain orders under the PPPRA.
* The high costs to establish an EPA. PPPRA 2007 amendments added complexity to some forms and processes, and now legally require the certified witnessing of documents and information. This costs between NZ $195-1300, and if done through the Family Court costs an individual or an estate $3000 -$5000.
* There are some resources available to help with the above legal costs. Work and Income NZ administers a Special Needs Grant Programme that gives recoverable and non-recoverable assistance for immediate and essential medical needs. Legal Aid will help some applicants if a medical practitioner recommends it. EPA for property is generally considered the highest priority. However, many people are not aware of these funding opportunities or how to advocate for themselves, so do not avail of them.
* Social isolation and lack of trust can be an issue for a welfare EPA. Disintegration of family relationships or dispersed family members - or abusive relationships within a family - can leave an elderly person with no suitable or trustworthy person to take on this role for them.
* Culture: The Treaty of Waitangi’s principles of ‘partnership, participation and protection’ are not mentioned in the PPPRA. Pacific cultures tend to rely on church Elders (in the case of Pasifika people) to make decisions for them. Maori whanau hold their elderly in high regard and this can make it very awkward for an elderly individual to make a complaint of abuse to younger whanau, very possibly when that complaint is about other family members. The western notion of a younger family member having the decision-making power of an EPA is not necessarily a concept in Maori or Pacifika culture.
* Māori and Pasifika may be affected by socioeconomic factors of inequity and may not have the same educational or social opportunities to learn about EPA, or the financial resources to set it up. In Asian cultures, traditional hierarchical relationships need to be considered. In China, for example, the concept of a professional social worker does not exist, and instead family hierarchy is used to settle financial and legal issues for elderly family members.
* Care assumptions: Many people assume (often incorrectly) that personal care and welfare responsibilities will automatically be taken on by a family member. There is no provision or regulation in EPA legislation for this.
* In New Zealand, where a donor has been deemed mentally incapable and there is suspected misuse of an EPA an application can be made to the Family Court for the judge to review the EPA’s decisions. However this is a complex process that frequently requires expensive legal assistance. In many situations, the applicants (often a concerned family, friend or even a joint EPA) are unable to proceed with the court application process due to the high legal cost and the complexity. As a result, the older person will probably be trapped in an ongoing abusive and unhappy situation that they are powerless to address.

1. **Access to information**: How do you raise awareness about violence against older persons in the public? How is information about access to essential services (e.g. healthcare, legal assistance, social services, access to shelters) made accessible and available for older persons?

In New Zealand, there is limited government funding for awareness-raising activities. Ideally, Age Concern would promote awareness and widespread education about these to the relevant essential services, but it does not have sufficient financial resources to do so effectively. However, we are currently working with front-line health professionals to co-design and implement elder abuse screening tools. This project is at a very early stage. It aims to build health professionals’ awareness of elder abuse identification and equip them with the tools to respond to their concerns.

Thank you for sharing any relevant information about violence, abuse and neglect against older persons **before 1 March 2023**, in English, French or Spanish in attachment (max. 1,500 words) by email to [hrc-ie-olderpersons@un.org](mailto:hrc-ie-olderpersons@un.org).