



REPORT ON VIOLENCE, ABUSE AND NEGLECT OF OLDER PERSONS

**INPUT TO THE REPORT OF THE UN
INDEPENDENT EXPERT ON THE
ENJOYMENT OF ALL HUMAN
RIGHTS OF OLDER PERSONS TO
THE 54 SESSION OF THE UN HUMAN
RIGHTS COUNCIL**

**International Longevity Centre Canada
Canadian Network for the Prevention of Elder Abuse
Elder Abuse Prevention Ontario**

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**INPUT TO THE THEMATIC REPORT OF THE UN INDEPENDENT EXPERT ON THE
ENJOYMENT OF ALL HUMAN RIGHTS OF OLDER PERSONS TO THE 54TH
SESSION OF THE HUMAN RIGHTS COUNCIL
VIOLENCE, ABUSE AND NEGLECT OF OLDER PERSONS**

Introduction

To live free from violence, abuse, and neglect is a basic human right. Yet older Canadians, like many older persons around the world, remain unprotected under international and domestic law, despite evidence that more protections are needed. Canadian law does not sufficiently protect older persons from violence, abuse, and neglect. Laws against age-based discrimination, are complex and expensive and rarely accessed, providing less than fulsome coverage.

The multiplier effect of ageism coupled with racism, sexism, and homophobia significantly increase the risk of abuse with no concerted effort to address intersectionality in laws, policies and programming.

The lack of data on these violations, allows them to flourish undetected. Based in ageism, alone, the lack of data manifests in inadequate funding to support older persons seeking shelter from harm and inadequate educational forms to help recognize and stop abuse.

Despite the need for effective responses, access to justice remains difficult for older persons. We call for greater attention to the violence, abuse and neglect of older persons, including necessary financing of policy and programs with clearer laws. We continue to call for a United Nations convention on the rights of older persons to protect their right to live free from violence, abuse, and neglect.

QUESTION 1: LEGAL, POLICY AND INSTITUTIONAL FRAMEWORKS.

Is there a non-discrimination law that prohibits discrimination based on age?

In Canada, the Canadian Charter of Rights and Freedoms, and federal (national), provincial and territorial human rights laws (codes) are two existing sources. In both instances, age is explicitly recognised as a ground of discrimination.

Canadian Charter of Rights and Freedoms

Article 15 of the *Canadian Charter of Rights and Freedoms* (adopted in 1982 and applicable at all levels of government), prohibits discrimination based on age.

There are three important limits to its application. First, the *Charter* applies only to governmental actions and not to private individuals, businesses, or organizations. Second, Canadian courts are largely unwilling to interpret the *Charter* as imposing positive obligations on governments to implement social programs (e.g., regarding violence against older persons) (Jackman & Porter, 2017). Thirdly, section 1 states that those rights can be limited by law, as long as they are shown to be “reasonable in a free and democratic society”.

Older Canadians believing their *Charter* rights have been infringed upon, must start a very costly and time-consuming civil action in court, with no guarantee of success. Since 1982, there have been few cases before Canadian courts and of these most deal with discrimination in the employment setting.

Human Rights Legislation

Apart from the *Charter*, in Canada, human rights are protected by federal, provincial, and territorial laws, focusing on equality rights, protecting Canadians from harassment and discrimination based on several grounds, including age.

Older Canadians who believe their rights have been infringed, can complain before specialized human rights tribunals. There are no costs to file a complaint and self-representation is possible, the process itself is costly, daunting, and long drawn (Pinto, 2012). The hurdles associated with complaints are compounded for older adults, if they are at-risk or marginalized due to disability, low-income, immigration status or other issues (Law Commission of Ontario, 2012).

Is there legislation on violence against persons and/or domestic violence that includes violence, abuse and/or neglect of older persons?

In Canada, while there are no laws exclusively dealing with abuse or neglect of older persons, there are legal measures protecting all persons from domestic violence, abuse, or neglect, which can be applied to older persons.

At the federal level

No specific federal legislation on domestic violence in Canada exists, and thus no specific legislation on violence, abuse and/or neglect of older persons would apply throughout the country. Most acts of family violence are crimes where relevant criminal offences are found in the Criminal Code and apply uniformly to all Canadians wherever they live.

At the provincial level

Provincial and territorial governments make laws within their own jurisdictions. Alberta, Manitoba, Nova Scotia, Prince Edward Island, Newfoundland & Labrador and Saskatchewan and Northwest Territories, Yukon and Nunavut have proclaimed family violence legislation. British-Columbia provides for family violence protection orders under its *Family Law Act*. Ontario, Canada's most populous province, has no such law.

Recourse to civil actions before non-criminal courts

An older person can sue an offender in civil court to get financial compensation for torts such as battery, assault, imprisonment, negligence, intentional infliction of mental harm and breaches to privacy.

Reporting obligations in some settings

There are legal obligations for institutions to report abuse, however these vary between provinces/territories and depend on the institution involved. In Ontario, reporting is mandatory only when an older adult resides in a Long-term Care or Retirement Home.

Does the law establish a specialised independent body to receive complaints of discrimination based on age?

In Canada, there is no specialised independent body with the responsibility of addressing age-related complaints. Older persons facing such discrimination rely on the tools available to all Canadians.

Canadian statistics reveal that access to justice for older adults is an issue, with most unlikely to complain before administrative tribunals or start legal actions before the courts in the matter. Many are on fixed incomes, have lower than average levels of education or literacy, face declining health/activity limitations, are experience cognitive disabilities living in environments which reduce autonomy and community inclusion, and can be dealing with physical, financial or other forms of abuse.

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?

No national mechanism in Canada is tasked with monitoring or implementing plans, policies or strategies that address violence against older persons. Those at provincial and territorial levels, are substantially varied in their approaches.

QUESTION 2: MANIFESTATIONS OF VIOLENCE: WHAT FORMS OF VIOLENCE, ABUSE AND NEGLECT ARE OLDER PERSONS FACING? IN WHICH SETTINGS DOES IT HAPPEN? PLEASE PROVIDE DETAILED INFORMATION.

Older Canadians face the following types of violence, abuse and neglect:

Physical abuse: Any act of violence or rough handling that may or may not result in physical injury but causes physical discomfort or pain. This includes hitting an older adult or handling them roughly, even if there is no injury. This includes improper administration of medication, or physical restraints.

Sexual abuse: Non-consensual sexual contact of any kind with an older adult or sexual contact with person incapable of giving consent are considered sexual assault.

Emotional abuse: Any action, verbal or non-verbal, that lessens a person's sense of identity, dignity, and self-worth. This includes removal of decision-making powers, threats, insults, intimidation, or humiliation, treating the person like a child, not allowing them to see their family and friends.

Financial abuse: Occurs when someone coerces, threatens, or persuades older adults to relinquish money, property, or possessions. Misuse of power of attorney is a common form.

Violation of rights and freedoms: The interference of the older adult's ability to make choices, which are protected under law.

Neglect: The failure to provide care and assistance required for the health, safety or well-being, including inaction that jeopardizes the health or safety of the older adult.

Systemic violence / structural violence: Refers to rules, regulations, policies, or social practices that harm or discriminate against older adults. Multiple forms of abuse can occur at once.

Many associate elder abuse with long-term care: During the global pandemic, we [witnessed many examples of abhorrent neglect and physical abuse](#), where residents were neglected, unwashed, dehydrated and starved, leading to death. However, mistreatment, neglect and violation of rights were an issue in long-term care settings, long before Covid-19.

A wide majority of older adults live at home, in the community, where they too experience abuse and neglect. Most data on elder abuse is available in these settings. The 2015 Prevalence Study reported that in 81% of reported abuse, it was a spouse, family member, friend, neighbour, or acquaintance causing the harm.

QUESTION 3: INTERSECTIONALITY: HOW DOES VIOLENCE, ABUSE AND NEGLECT AFFECT OLDER PERSONS, INCLUDING WOMEN, LGTBI, ETHNIC AND INDIGENOUS PERSONS, REFUGEES/DISPLACED PERSONS AND PERSONS WITH DISABILITIES.

Violence and abuse against older persons assumes different forms and can occur in all settings – there is no homogenous catch all that packages the complexity of issues, but rather a societal trend of discriminatory, harmful behaviour that violates human rights, starting with ageism, at the very core of abuse towards older populations.

Prevalence of mistreatment of older populations is transversal, across all social arenas/domains, socio-economic and ethno-cultural populations. Simply put, the more diverse the group, the greater the vulnerability to violence and abuse whether subtle or overt. The pandemic only served to expose the shocking truth about the harm that older adults in Canada continue to experience.

Ageist stereotypes compounded by other intolerances and ‘isms’ increase the likelihood that older adults not only fall prey to violence and abuse, but their ability or access appropriate care and/or supports are significantly diminished because of the intersectionality of age, gender, identity or cultural beliefs/backgrounds.

Marginalized older adults experiencing duo-discrimination from diverse identity factors (like age, sexual orientation or living with disabilities for example) report having access to fewer resources resulting in poorer health, increased economic difficulties and significant impacts to their quality of life.

Older women are particularly harmed by the intersectionality of factors affecting their vulnerabilities/risks to abuse and violence: Indigenous women, women living in rural communities, immigrant women, and women with disabilities are at greater risk for violence, abuse and neglect. Older LGBTQ2+ people are also more likely to live in social isolation, fearful of stigma and discrimination, having experienced some form of violence

and are less likely to access care or support. See Annex 1 (statistics on violence, neglect and abuse of older women facing intersectoral prejudices).

QUESTION 4: DATA (NATIONAL & LOCAL) 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.

Data on abuse and neglect of older persons at all levels is sparse and referred to as “*the invisible crime*”. There are multiple challenges to data gathering:

- Gaps and inconsistencies in definitions and reporting mechanisms across sectors and jurisdictions.
- Ageism renders older adults and their struggles as invisible. Incidents of abuse go unnoticed, misinterpreted as “signs of aging” or simply dismissed, often in healthcare settings.
- Significant factors contributing to underreporting: victims experience stigma and shame; lack of services or awareness of them; fear that reporting may get a loved one into trouble; fear of a drastic change to one’s lifestyle, or autonomy (losing one’s home); or distrust/fear of law enforcement and the legal system.

Statistics available are concerning and have been for some time:

- The 2015 Canadian Prevalence Study stated that the aggregate prevalence of elder abuse and neglect was 8.2% of Canadians aged 55 and over. ([National Survey on the Mistreatment of Older Canadians, A Prevalence Study](#) published by the National Initiative for the Care of the Elderly).
- In 2022, it was estimated that 1 in 10 older Canadians experience some form of mistreatment each year. [Elder abuse prevalence and risk factors: findings from the Canadian Longitudinal Study on Aging](#). Burnes, D., Pillemer, K., Rosen, T. et al.

Since elder abuse is very often under reported, it is likely that this percentage is higher.

From the start of the pandemic the rates of family violence and gender-based violence have skyrocketed, fueled by social isolation, increased time spent at home often with one’s abuser. This has especially affected older women.

[Statistics Canada put out a new report](#) (October 2022) about rates of police reported family and intimate partner violence. The section on older adults 65+, highlighted a general increase of reported violence against older adults over the past decade, especially since the pandemic.

- Since 2009, family violence against seniors has increased by 37%
- In 2021, family violence against seniors was 8% higher than in 2020 and 14% higher than before the pandemic in 2019.

- Women accounted for nearly 57% of older victims.

From the *Canadian Femicide Observatory for Justice and Accountability* (CFOJA) tracked annually, older women represent $\frac{1}{3}$ of all women and girls killed by violence during the period 2018-2020 (Dawson et al. 2020) and were overrepresented as victims, compared to 2019 (Dawson et al. 2019). (See: Research paper: [Not the 'golden years': Femicide of older women in Canada](#) and [2019 Call It Femicide report](#))

The data available does not provide a fulsome picture of this issue. Data about cultural minorities, older LGBTQ people and people with physical or cognitive disabilities is limited. Limited studies specific to abuse in rural/remote areas, makes it difficult to understand what is occurring. [Enhancement of Canadian Data on the Abuse of Older Persons: An exploratory study](#), (2022)

A [recent report](#), published by Dr. Marie Beaulieu (Justice Canada), outlines key challenges to data collection with recommendations to improving it. There are four specific objectives regarding data collection practices on abuse and neglect:

1. obtain information on the challenges and gaps;
2. document the differences between abuse and neglect;
3. design pragmatic approaches to successful research/data collection; and
4. identify important data points to collect.

QUESTION 5: 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?

In Canada, there are no laws setting out a right to access to justice for older persons *per se*, and for human rights violations linked to violence, abuse, and neglect.

While the right to access to justice is recognized by Canadian legal institutions, many Canadians are prevented from exercising this right, including older persons. The barriers preventing access are extensive. The legal system is complex, slow, and expensive. Older persons are often unaware of their legal rights and the infrastructure to support them through legal procedures is weak. Compounded by the lack of basic levels of literacy needed to use the internet to participate remotely in proceedings is a significant barrier. Fixed incomes and the limited breadth of legal aid coverage are impediments. Specialists in elder law are few.

In situations where human rights have been violated because of violence, abuse and neglect, the lack of access to justice is compounded by factors such as fear of retaliation, vulnerability, being able to report a crime to police, to participate in a criminal justice process and to access relevant information. Access to justice is even more difficult in northern and remote communities.

QUESTION 6 ACCESS TO INFORMATION: HOW DO YOU RAISE AWARENESS ABOUT VIOLENCE AGAINST OLDER PERSONS IN THE PUBLIC? HOW DOES INFORMATION ABOUT ACCESS TO ESSENTIAL SERVICES (E.G. HEALTHCARE, LEGAL ASSISTANCE, SOCIAL SERVICES, ACCESS TO SHELTERS) IS MADE ACCESSIBLE AND AVAILABLE FOR OLDER PERSONS?

The availability and accessibility of essential services varies widely depending on geographic location. In the 6 jurisdictions, where elder abuse prevention networks (EAPNs) exist, they raise awareness through education, information and service navigation, helping older adults/families access programs and services. Elsewhere that information-sharing role is fulfilled by a variety of agencies/ senior groups and health authorities or equivalent government services.

(CNPEA) has established a knowledge hub: www.cnpea.ca gathering information on existing resources, research, promising practices, initiatives, and available supports across Canada.

CNPEA provides regular webinars and presentations on various topics related to elder abuse prevention and intervention, ageism, equity and rights of older persons (promoted to 800+ members, on social media) and delivers education and information to thousands more older Canadians, their families, service professionals and other stakeholders.

Collaboration with other organisations has resulted in the creation of awareness videos (examples [here](#) or [here](#)), and the development of collective actions and campaigns, such as the newly formed [Canadian Coalition Against Ageism](#), convened by ILC Canada.

QUESTION 7: PLEASE PROVIDE EXAMPLES OF GOOD PRACTICES FOR PREVENTING, MONITORING AND ADDRESS VIOLENCE AND ABUSE AGAINST OLDER PERSONS.

Elder abuse response in Canada is currently entirely crisis oriented. Reacting to a crisis is the most expensive and least effective approach possible. In 2022, the Canadian Network for the Prevention of Elder Abuse launched [Future Us: a Roadmap to Elder Abuse Prevention](#). It is a public engagement strategy developed to help everyone, contribute to enhancing the prevention of elder abuse across the country.

Future Us recommends moving upstream toward early intervention and prevention, with a clear commitment to include populations that are made vulnerable by inequity and discrimination.

Approaches to prevent, detect, and address elder abuse require placement within cultural contexts and considered alongside culturally specific risk factors. Elder abuse should be considered using gender-based and intersectional analyses.

Unless both primary health care and social service sectors are well equipped to prevent, identify and address the problem, elder abuse will continue to be underdiagnosed and overlooked.

Examples of 'good practices' are:

1. Prioritizing elder abuse prevention in every community.
2. Establishing and supporting elder abuse prevention networks at local, regional and national levels. Networks are critical infrastructure for information sharing, knowledge mobilization, research, and ongoing engagement across all sectors and communities.
3. Teaching everyone to recognize warning signs of abuse and neglect, how to respond safely and effectively and where to refer individuals in the community to find help.

Future Us includes resources and recommended practices to help increase our collective awareness and ability towards prevention and intervention. Consult *Future Us* at www.futureus.cnpea.ca referring to Annex 2 (examples of best practices).

Conclusion:

Concrete steps must be taken to curtail the high levels of violence, abuse and neglect experienced by older Canadians. We suggest any steps taken must align with global initiatives, including the United Nations SDGs, the UN's Decade of Healthy Aging, and the WHO's campaign on Ageism. We call on Canada and Member States of the United Nations to implement a United Nations convention on the rights of older persons which will create international obligations that protect those human rights.

Annex 1: Statistics on violence abuse and neglect of older women with compounding factors.

- Indigenous women are 12 times more likely to be murdered than other women in Canada (Aura Freedom International) or experience abuse/crime (though data collection among Indigenous populations is scarce at best).
- Indigenous women face challenges of poverty, substandard housing, trauma from experiences of residential schools (separation, violence and forced cultural insensitivities), higher rates of mortality and morbidity, limited health care and access to community support services, increasing vulnerabilities to abuse and harm with few resources to support them.
- Women living in a rural community experience violence rates 2 times higher than those in urban centres (WAGE).
- While there is no official national data tracked on femicide in Canada, a recent report by Canadian Femicide Observatory for Justice & Accountability, indicates that in 2020 of 160 females killed by violence, women aged 55-64 comprised the largest proportion of victims (19%).
- Language barriers among immigrant women or those with lower education levels, pose significant risks for increased social isolation and integration into the broader community resulting in diminished capacity to seek remedies, when victimized by abuse/violence.
- Women with disabilities report higher rates of violence than those without (11.8% emotional or financial abuse), (4.4% physical assault) and (6.1% sexual assault).

References: Clarke & Griffin, 2008; Employment and Social Development Canada, 2018; Kane et al., 2007; Dolberg et al., 2018; Canadian Centre for Elder Law (2017) Andrew et al., 2008; Anisef et al., 2012; Canadian Feminist Alliance; Canadian Femicide Observatory; Ismail et al., 2019; Wister & MacPherson, 2014. Full references are listed and included in the ILC Thematic Report on the Human rights of older women. (April 14, 2021).

Annex 2: Examples of best practices from *Future Us*

- Expand *It's Not Right!* materials for diverse audiences: [It's Not Right! Neighbours, Friends and Families for Older Adults \(INR\)](#) is a pan-Canadian public education campaign, funded by the federal government, piloted in every province/territory. All funded networks are using the *It's Not Right!* resources.
- Include ageism and elder abuse in education, professional development and policy review in the workplace.
- Develop a pan-Canadian awareness campaign on Ageism
- Develop professional curriculum to *recognize-respond-refer*
- Increase/practice equity as an organizations / employers, by committing to becoming [trauma -and violence- informed \(TVI\)](#), using principles that can mitigate harms of systemic ageism and other forms of discrimination.
- Suggested Principles for research are:
 - recognize expertise and include lived experiences;
 - engage community: advance community-engaged and led research, that builds capacity, meets community needs, and builds on existing knowledge;
 - pay attention to systemic and structural issues; and
 - appreciate distinct experiences: tap into the experience and wisdom of diverse communities.