

# A Turning Point for the Rights of Older People

By Kenneth Roth and Bridget Sleep

**S**usan Robinson, a 68-year-old resident of a United States nursing facility, spent months stressed and isolated during the COVID-19 pandemic. Weary from the confinement, she spoke to Human Rights Watch recently about the process of moving out of the nursing home and into a government-subsidized apartment.

"I can't wait," she said.

Thanks to a state program that helps older people and those with disabilities live in the community with adequate support, Robinson won't have to wait long. She spoke with eagerness about soon driving around her community with her fiancé and reconnecting with family members.

The impact of COVID-19 on older people is well documented. Older adults account for a substantial percentage of the deaths and were disproportionately impacted by the responses of many governments.

The question now is whether COVID-19 can serve as the wake-up call to the numerous accounts of ageism. If the issue is left unchecked, the rights of older people will continue to be denied and age discrimination will only grow. The unprecedented exposure of the failings in nursing homes should not be viewed as an isolated failure to protect the rights of older adults. For too long we have witnessed the impact of excluding older people in responses to climate change, conflict, and humanitarian disasters. Ageism must no longer be ignored.

Our goal should be to create an environment in which older people in Robinson's position have outcomes more like hers. That is, our goal should be to ensure that the aftermath of the devastating toll the COVID-19 pandemic had on older adults drives public support for a long-overdue global effort to better protect the human rights of older people.

## The Documented Human Rights Violations of COVID-19

Millions of older people around the globe experience human rights violations every year. Most of these abuses go undocumented, and those responsible are not held to account. But the COVID-19 pandemic exposed deeply ingrained ageism and underscored that the failure to protect the rights of older people has serious consequences.

Between August and November 2020, before vaccines were available, approximately nine in ten deaths in Europe were among people age 60 or above. As of April 2021 in the United States, 95 percent of deaths were among people over age 50.

Nowhere was the toll more severe than in congregate settings such as nursing homes. According to one analysis published by the International Long Term Care Policy Network, as of October 2020, long-term care residents made up an average of 46 percent of COVID-19 deaths in 20 countries for which there was data. In Australia, many outbreaks of COVID-19 in aged care facilities were "preventable," according to experts. Staffing shortages and lack of staff training in using personal protective equipment hampered an effective response.

In the United States, potential neglect and prolonged isolation exacerbated by visitor bans may have caused serious harm to many people in nursing homes. By March 2021, more than 1.4 million residents and long-term care employees were infected with the coronavirus and more than 178,000 had died, making up 34 to 40 percent of all U.S. deaths from COVID-19. Laws or executive orders in 32 states that shield nursing homes from civil liability during the pandemic have made it difficult for residents or their loved

ones to seek legal recourse against facilities for alleged harm.

In his May 2020 report on the impact of COVID-19 on older people, UN Secretary General Antonio Guterres pointed out that the absence of both adequate legal protection of the rights of people in older age in many countries and a dedicated international legal framework may have contributed to inadequate responses to the COVID-19 crisis.

Nursing homes were not the only setting where older people's rights were denied during the pandemic. Arbitrary and discriminatory age-based restrictions on older people's movement to curb the spread of the virus curtailed the rights of older people to leave their homes, use public transport, and work. For example, in March 2020, the government of Bosnia and Herzegovina imposed strict bans on anyone over 65 from leaving their home for any reason, even to buy groceries or go to the pharmacy. The constitutional court determined the restrictions to be disproportionate and in violation of the right to freedom of movement.

Travel restrictions imposed in March 2020 by the Ukrainian government and Russia-backed armed groups on people who live in conflict-affected areas in eastern Ukraine made it hard for older people to gain access to their pensions, pushing many further into poverty as pensioners were forced to cut back on food, medication, and necessary hygiene products. HelpAge International estimates that in Sub-Saharan Africa alone the economic fallout of the pandemic will push 1.6 million to 2.3 million more older people into extreme poverty (those forced to live on US\$1.90 or less per person per day), as those who have no access to a public pension or other forms of social protection for older people fail to recover from the loss of livelihoods and income caused by COVID-19 lockdowns.

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## **Other Documented Human Rights Violations in Older Age**

These threats to our human rights in older age are nothing new and existed well before the pandemic.

Human Rights Watch research in Australia shortly before the pandemic found that instead of providing support to older people with dementia, many aged care facilities use drugs to control their behavior, a practice known as chemical restraint. Many of these drugs are antipsychotics that are not approved in Australia for older people with dementia. In addition to the physical, social, and emotional harm that these drugs cause, their use in older people with dementia is also associated with an increased risk of death. Academic research in 2020 found that the prescribing of psychotropic drugs increased that year in nursing homes in Ontario, Canada and in the United Kingdom.

Older people also experience serious risks during armed conflict and humanitarian emergencies.

Our research has chronicled cases of older women arbitrarily detained, tortured, subjected to sexual violence, and killed, even burned alive, by government forces and non-state armed groups during armed conflicts in many countries including Armenia, Cameroon, the Central African Republic, Ethiopia, Guinea, Mali, Myanmar, and South Sudan.

We have documented human rights concerns for older people due to the serious humanitarian crisis in Venezuela, including insufficient access

to food, medicines, basic supplies, and medical care. Many people have been unable to secure their pensions and other retirement benefits. And older people are among the more than 5.6 million Venezuelans to flee the country, potentially making it difficult to keep receiving their pensions. They also often find it harder than younger people to get jobs.

Older people also face human rights concerns stemming from climate change.

An April United Nations report on climate change and older people warned that older people are at higher risk of dying during conditions related to climate change. Recent climate change-exacerbated heat waves in the western Canadian province of British Columbia left hundreds dead. According to British Columbia's chief coroner, 79 percent of deaths between June 20 and July 29 were of people over 65, many of them living alone.

A December 2020 Lancet report on health and climate change found that in the past two decades heat-related deaths of older people in the United States almost doubled, reaching a record high of 19,000 deaths in 2018. In 2017, twelve older people in a Florida nursing home suffocated due to high temperatures after Hurricane Irma knocked out their air conditioning.

## **Time to Respond**

In her April statement to the UN Open-ended Working Group on Ageing, the Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahler, said: "The

pandemic has had and continues to have a disproportionate impact on older persons and has magnified existing violations of their rights.”

All of us, whether from government, the UN, civil society, or the private sector, should ensure that all older people are treated with dignity and respect and enjoy their rights on an equal basis with others. We need to explore alternatives to institutionalization by increasing and improving older people’s access to home- and community-based support services so that no one is compelled to live in a residential institution for lack of choice.

We need to consult with and address the needs of older people in climate-change response plans and in conflict and humanitarian disasters. We should ensure that public pensions are adequate and do not become victim to budget cuts if governments look to tighten spending in the coming years. In short, we should ensure that human rights in older age are fully protected under both national and international law.

A life of dignity, free of fear and want in older age, is not a privilege for the few but a right for all. This year should and can be the point at which our collective record on the rights of older people improves.

Clearly, it is time for action. The current system lacks a comprehensive and coherent framework on human rights in older age comparable to those for women, children, and persons with disabilities, to underpin its work. Only a new treaty will be able to provide the push and focus that is needed. ●



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