

## 1. Introduction

The abuse of older persons remains a major challenge in South Africa. I was fortunate to have been part of a process, during 2001 while working at the National Department of Social Development, when a Ministerial Committee on the abuse of Older Persons was established. I was tasked with the responsibility of providing technical and other support to the mentioned Committee. The findings provided good insight into extent and seriousness of the abuse of older persons and it led to a number of interventions. Sadly, the abuse of older persons, which is a criminal offence, still continues in families, communities and even in Facilities for Older persons.

The abuse of older persons happens in their own homes, or while living with family or other caregivers and sadly also in facilities responsible for their care and protection. This challenges us and our various types of Facilities for Older Persons, to champion for the rights of our residents, to create safe havens and to ensure high quality of care and protection of older persons and placed in our care and so we must guard against committing or allowing secondary abuse in our facilities.

We would like to cover the following areas in this article:

- The legal and policy framework for the care and protection of older persons (also referred to as The Aged or Seniors). We will use the term older person(s) as it is so used in the Older Persons Act.
- What is Older Persons abuse – gaining a better understanding of the six types of Older Persons Abuse
- Managing Older Persons abuse – The role of Pastors as one of the role players dealing with Older Persons Abuse

## 2. Some important definitions

**Older Person** – is any person who is 60 years old and above.

**Older Person in need of care and protection** – means an older person contemplated in section 25(5) of the Older Persons Act (Act No13 of 2006).

**Abuse of an Older Person** – is when someone with power over an Older Person intentionally harms them or puts them at serious risk of harm, their action, or lack of action.

## 3. Legal and Policy Framework for the Care and Protection of Older Persons

### 3.1. Principles

The following principles should guide practitioners:

- Prevention of abuse and neglect of older persons is everybody's responsibility.
- All older persons deserve equal and best services available.
- An interdisciplinary teamwork approach is a prerequisite for the proper management of abuse cases.
- The provision of protection services to older persons should be aligned with existing service structures dealing with abuse. The service must be based on the needs for older persons and their families and support networks.
- Assessment of the older persons' circumstances and subsequent interventions should be comprehensive and systematic. Services must be provided in a culturally sensitive and appropriate manner.

## 3.2. Legislation, Guidelines, International Protocols

3.2.1. The legal and policy framework for the care and protection is made up to a large extent of the following laws, guidelines and protocols

- The Constitution of the Republic of South Africa (Act No.108 Of 1996)
- Older Persons Act (Act No 13 of 2006)
- Aged Persons (Act No.81 of 1967)
- Aged Persons Amendment Act (Act No. 100 of 1998)
- United Nations Resolution 46 of 1991
- Madrid International Plan of Action on Ageing
- Domestic Violence Act (Act No. 116 of 1998)
- Frail Care Guidelines For Older Persons
- Mental Health Act (Act No.18 of 1973)
- Health Act (Act No. 63 of 1977)
- Criminal Procedure Act (Act No. 51 of 1977)
- Criminal Procedure Second Amendment Act (Act No.85 of 1996)
- Social Assistance Act (Act No. 59 of 1992) (Proclamation No.8 of 1996)

To assist with the understanding of the mentioned legal and policy framework, I will be briefly share some of the sections found in two vital laws that undergirds the protection of South Africa's older persons and that confronts the abuse of olderpersons directly, namely The Constitution of the Republic of South Africa and The Older Persons Act 13 of 2006.

### 3.2.2. The Constitution of the Republic of South Africa, 1996

Our Constitution protects the rights of all, especially the vulnerable, and this includes the older persons. In South Africa, around 8% of the population is older than 60 years. The Constitution of the Republic of South Africa, 1996 is the supreme law of the country and it protects the rights of all people in South Africa. Human rights are applicable to all people, by virtue of being human and everyone is born with these rights.

**Chapter 2** of the Constitution contains the 27 rights that are collectively called the Bill of Rights and are inherent to all human beings, including older persons.

**Section 9** provides that no person (including the state and private companies) may unfairly discriminate directly or indirectly against any person on several listed grounds including race, gender, religion, social origin and age.

**Section 10** of the Constitution provides that everyone has a right to have their dignity respected and protected.

### 3.2.3. The Older Persons Act (Act No 13 of 2006)

The aim of the Older Person's Act is to deal effectively with the plight of older persons by establishing a framework aimed at the empowerment and protection of older persons and at the promotion and maintenance of their status, rights, well-being, safety and security; and to provide for matters connected therewith.

The Older Persons Act gives effect to the rights in the Bill of Rights in respect of older persons and aims to maintain and promote the status, wellbeing, safety and security of older persons. It further, explicitly criminalises all forms of abuse of older persons. The abuse, ill treatment, violence or neglect of an elderly person strips the person of their dignity.

It contains a specific chapter on the protection of older persons namely Chapter 5

#### **4. What is Older Persons abuse?** – gaining a better understanding of the six types of Older Persons Abuse

As we engage and improve our understanding the large number of mentioned laws, guidelines, protocols etc above, it becomes clear that South Africa places a high value on the protection of older persons. However, the high number of incidents of the abuse of older persons in SA tells a different story. The solution to this major social challenge, does not only lie with the Government, the Police, Social Workers and the Legal System – it lies with each one of us as individuals.

Although some forms of the abuse of older person such as physical abuse are usually taken seriously, other forms are harder to identify.

The 6 types of Older Person abuse are:

- Physical abuse
- Sexual abuse
- Emotional or psychological abuse
- Neglect and Self-neglect
- Abandonment
- Financial abuse

Regardless of type, the abuse of older persons can have devastating consequences, including great emotional suffering, serious physical injuries, and even death.

It is essential for older persons and their loved ones to recognize all forms of abuse to prevent, stop, or, if need be, seek legal justice against those who took advantage of people at their most vulnerable.

#### **4.1. Types of Older Persons Abuse**

##### **4.1.1. Older Persons Physical Abuse**

The physical abuse of older persons can be any deliberate or non-accidental use of force against an elderly person that results in physical pain, injury, or impairment. This kind of abuse includes not only physical assaults such as hitting or shoving the older person, but also the inappropriate use of drugs, restraints, or confinement against the older person's will done by another person.

It includes:

- Hitting
- Kicking
- Punching
- Pushing/shoving
- Restraining
- Scratching
- Slapping
- Some physical signs of abuse include:
- Broken bones

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- Bruises
- Burns
- Dislocated joints
- Sprains
- Sudden hair and tooth loss

Other warning signs of physical abuse include:

- Poor explanations for the older person's injury
- Trips to different emergency rooms to avoid suspicion
- Delayed medical care for an injury
- Withdrawal from activities or socialization that the Older Person used to enjoy

## 4.1.2. Sexual Abuse

Sexual abuse in this context, is described as any sexual contact with an older person without the his or her consent. This can involve physical sex acts, but activities such as showing an older person pornographic material, forcing him or her to watch sex acts, or forcing them to undress without their consent are also considered sexual older person abuse.

It also means any conduct that violates the sexual integrity of an older person, which includes the use of sexual slurs against him/her such as bitch, whore, sluts, etc

Warning signs of Older Person sexual abuse include:

- Bleeding from the anus or genitals
- Bruised genitals or inner thighs
- New sexually transmitted diseases
- Pain of the anus or genitals
- Panic attacks
- Pelvic injuries
- Problems walking or sitting
- Social or emotional withdrawal
- Suicide attempts
- Torn, bloody, or stained underwear

Older persons can be sexually abused by anyone, including family members, friends, in-home caretakers, domestic workers, Old Age Home staff and or residents.

## 4.1.3. Psychological and Emotional Abuse of Older Persons

Psychological abuse refers to any pattern of degrading or humiliating conduct towards an older person, which includes repeated insults, ridicule or name calling; repeated threats to cause emotional pain; repeated invasion of an older person's privacy, liberty, integrity or security, etc. This kind of abuse are intentional acts that inflict mental pain, fear, distress of an older person.

This abuse happens when people speak to or treat elderly people in ways that results in emotional pain or distress for the older person inter alia by:

- Preventing access to resources
- Humiliation

- Insults
- Intimidation
- Isolation
- Name-calling

#### 4.1.4. Neglect of older persons and Self-Neglect

##### 4.1.4.1. Neglect

This particular type of older person abuse constitutes more than half of all reported cases of the abuse of Older Persons. It can be intentional or unintentional, based on factors such as ignorance or denial that an Older Person needs as much care as he or she does.

The neglect of older persons happens when a family member or caregiver fails to protect them from harm or meet an Older Person's needs in a way that results in or risks serious injury. Neglect is the result of carelessness or a lack of regard for the wellbeing of an older person.

Examples of Older Person neglect include failure to adequately provide:

- Basic daily living activities including shelter, food and clothing
- Clothing
- Hygiene upkeep
- Medical care
- Nutrition and hydration
- Protection from danger
- Allowing Older Persons Self-Neglect

##### 4.1.4.2. Self-Neglect

The most overlooked form of older person abuse is self-neglect. Self-neglect happens when an Older Person is no longer able to meet his or her basic daily needs but does not make arrangements to get those needs met by others.

Older Person self-neglect may include an older person's inability to properly:

A common form of older person abuse encountered by caregivers of older persons is self-neglect. When the person experiences physical or mental impairment or diminished capacity, they may no longer be able to care for themselves.

Signs to look out for are:

- Inability to
  - Get enough nutrition and hydration
  - Dress themselves and maintain basic hygiene
  - Maintain their home
  - Medically care for themselves
  - Manage financial affairs and pay their bills
  - Manage medications
- a lack of personal hygiene or cleanliness,
- being underweight,
- living in dirty conditions.

## 4.1.5. Abandonment of Older Person

Sometimes paired with neglect, abandonment of older persons happens when someone who assumed care of an elderly person, intentionally deserts them.

The former caretaker may leave the Older Person at a hospital, old age home, or another care facility without any formal arrangement, or with relatives who did not agree to be caregivers.

Someone may be the victim of older person abandonment appear confused, lost or scared. This includes:

- Look lonely or depressed
- Seem frail, malnourished, or dehydrated
- Have poor hygiene

Regardless of the situation, the abandonment of older persons can lead to a great deal of confusion and pain for the abandoned older person and in most cases put their physical health at risk.

## 4.1.6. Financial Abuse of Older Persons

Financial abuse (also referred to as Financial or Economic Exploitation) includes depriving an Older Person of economic or financial resource he/ she is entitled to by law, including those that he/she requires out of necessity, e.g. failing to provide money or food to the Older person; children or grandchildren living with an older person forcing him/her to pay for the well-being of their children; employing an older person to take care of your children without a salary; using the old age pension funds, retirement funds or finances of an older person to pay for your expenses without her permission; etc.

Older person financial abuse is the illegal, unauthorized, or improper use of an older individual's Resources by someone in a trusting relationship with that individual.

Finance or economic abuse also means disposing household effects or property that belongs to an older person, e.g., selling the house, furniture or any other goods of the older person without consent of such older person; spending the retirement funds or inheritance of the older person without consent; etc.

This could also involve the unauthorized use of an older person's funds or property, either by a caregiver or an outside scam artist.

Typical financial scams or fraud that target Older Persons include:

- Announcements of a "prize" that the elderly person has won but must pay money to claim
- Fake charities
- Investment fraud

Some warning signs of Older Person financial abuse include:

- A pattern of missing belongings or property
- An older person discussing financial arrangements that have no documentation
- An older person who does not know or understand their own financial situation
- An individual showing unusual interest in how much money an older Person is spending
- ATM withdrawals the older person could not have made or other unexplained withdrawals
- Cancelled checks or bank statements that go to the perpetrator's home
- Eviction notices, evidence of unpaid bills, or utilities being discontinued

## 5. Roles and responsibilities in managing of Older Persons abuse – The role of Pastors as one of the role players dealing with Older Persons Abuse

### 5.1. Key Role Players

#### 5.1.1. Role of Government Departments

The abuse of older persons is a crime in South Africa. Key Departments in dealing with older persons Abuse are the Department of Social Development (DSD) – prevention, investigations and reporting; South African Police Service (SAPS) – investigations; and Department of Justice – persecutions. The other role players in government are the Department of Health – health care; Human Rights Commission - Human Rights.

You can report:

1. Cases of older person abuse at your nearest police station
2. For financial irregularities (e.g., unauthorised deductions), please contact: South African Social Security Agency (Sassa); Toll free: 0800 60 10 11; Email: [GrantEnquiries@sassa.gov.za](mailto:GrantEnquiries@sassa.gov.za)
3. Human rights violations to the South African Human Rights Commission; Email: [sahrcinfo@sahrc.org.za](mailto:sahrcinfo@sahrc.org.za)

The roles of DSD and SAPS will be spelt out more clearly in point 5.2 when we address the management of Older Persons Abuse.

#### 5.1.2. Role of Non-Profit Organisations

DSD works closely with NPOs/NGOs to prevent the abuse of older person. There are a number of non-governmental organisations that deal with the abuse of the elderly and whose mandate includes awareness campaigns and initiatives. You can also contact:

Action on Older Person Abuse SA

Tel: 021 426-5255

Email: [action@actiononelderabusesa.co.za](mailto:action@actiononelderabusesa.co.za) or [pat@actiononelderabusesa.co.za](mailto:pat@actiononelderabusesa.co.za)

Older Person Abuse Line (HEAL) – Toll-free number: 0800 00 30 81

It should also be noted that the majority of the Residential Facilities for Older Persons are run by NPOs

#### 5.1.3. Role of Pastors and other Church Leaders

Allow me to premise this section on Psalm 141:8-10 which states:

*"My eyes are fixed on you, O God, my Lord; in you I seek refuge; do not leave me defenceless. Keep me from the trap that they have laid for me, and from the snares of evildoers. Let the wicked fall into their own nets, while I pass by in safety"*

Pastors and other church leaders can play an important role in preventing abuse because they are often the first stop for help. In many cases, the pastor or leader of older adult ministries may be the only other person (except the abuser) in the victim's life. Becoming knowledgeable about older person's abuse and knowing the warning signs may save a life.

The abuse of older persons is a crime and all responsible leaders working with older persons MUST

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report cases of older persons abuse to the authorities.

Though I will be sharing the protocols on how older persons abuse should be managed, it is important that Pastors and other leaders **take note** of the implications of the following two sections of the Older Persons Act:

(1) In terms of section 26(1) of the Older Persons Act, any person who suspects that an older person has been abused or suffers from an abuse-related injury must immediately notify the Director-General (or designated Social Worker in DSD) or a police official of his or her suspicion. and (2) In terms of section 26(3) a person who fails to comply with subsection 26(1) is **guilty of an offence**.

Allow me now to share a few recommendations for Pastors and other Leaders to consider in their management of Older Persons Abuse in their respective churches (please note that these recommendations can be applied to gender-based violence and child abuse):

Pastors and others church leaders should:

1. Recognise that the abuse of older persons happens in churches too, and that a significant proportion of churchgoers, both men and women, are experiencing it, have previously experienced it, or have perpetrated abuse themselves.
2. Reach out to and work with external agencies, including local older person abuse support services, the police, children's and family services, health services, social services etc., recognising that tackling abuse and helping those who are abused requires a multi-sectoral approach.
3. Give the consistent message that the abuse of older persons is wrong and contrary to Christian teachings.
4. Provide confidential (within the boundaries of safeguarding policies), non-judgemental listening and prayer support for anyone who discloses that they have been abused.
5. Educate yourself and other church leaders about the abuse of an Older Person.
6. Increase awareness and discussion of the abuse of older persons within the church, through regular teaching and training and in so doing take precautions to help prevent Older Person abuse
7. Recognize the signs. Generally, look for any signs of mistreatment: physical and verbal abuse; neglect of personal hygiene, living conditions, or medical needs; and exploitation, such as someone taking advantage of an older person's finances and property. Some older persons are unable or afraid to talk about these kinds of situations, so it's important for church leaders to keep a watchful eye on their care.
8. Contact the proper authorities. In South Africa its easy you the first call you make is to your nearest DSD office and if they are not available, report the abuse to SAPS. If the person is in immediate danger, call 911.
9. Create a safe place for older persons by making your church a place where elderly victims can come for help.
10. Educate the congregation on the subject of the different types of Older Persons Abuse including fraudulent incidents related to elders.
11. Give a sermon and prepare newsletter articles that mention abuse in vulnerable populations including older persons. Make it clear that this type of behaviour is not condoned.

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12. As part of your Community Profile, create a data base of all vulnerable persons including older persons living in the community your serve – including their names, phone numbers, address, next of kin.
13. Establish a Friendly Visitor Program where members of your congregation regularly visit homebound and elderly members.
14. Start a Parish Nurse Ministry in which a knowledgeable and professional health care worker can help educate the congregation as well as be an observer of the needs of homebound members.
15. Help prevent abuse by teaching older persons and their families how to report abuse and or fraud (especially telemarketing fraud), informing them about the types and signs of older persons' abuse; and
16. Encouraging those with family members in old age homes to visit them often; if a family member is a caregiver, encourage and support the caregiver in getting time off by arranging with trained church volunteers to relief her or him.

### 5.2. Management of Older Persons Abuse

The following excerpts are taken from DSD's "Protocol on the management of Elder Abuse"

#### *Older person in need of care and protection*

- In terms of section 25(1) of the Older Persons Act (Act 13 of 2006), any person who is involved with an older person in a professional capacity and who on personal observation concludes that the older person is in need of care and protection must report such conclusion to the Director-General.
- In terms of section 25(2) of the Older Persons Act (Act 13 of 2006), any person other than a person in subsection (1) who is of the opinion that an older person is in need of care and protection may report such opinion to a social worker.
- In terms of section 25 (3) of the Older Persons Act (Act 13 of 2006), the Director-General or the social worker to whom a report has been made must investigate the matter.
- In terms of section 25 (4) of the Older Persons Act (Act 13 of 2006), if the report is substantiated by the investigation, the Director-General or the Social Worker concerned may take any one or more of the following actions, namely to:-
  - (a) facilitate the removal of the older person concerned to a hospital, in case of injury, or to a shelter;
  - (b) make a report to a Police Official requesting the latter to act in terms of section 27;
  - (c) take such other steps as may be prescribed to ensure adequate provision for the basic needs and protection of the older person concerned; or
  - (d) if the older person concerned is the victim of an offence or crime, assist the older person to see a Police Official in order to lay a complaint.
- In terms of Section 25 (5), an older person who is in need of care of protection is one who:
  - (a) has his or her income, assets or old age grant taken against his or her wishes or

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who suffers any other economic abuse;

(b) has been removed from his or her property against his or her wishes or who has been unlawfully evicted from any property occupied by him or her;

(c) has been neglected or abandoned without any visible means of support;

(d) lives or works on the streets or begs for a living;

(e) abuses or is addicted to a substance and without any support or treatment for such substance abuse or addiction;

(f) lives in circumstances likely to cause or to be conducive to seduction, abduction or sexual exploitation;

(g) lives in or is exposed to circumstances which may harm that older person physically or mentally; or

(h) is in a state of physical, mental or social neglect.

## *Notification of abuse of older persons*

- In terms of section 26(1) any person who suspects that an older person has been abused or suffers from an abuse-related injury must immediately notify the Director-General or a police official of his or her suspicion.
- In terms of section 26(2), a person is not liable in respect of any notification given in good faith in terms of subsection (1).
- In terms of section 26(3) a person who fails to comply with subsection (1) is guilty of an offence
- Notification must be done utilizing **Guideline 14** within 48 hours. If the form is not available, a report should still be sent to the relevant District/ Decentralized office of the Department of Social Development or Welfare Organisation. Please mark the document **URGENT AND CONFIDENTIAL**.
- The said forms/ or other reports must be completed with as much information as possible.

## 6. Closure

Older persons are somebody's parents, our parents, our grandparents, they are in our churches – they took care of us when we were growing up, it is our turn to care for them in a dignified manner, to protect them. We should not only say it takes a village to raise a child, we should also say it takes a family, a church and a community to protect and care for older persons.

Ashley Theron  
Acting CEO of AFM SA

### **References:**

Constitution of the Republic of South Africa, 1996

Older Persons Act

Protocol on the Management of Elder Abuse, April 2010, National Department of Social Development

Western Cape Department of Social Development

Department of Justice

South African Human Rights Commission

Home Instead (UK)

Nursing Home Abuse Centre (USA)

The Association for the Aged (Durban, South Africa)