

Mind the Gap: Centering Women in
a Convention on the Rights of Older Persons

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Abstract

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Over the past decade, the movement to reform the international human rights framework and add a new convention on the rights of older persons has gained traction. Calling out the absence of specific measures to address ageism, advocates have argued a new treaty is essential to reduce discrimination against older persons generally. But as the global community takes up consideration of the content of such a convention, it is essential to recognize and address the unique experiences of discrimination women encounter at the intersection of gender and ageing. This paper reviews efforts to address intersectional forms of discrimination against older women within existing human rights mechanisms at international and national levels and concludes they have so far been inadequate to address gendered forms of ageism which disadvantage women of all ages and across diverse fields. Gaps in legal protections for older women as well as the absence of measures targeting gendered ageism impacting women at every age suggest that a new treaty could be a valuable tool. This paper argues that addressing those gaps offers an important opportunity to respond to feminist criticisms of international law and revisit the

structural dimensions of gendered inequalities of which gendered ageism is one example. A treaty which takes an expressly gender-sensitive and intersectional approach and centers the voices and experiences of women could do much to advance substantive equality within the human rights system.

Table of Contents

<u>MIND THE GAP: CENTERING WOMEN IN A CONVENTION ON THE RIGHTS OF OLDER PERSONS.....</u>	1
ABSTRACT:.....	7
<u>INTRODUCTION</u>	1
LIMITATIONS OF THE STUDY	9
A PERSONAL NOTE	10
<u>CHAPTER 1: TELLING A DIFFERENT STORY: WOMEN AND AGEING</u>	12
SPEAKING GENDER AND SEEING WOMEN	14
AGEISM AND THE “OLDER WOMAN”	15
A. AGE IS MORE THAN A NUMBER	16
B. GENDER AND CHRONOLOGICAL AGE.....	18
1. AGEISM AND AGE DISCRIMINATION.....	19
2. GENDERED AGEISM.....	20
C. THE INVISIBILITY OF OLDER WOMEN	25
1. DEMOGRAPHIC DATA COLLECTION.....	26
2. ACCESS TO ECONOMIC RESOURCES	27
3. HEALTH CARE DISPARITIES.....	28
4. VIOLENCE AGAINST WOMEN.....	31
D. AGEING AND GENDER IN INTERNATIONAL POLICY	31
1. GENDER IN UN AGEING FRAMEWORKS	32
2. AGE IN UN GENDER FRAMEWORKS.....	34
<u>CHAPTER 2: INTERSECTIONALITY AND FEMINIST APPROACHES TO INTERNATIONAL HUMAN RIGHTS LAW</u>	36

INTERSECTIONALITY	37
A. SEEING AND BEING SEEN	38
B. ANTI-ESSENTIALISM AND INTERSECTIONALITY – TOOLS IN THE SAME TOOLBOX?	42
C. SHAKEN, NOT STIRRED – MULTIPLE, OVERLAPPING, AND INTERSECTIONAL DISCRIMINATION	46
INTERSECTIONALITY IN INTERNATIONAL LAW	47
A. FEMINIST APPROACHES TO INTERNATIONAL LAW	48
1. GENDER MAINSTREAMING AS INTERSECTIONALITY ‘LITE’	51
INTERSECTIONALITY AS METHOD – NOT THE DRIVER BUT A VEHICLE OF CHANGE	53
CONCLUSIONS	55
<u>CHAPTER 3: INTERSECTIONALITY IN PRACTICE: ASSESSING INCLUSION OF OLDER WOMEN IN THE WORK OF THE UN TREATY BODIES</u>	57
PREVIOUS ASSESSMENTS OF INCLUSION OF OLDER WOMEN IN THE WORK OF THE HUMAN RIGHTS TREATY BODIES	59
1. INTER-AMERICAN CONVENTION ON PROTECTING THE HUMAN RIGHTS OF OLDER PERSONS.....	61
2. PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHTS ON THE RIGHTS OF OLDER PERSONS IN AFRICA	62
COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN	63
A. GENERAL RECOMMENDATIONS AND INCLUSION OF OLDER WOMEN	65
1. INTERSECTIONAL DISCRIMINATION AND OLDER WOMEN	66
2. OLDER WOMEN IN RECOMMENDATIONS SINCE GR 27	68
B. COMMITTEE JURISPRUDENCE	70
1. AGE IN INDIVIDUAL COMPLAINTS	72
C. CONCLUDING OBSERVATIONS	78
1. OLDER WOMEN IN CONCLUDING OBSERVATIONS.....	80
2. WOMEN WITH DISABILITIES IN CEDAW CONCLUDING OBSERVATIONS 2019-2024.....	85
3. DISCUSSION.....	90
COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES	93
A. THE ROAD TO THE CONVENTION	94
1. WOMEN WITH DISABILITIES AND CRPD ARTICLE 6.....	97
2. AGEING AND THE CRPD.....	99
B. GENERAL COMMENTS AND INCLUSION OF OLDER WOMEN	100
C. JURISPRUDENCE	102

1. GENDER AND DISABILITY	102
2. AGEING AND DISABILITY	105
3. INTERSECTIONALITY AND ITS DISCONTENTS	107
D. CONCLUDING OBSERVATIONS.....	107
CONCLUSIONS.....	111

CHAPTER 4. OLDER WOMEN IN NATIONAL LAWS AND POLICIES..... 113

OVERVIEW	113
METHODOLOGY	115
VOLUNTARY NATIONAL REPORTS ON OLDER WOMEN.....	118
OLDER WOMEN IN NATIONAL ANTI-DISCRIMINATION FRAMEWORKS	123
A. INCLUSION OF OLDER WOMEN IN GENDER EQUALITY POLICIES	125
B. GENDER IN POLICIES RELATING TO AGEING AND THE RIGHTS OF OLDER PERSONS.....	127
C. OLDER WOMEN IN POLICIES RELATING TO DOMESTIC OR GENDER-BASED VIOLENCE	131
CONCLUSIONS.....	135

CHAPTER 5: A WAY FORWARD..... 136

WHAT’S MISSING?	138
WRITING OLDER WOMEN ONE WAY	138
AGEING BY THE NUMBERS	141
SPEAKING WHAT, NOT WHY.....	141
A CONVENTION THAT CENTERS WOMEN AND AGEING	144
REDRESSING DISADVANTAGE.....	145
RECOGNIZING WOMEN OF ALL AGES	147
FACILITATING VOICE AND PARTICIPATION	152
A TRANSFORMATIONAL APPROACH.....	153

Mind the gap: Centering women in a convention on the rights of older persons

Introduction

“It is an odd thing to find kinship with a killer whale”.¹ In one of my favorite reads over the past few years, zoologist Lucy Cooke relates her experience collecting fecal samples from orca whales in the Salish Sea, all for the purpose of understanding family life within the southern resident pods. The fecal samples would show the hormone levels of the orcas, including how close the females were to menopause. Orcas are one of the very few species which—like women—“outlive their ovaries” and have a post reproductive life at least as long as their reproductive one.² This apparently came as a shock to some of the male scientists studying the southern residents, one of whom told Cooke: “The females were *meant* to be the harem”.³

A male scientist’s shock that any female, whale or woman, might enjoy a productive life past—or in the absence of—reproductive capacity resonates. For centuries, women have been defined through their reproductive capacity, either as future or actual mothers.⁴ Once that reproductive capacity ended with menopause, women were deemed less valuable and, from a biological standpoint, meant to “just bow out gracefully”.⁵ At a moment when being a “childless cat lady” is deemed an epithet suitable to come from a vice-presidential candidate in the U.S., one has to wonder how far we have come.

Overall women have made significant strides across a range of fields but remain largely invisible in scientific research, especially as they age, and are underrepresented in economic,

¹ L. Cooke, ‘Why women and female orcas are both considered menopausal rarities’, *The Globe and Mail*, 11 June 2022, <https://www.theglobeandmail.com/opinion/article-why-women-and-female-orcas-are-both-considered-menopausal-freaks/>, accessed 16 Mar. 2025; see also L. Cooke, *Bitch: On the Female of the Species* (New York: Basic Books, 2023).

² Cooke, *Women and female orcas*.

³ Id., emphasis in original.

⁴ See, e.g., P. Stone & L.S. Sanders, *Bodies and Lives in Victorian England*, pp. 118-133. (London: Routledge, 2021).

⁵ Cooke, *Women and female orcas*; see also Stone & Sanders, *Bodies and lives*, 121-124.

political, academic, and legal/judicial leadership positions. Around the world women continue to have unequal access to pension benefits and financial resources as they age, in part because they are pushed out of the workforce at earlier ages than their male peers, even while they are likely to outlive those peers.

International human rights mechanisms have recognized the persistence of discrimination against women as they age, including the cumulative impacts of gender inequalities women experience through the life cycle. Yet as the global community moves toward drafting a treaty on the protection of the human rights of older persons, it is reasonable to ask how older women will be involved in the negotiations and see their concerns centered in the text of the treaty itself.

Attention to the human rights of older persons is not new. Indeed, the first proposal for international recognition of the human rights of older persons dates to the earliest days of the United Nations.⁶ International plans of action on ageing were adopted in Vienna in 1983 and Madrid in 2002, and a host of General Assembly resolutions over the past several decades have called for attention to the situation of older persons, including the importance of their integration in international development, over the past several decades. However, movement toward a new convention on the rights of older persons has taken on momentum with the launch of the UN Decade on Healthy Ageing in 2021 and the endorsement of the Open-ended Working Group on Ageing and U.N. General Assembly.⁷

The new convention has been framed as a convention on the rights of older persons generally. Analyses by the Office of the High Commissioner for Human Rights (OHCHR) and others have focused on the failure of international human rights mechanisms to engage with the concept of *ageism* as the primary justification for a new convention. OHCHR recognizes ageism as a form of age discrimination reflecting “the systematic stereotyping of and discrimination

⁶ In 1948 the UN delegation from Argentina proposed a declaration on the rights of older persons, which was referred for further study to the Economic and Social Council (U.N. General Assembly, A/C.3/213, 30 Sept 1948). The draft declaration included recognition of the rights to assistance, housing, food, clothing, physical and moral health and development, recreation, work, stability (described as the right to “a life free from distress and worry”), and respect.

⁷ At the conclusion of its 14th session in May 2024, the Open-ended Working Group on Ageing (OWGA) adopted a decision recommending that UN Member States consider a new international binding instrument “to promote, protect and ensure the recognition and the realization...of all human rights of older persons” (Report of the Open-ended Working Group on Ageing on its fourteenth session, A/AC.278/2024/2, 31 May 2024). The OWGA’s recommendations were endorsed by the U.N. General Assembly in its Resolution 78/324, urging both UN bodies and the General Assembly to move forward on defining “next steps”. (U.N. Doc. No. A/RES/78/324, 13 August 2024).

against people because they are old”.⁸ While OHCHR has likened ageism to “other forms of stereotyping that classify individuals or groups of individuals according to their personal or group characteristics such as race, ethnicity, sex and gender, and disability”,⁹ there has been less consideration to date of how ageism intersects with these other forms of discrimination. To the contrary, discourses surrounding the new convention have tended to rely on a single-axis model of discrimination, one which focuses on ageism as a “discrete, mutually exclusive” ground of discrimination rather than as one factor among many contributing to multidimensional experiences of discrimination and marginalization.¹⁰

Multiple key stakeholders have noted that gender and age in particular create overlapping forms of discrimination with significant impacts on the lives of older women. What data there is suggests that older women, especially those over the age of 65, have access to fewer resources than men their age, are more likely to experience multi-dimensional poverty and food insecurity, and are more likely to be in poor health.¹¹ Older women with disabilities are particularly at risk of marginalization, including violence, abuse and neglect.¹²

In a 2021 report focused on the realization of human rights for older women, the UN Independent Expert on the enjoyment of all human rights by older persons called on UN Member States to “fulfill their obligations to eliminate discrimination against women and to respect, protect

⁸ Office of the High Commissioner for Human Rights, *Update to the 2012 Analytical Outcome Study on the normative standards in international human rights law in relation to older persons*, ¶35 quoting Robert Butler, <https://www.ohchr.org/sites/default/files/2022-01/OHCHR-HROP-working-paper-22-Mar-2021.pdf>, accessed 16 Mar. 2025.

⁹ Id. at ¶39

¹⁰ I. Truscan and J. Bourke-Martignoni, ‘International Human Rights Law and Intersectional Discrimination’, *The Equal Rights Review* 16 (2016), 103-131. In this, the new convention would be consistent with existing international human rights instruments. See, e.g., the Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1965), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979), the Convention on the Rights of the Child (CRC) (1989), the Convention on the Protection of the Rights of All Migrant Workers and Their Families (CMW) (1990), and the Convention on the Rights of Persons with Disabilities (CRPD) (2006).

¹¹ R. Morgan, A. Kalbarczyk, D. Mohan, C. Jacobs, M. Mishra, P. Tyagi, C. Cox-Roman, & C. Williamson, ‘Counting older women: Measuring the health and wellbeing of older women in LMICs’, *Cell Reports Medicine* 5 (2024), 1-3; United Nations Women (UN Women), *Older women: Inequality at the intersection of age and gender* (18 Mar. 2022), <https://data.unwomen.org/publications/older-women-inequality-intersection-age-and-gender>, accessed 16 Mar. 2025; United Nations Independent Expert on the enjoyment of all human rights by older persons, *Human rights of older women: the intersection between ageing and gender* (17 July 2021), A/76/157 [hereinafter Report of the Independent Expert].

¹² Report of the Independent Expert, ¶49; The World Bank, The George Washington University Global Women’s Institute, the Inter-American Bank, & International Center for Research on Women, *Violence Against Women and Girls: Brief on Violence Against Older Women* (May 2016), <https://documents1.worldbank.org/curated/en/995591611122468396/pdf/Violence-Against-Women-and-Girls-Resource-Guide-Brief-on-Violence-Against-Older-Women.pdf>, accessed 16 Mar. 2025.

and fulfill their human rights *throughout the life course*.¹³ The Independent Expert further called on States to adopt an intersectoral approach to the rights of older women and address “multiple and aggravated forms of discrimination”.¹⁴

The likelihood that older women experience multiple and overlapping forms of discrimination has also been recognized by advocates considering the new convention on the rights of older persons. In May 2024, at its 14th session, the UN Open-Ended Working Group on Ageing (OEWG) called on Member States to consider the drafting of a new international legal instrument to “promote, protect and ensure the recognition and realization of all human rights by older persons”.¹⁵ In its decision, the OEWG acknowledged that older women are often disadvantaged by gender inequality, noting:

[O]lder women often face discrimination resulting from gender inequality and are at greater risk of social and economic exclusion, as well as physical and psychological abuse and violence, thereby affecting their enjoyment of human rights and freedoms.¹⁶

The Committee on the Elimination of Discrimination Against Women, the World Health Organization, UN Women, and other human rights mechanisms have all concluded that more attention needs to be paid to ensuring human rights are realized for *all* women, not just girls or women of child-bearing age.¹⁷

Despite these calls for action to address the potential for multiple and overlapping forms of discrimination to impact realization of human rights for older women, it is not clear what relief a new convention will offer for older women. Scholars have noted that the challenge of having separate human rights regimes for specific groups, e.g. women, children, and persons with disabilities, is that there is too little consideration of what obligations states have toward those who are covered by more than one of them, such as disabled women.¹⁸ Likewise, proposals to eliminate

¹³ Report of the Independent Expert, ¶84, emphasis added.

¹⁴ *Id.*

¹⁵ *Report of the Open-ended Working Group on Ageing on its fourteenth session, Decision 14/1* (31 May 2024), A/AC.278/2024/2, ¶25(a), <https://docs.un.org/en/A/AC.278/2024/2>, accessed 16 Mar. 2025.

¹⁶ *Id.*, ¶19.

¹⁷ See, e.g., Committee on the Elimination of Discrimination Against Women, *General recommendation No. 27 on older women and protection of their human rights* (2010), CEDAW/C/GC/27; World Health Organization, *Global Report on Ageism* (2021), 10-11; UN Women, *Older women*.

¹⁸ G. de Beco, ‘Harnessing the Full Potential of Intersectionality Theory in International Human Rights Law: Lessons from Disabled Children’s Right to Education’, in S. Atrey and P. French, eds., *Intersectionality and Human Rights Law*, ch. 2 (Oxford: Hart Publishing, 2020).

discrimination based on group identities or stereotypes ignore the structural conditions which position certain groups as more vulnerable than others.

By adopting a purely identitarian understanding of intersectionality, the field of international human rights law has overlooked an important aspect of intersectionality theory[...]. It has failed to determine how the identities are connected to specific forms of oppression as those identities interact and intersect in multiple permutations and combinations”.¹⁹

The discourse surrounding a new convention and its insistence on the purportedly gender-neutral terminology of “older persons” suggests the possibility that the particular constraints limiting social possibilities for older women—while potentially expanding them for older men—are at risk of erasure.²⁰

Feminist critics have long challenged the presumption of objectivity and impartiality that underpins international law, including human rights law, and insisted instead on recognition of how power constrains and shapes the meaning identities have in practice.²¹ Feminist methods, including employment of intersectionality as “an interpretive orientation”²², offer tools not only to foreground women’s experiences but to also highlight how gendered hierarchies work in practice and challenge women’s exclusion.²³

As the Human Rights Council and others begin consideration of new legal instruments to address the rights of older persons in general, this study seeks to assist by assessing how human rights frameworks could most effectively address the needs and rights of older women. Even as the study offers a critique of identitarian politics, it adopts a strategy of “overt partiality” so as to bring attention to a potential blind spot in human rights law.²⁴ Recognizing that older women as a group are diverse and include women at very different times of their lives, including women newly

¹⁹ Id., 44.

²⁰ I.M. Young, ‘Lived Body v. Gender: Reflections on Social Structure and Subjectivity’, *Ratio* 15(4), 410-428 (2002).

²¹ See, e.g., H. Charlesworth, ‘Feminist Methods in International Law’ *American Journal of International Law* 93(379) (1999); L. Hodson, ‘A feminist approach to *Alyne da Silva Pimentel Teixeira (deceased) v. Brazil*’, in D. Gonzalez-Salzburg & L. Hodson, eds., *Research Methods for International Human Rights Law: Beyond the Traditional Paradigm*, 42-68 (London and New York: Routledge, 2020).

²² V. May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries*, 4 (New York: Routledge, 2015). Following the practice of Hilary Charlesworth, I use feminism and feminist throughout this paper to indicate an intentional “way of asking questions” that seeks to illustrate both how women’s lives are constructed and erased within the field of human rights. H. Charlesworth, ‘Feminist Futures in Human Rights’, in N. Bhuta, ed., *Human Rights in Transition*, ch. 5. (Oxford: Oxford University Press, 2024).

²³ Hodson, *Research Methods*, 44.

²⁴ Id.

past reproductive age as well as women many decades older who are approaching the end of their lives, women who have lived with disability from their earliest years as well as women newly experiencing disability and functional difficulties due to hearing, vision, or memory loss, or physical limitations, and women in urban, rural, and institutional settings, among many others, the study considers how—and if—intersectional approaches have been adopted to date in the work of the international human rights treaty bodies. The objective of the study is to offer input toward systematizing and making concrete actions to fully eliminate discrimination against all women.

The study does this through a two-step analysis: (1) assessing the ways in which older women are considered in existing global and regional human rights frameworks, with particular attention to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities, and the work of their respective committees; and (2) exploring how States have addressed intersectoral dimensions of discrimination relating to older women in laws and policies. With regard to the former, the study adopts a comparative approach to assess both (1) when and how the committees have recognized particular forms of discrimination affecting older women as they age; and (2) how that compares to their respective treatment of women with disabilities. Analyzing the degree to which the experiences of women with disabilities (of all ages) have been taken up by the committees offers insights into the impact of the twin-track approach adopted by the CRPD’s drafters over time.

The study also briefly describes a sample of national laws covering two key issues: non-discrimination on the basis of gender and age, and the right to be free from violence, including both gender-based violence and elder abuse. The intent of this two-step analysis is to highlight patterns in how older women are currently constructed in discrimination law at the international and national level and illustrate how an expressly intersectional approach at the international level would be valuable to inform State practice and strategies.

The study contributes to the growing literature on intersectional approaches within international human rights mechanisms, especially the human rights treaty bodies. Scholars have analyzed how the treaty bodies approach human rights violations which are the product of complex social dynamics related to race, class, geography, gender, and disability, among others.²⁵ There

²⁵ See, e.g. S. Atrey, ‘Beyond Universality: An Intersectional Justification of Human Rights’, in S. Atrey and P. French, eds., *Intersectionality and Human Rights Law*, ch. 1 (Oxford: Hart Publishing, 2020); Truscan and Bourke-Martignoni, *International Human Rights Law*; de Beco, *Harnessing the Full Potential of Intersectionality Theory*; L. Sosa, *Intersectionality in the Human Rights Legal Framework on Violence Against Women: At the Centre or the*

has been little scholarly attention to the treaty bodies' approach to multidimensional discrimination affecting older women, and almost none exploring intersectional strategies within State laws and policies on gender-equality, violence, and ageing.²⁶ This study will be an effort to fill that gap.

The project adopts an analytical approach inspired in significant part by the work of Margaret Satterthwaite²⁷, Sofia Strid, Sylvia Walby and Jo Armstrong²⁸, and further developed by Lorena Sosa²⁹. The approach of Strid et al. represents an effort to “move beyond theoretical disagreements of what constitutes ‘real’ intersectionality” in favor of an empirically based assessment of how intersectionality can improve policy.³⁰ They argue for an assessment of policy based on a “continuum of intersectionality”, where the naming of inequalities, without more, demonstrates the weakest form of visibility and inclusion; attention to intersections in practice between inequalities, including their structural components and relevant policy domains represents a greater degree of inclusion; and inclusion of the voices of minoritized women in defining structural intersections in policy outcomes demonstrates the greatest degree of inclusion.³¹

The argument being made here is not that ageism does not exist but rather that standing alone it is conceptually inadequate to explain the multi-dimensional, complex, and layered experiences of older women. Accepting that ageism and attitudes toward ageing are determined by “social context and cultural meanings” requires also recognizing that pre-existing social inequalities are likely to exacerbate their negative effects.³² In her landmark study on women in the law, Sandra Fredman argues for a wholesale refashioning of legal tools to center the concerns

Margins? (Cambridge: Cambridge University Press, 2017); M. Campbell, *Women, Poverty, Equality: The Role of CEDAW* (Oxford: Hart Publishing, 2018); J. Bond, *Global Intersectionality and Contemporary Human Rights* (Oxford: Oxford University Press, 2021); S. Atrey, *Intersectional Discrimination* (Oxford: Oxford University Press, 2019).

²⁶ See, e.g., The World Health Organization's input to the OEWGA 14th session which states “no information is available on the scope and coverage of [age-based non-discrimination] laws, their alignment with international law, legal and material scope, if they provide protection from both direct and indirect discrimination, the nature of enforcement mechanisms, public awareness of laws, and processes for accessing remedies.” Available at https://social.un.org/ageing-working-group/documents/fourteenth_session/INPUTS_UN_SYSTEM/WHO-substantive_and_normative.pdf, accessed 16 Mar. 2025.

²⁷ M. Satterthwaite, ‘Crossing borders, Claiming Rights: Using Human Rights Law to Empower Women Migrant Workers’, *Yale Human Rights & Development Law Journal* 8, pp. 1-66 (2005).

²⁸ S. Strid, S. Walby, & J. Armstrong, ‘Intersectionality and Multiple Inequalities: Visibility in British Policy on Violence Against Women’, *Social Politics* 20(4), pp. 558-581 (2013).

²⁹ Sosa, *Intersectionality in the Human Rights Legal Framework*.

³⁰ Strid, et al., *Intersectionality and Multiple Inequalities*, 559.

³¹ Id.

³² M. De Pauw, B. Sleaf, & N. Georgantzi, ‘Ageism and age discrimination in international human rights law’, in I. Doron & N. Georgantzi, eds., *Ageing, Ageism and the Law*, ch. 8 (Cheltenham, UK: Edward Elgar Publishing Limited, 2018).

of women in all their diversity.³³ A new convention on the rights of older persons, the majority of whom are women, offers an opportunity to do just that.

The first chapter of this project addresses the most significant conceptual challenge facing the drafters of the proposed new treaty, namely who the treaty is meant to protect. It discusses current research on ageism and the unique ways it impacts women of all ages. It also reviews what is currently known about the lived realities of older women globally, recognizing that disaggregated data remains all too limited. Finally, it explores how older women have been represented in discussions leading toward a new treaty, illustrating the persistent construction of older women through the lens of vulnerability.

The second chapter explores the development of the concept of intersectionality in the feminist literature and how these foundations can and should be expected to manifest in policy approaches at the international and national level. It discusses the advantages intersectional approaches offer and how intersectionality as an analytic tool can change the way human rights--and their violations---are recognized and addressed.

The third chapter assesses how the intersections of (older) age and gender have been addressed in the work of the UN treaty bodies. In particular, it focuses on the work of the Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of Persons with Disabilities and analyzes when and to what extent each have addressed the rights of older women through an intersectional lens. Applying an analytical framework building on the work of Strid et al., Sosa, and Shreya Atrey, the chapter employs a form of “thick description” and considered whether the work of the treaty bodies reflects a “meaningful recognition of intersectionality” or remains superficial.

The fourth chapter turns to a descriptive analysis of a sample of State laws, focusing on those addressing discrimination on the basis of gender and ageing, and gender-based violence and elder abuse. The intent of this chapter is to illustrate how discursive patterns evident at international levels are reflected in national policies. The States included in the dataset for analysis are drawn from two sources: (1) States and/or NHRIs providing input to the Independent Expert on the enjoyment of human rights by older persons prior to her 2021 report on realization of the human rights of older women; and (2) a selection of 8 States from among those who have submitted a report to the Committee on the Elimination of All Forms of Discrimination Against Women

³³ S. Fredman, *Women and the Law*, 367-368, 414-416 (Oxford: Oxford University Press, 2007).

within the past 10 years—after the date of the Committee’s adoption of general recommendation no. 27—and received Concluding Observations from the Committee. The States were selected to ensure geographic and income level diversity and provide a representative sample of policy actions potentially available to States with a diverse range of resources.

Using these two datasets, one composed of self-selected “volunteers” reporting on progress on behalf of older women, and the other composed of non-volunteers who are nevertheless bound as States Parties to the CEDAW to pursue the realization of human rights for all women, is intended to offer a balanced assessment not only of what action States are already taking but where policy gaps persist.

The final chapter analyzes what can be learned from the ways in which both international human rights mechanisms and national policymakers approach intersectional discrimination against older women. In particular, it considers how these lessons can inform the drafters of a new convention to ensure that what emerges from the drafting process will indeed be a transformative instrument.

Taking the advice of feminist international jurist Hilary Charlesworth, the study as a whole poses the question “What about women?” as a way of illuminating the absence of women’s voices in the context of the international human rights system generally and the potential silences of that system with respect to very real, lived experiences of women as they age.³⁴

Limitations of the study

This paper relies on a review of publicly available documents generated by the CEDAW and CRPD Committees. Due to study constraints, it was not possible to interview members of the committees which would significantly enrich the analysis contained here. The study also did not go behind the work of the respective committees to assess the inputs they received from interested stakeholders, particularly civil society organizations. It would be an interesting supplement to the study to consider how often civil society organizations referenced older women in their parallel reports, if at all, and compare the engagement of organizations representing older women with those representing women with disabilities. Based on my own experience at international conferences including the annual meetings of the Commission on the Status of Women, I suspect

³⁴ Charlesworth, *Feminist Futures*, 195.

that organizations of women with disabilities are far more likely to consistently engage with and participate in monitoring of States Parties in front of the CEDAW, CRPD and CRC committees at minimum. There are many fewer civil society organizations which are led by and focused on older women at the international level and I suspect the same is true at the national level in most countries. The relative absence of a mobilized constituency is likely to present challenges not only to the drafters of the new convention but also those tasked with its implementation and enforcement for reasons that are beyond the scope of this paper. It represents a potentially fruitful area for further research.

It should also be noted that this paper is not intended to develop new theory concerning the dynamics of ageing or the social forces which promote and reinforce gendered inequalities impacting women as they age. It does not attempt to be explanatory in that sense. Rather, it is intended to map those inequalities and the discourses through which they become normalized even in human rights law. The hope is that this exercise will prompt policymakers tasked with drafting an instrument meant to advance human rights to be attentive to the gendered dimensions of their work and recognize its real-life consequences for women.

In the end, however, the most significant limitation of the present paper is that it fails to include the voices of older women themselves, especially those from historically marginalized groups. As noted in this introduction, the study refers to the category of “women” as a way of bringing attention to “the commonality of the marginalization of all women in the international legal system”,³⁵ but it in no way accepts or intends to argue that all women are equally situated or that the forms and impacts of marginalization are the same or experienced in the same ways. In every instance where this paper references the erasure of older women it recognizes that such erasure is multidimensional and that intersectional research into the experiences of older women that centers their voices in all their diversity is very much needed.

A Personal Note

I entered this study conscious of my own position as a woman privileged by her race, class, educational background, and location. My own experiences of aging are my own and do not reflect

³⁵ H. Charlesworth & C. Chinkin, *The boundaries of international law: A feminist analysis*, 2. (Manchester: Manchester University Press, 2000).

the realities with which so many other women in my country and around the world must contend. I have therefore tried to remain conscious of how my experiences are filtering how I think about what might matter for the lives of women who are differently situated.

I have also tried to honor Sara Ahmed's injunction to think of feminism as a building project, built on feminist "bricks".³⁶ Like Ahmed, I have intentionally cited women scholars throughout this paper (and in my teaching syllabi) as a way of recognizing my debt to those feminists who came before me and respecting those who are contributing to the feminist building project now.

Lucy Cooke, for one, learned that postmenopausal female killer whales are the leaders of their hunting clans, holding decades of wisdom which keep their clans alive when fish are scarce. In fact, it is their age and lengthy experience that makes female orcas most valuable in their clans. Without their female elders leading them, the southern residents have become less resilient, more fragmented, and less successful at weathering changes in their ecology. It feels like there is a lesson there.

³⁶ S. Ahmed, *Living a Feminist Life* (Durham, N.C.: Duke University Press, 2017).

In those animals that have...two sexes...the male stands for effective and active...and the female...for the passive.

Aristotle, On the Generation of Animals

Chapter 1: Telling a different story: women and ageing

Over the past several decades, the conditions for gender equality have generally improved globally: most countries now have at least one policy recognizing and promoting gender equality, nearly all prohibit discrimination on the basis of sex in national legislation, and there have been expansions in protection against gender-based violence. Girls are entering—and completing—primary school at the same or higher rates than boys in many countries and women are increasingly gaining protection against sexual harassment in the workplace. However, change has been incremental and significant gender gaps remain. There is no country in the world in which women and men share an equal amount of time on unpaid domestic and care work, women remain constrained in their ability to make decisions regarding the use of contraception and reproductive health care, including in the United States, and continue to be substantially underrepresented in economic and political leadership positions.³⁷ The World Economic Forum estimates that at the current pace of change it will take 134 years to reach gender parity in economic, political, health, and educational opportunities, roughly five generations beyond the 2030 targets set by the Sustainable Development Agenda.³⁸

The slow pace of progress has consequences for women as they age. Prolonged absence from the formal workforce because of unpaid care responsibilities in the home has a direct impact on women's retirement pensions, as do gender pay gaps that undervalue women's work, limitations on women's reproductive autonomy and the concentration of women in lower paid professions and

³⁷ World Bank Group. *Gender Data Portal*. (2024). Accessed at <https://genderdata.worldbank.org/en/indicator/sg-tim-uwrk?view=bar>. Data was collected by United Nations Statistics Division and downloaded on April 4, 2024.

³⁸ World Economic Forum. *Global Gender Gap Report 2024*. (11 June 2024), <https://www.weforum.org/publications/global-gender-gap-report-2024/digest/>, accessed 16 Mar. 2025.

positions.³⁹ At the same time, there is little evidence that issues such as these are receiving much attention within human rights mechanisms or whether efforts to advance gender equality are impacting the conditions of older women's lives.⁴⁰

The relative invisibility of older persons in general within the international human rights and development systems is indeed one of the primary justifications for the adoption of a new treaty specific to the human rights of older persons. But as the OHCHR has noted, a new instrument is only likely to be effective if it is drafted with a clear understanding of the problem it seeks to solve.⁴¹ Unless there is a clear recognition of the gendered dimensions of ageing and the connection between gender inequalities throughout women's lives and their situations in later life, whatever new instrument is drafted is unlikely to offer much to those who may need protection most.

This chapter discusses the conceptual challenges drafters will face in setting the scope of the new treaty and identifying who it is meant to protect and from what. This includes a review of the academic literature on gendered ageism and the importance of recognizing how social and cultural prejudices relating to gender and age intersect and disadvantage women of all ages. Subsequent sections discuss one of the very real impacts of gendered ageism: namely, the invisibility of women post reproductive age in data collection. Section __ reviews what is known about the conditions of older women's lives globally and identifies key data gaps that—standing alone—represent a form of discrimination against women.

The final section in this chapter considers how women and gender inequalities have been discussed in the debates leading to the OWGA's recommendation to consider a new treaty. It illustrates the persistence of a view of older women centered around vulnerability, dependence, and marginalization, a pattern which, as chapters 3 and 4 of this paper demonstrate, is repeated within international and national discourses.

³⁹ See, e.g., United Nations Independent Expert on the enjoyment of all human rights by older persons, *Human rights of older women: the intersection between ageing and gender* (17 July 2021), A/76/157, <https://data.unwomen.org/publications/older-women-inequality-intersection-age-and-gender>, accessed 16 Mar. 2025 [hereinafter Report of the Independent Expert].

⁴⁰ See, e.g., Office of the High Commissioner for Human Rights, *Update to the 2012 Analytical Study on the normative standards in international human rights law in relation to older persons*, ¶7 (March 2021).

⁴¹ Id. at ¶22.

Speaking gender and seeing women

The present paper is concerned with how issues of sex and gender matter to the implementation of international human rights law for women. Its argument is that gender must be addressed head on by human rights institutions to realize human rights for older women and achieve meaningful equality. Despite its proliferation in global discourses, gender remains a contested concept that reflects cultural debates about the meaning of inequality and sexual difference as well as the social structures and processes that perpetuate and reinforce those meanings.⁴² In its earliest feminist usages, gender was understood as a tool to analyze inequalities between women and men and the systems of power which kept them in place. Scott notes that gender described “a system of social organization...[that] was about women *and* men, about how the traits attributed to each sex justified the different treatments each received”, and naturalized social, political and economic inequalities.⁴³ But as the concept of gender began to infiltrate political arenas and international development discourse, its focus was limited almost exclusively to women. For many international organizations, including the UN, gender sensitivity and gender awareness “means paying attention to what women do, what resources they command, what roles they play in families, localities, and states, in order to provide women with material resources to improve their conditions”.⁴⁴

As Charlesworth and Chinkin have noted, using “women” as a category can be problematic not least because it suggests uniformity where there are very real differences in women’s lives.⁴⁵ At the same time, as a way of drawing distinctions between the general categories that proliferate in human rights instruments, including the generalized group of “older persons”, a focus on women as a social group or category can illuminate “the commonality of the marginalization of all women” within human rights mechanisms.⁴⁶ Recognizing its limitations, this study adopts an approach to gender that focuses primarily on the ways in which the CEDAW and CRPD treaty bodies draw attention to the resources women do—and do not—command and the inequalities they face. The intent is not to erase the very real differences between women but rather to highlight how “older

⁴² See, e.g., J. Scott, ‘The Uses and Abuses of Gender’, *Tijdschrift voor Genderstudies* 16(1), pp. 63-77 (2013); see also Sosa, *Intersectionality in the Human Rights Legal Framework*, 4-8.

⁴³ Scott, *Uses and Abuses*, 66 (emphasis in original).

⁴⁴ *Id.* at 67.

⁴⁵ H. Charlesworth & C. Chinkin, *The boundaries of international law: A feminist analysis*, 2. (Manchester: Manchester University Press, 2000).

⁴⁶ *Id.*

women” as a social category are constructed within human rights discourses and the limitations this poses for a human rights approach to issues facing older women.

The study does not delve into the complexities of sexual difference, sexual orientation, or gender in all its contested dimensions. The intent is not in any way to diminish the experiences of older persons in all their gender diversity⁴⁷ but is rather to start what hopefully will become a broader and more inclusive conversation in future debates over the proposed treaty’s language and scope.

The contested dimensions of gender and sexual difference are not the only conceptual challenges facing drafters of the new convention. The following section discusses the challenge of defining for whom the treaty is intended and what it is meant to cover.

Ageism and the “older woman”

Advocates for the new treaty have argued that it is necessary to address the harmful impacts of ageism and discriminatory ageist attitudes affecting older people.⁴⁸ Their argument is that the persistence of negative stereotypes concerning ageing and/or older persons are often at the heart of human rights violations impacting older people. At the same time, debates over the framing and content of the potential new treaty have focused on the importance of protecting the human rights of older persons as an identifiable group and/or prohibiting age discrimination against older

⁴⁷ There is a growing body of literature discussing the particular forms of discrimination occurring at the intersection of ageing, gender, and sexual orientation and gender identity. See, e.g., A. Lyons, B. Alba, A. Waling, V. Minichiello, M. Hughes, C. Barrett, K. Fredriksen-Goldsen, S. Edmonds, & M. Blanchard, ‘Recent versus lifetime experiences of discrimination and the mental and physical health of older lesbian women and gay men’, *Ageing & Society* 41(5), 1072-1093 (2021); S. Westwood, ‘Gender and older LGBT* housing discourse: the marginalized voices of older lesbians, gay and bisexual women’, *Housing, Care and Support* 20(3), 100-109 (2017); B. Hayman & L. Wilkes, ‘Older lesbian women’s health and healthcare: A narrative review of the literature’, *Journal of Clinical Nursing* 25(23-24), 3454-3468 (2016); L. Dickson, S. Bunting, A. Nanna, M. Taylor, M. Spencer, & L. Hein, ‘Older Lesbian, Gay, Bisexual, Transgender, and Queer Adults’ Experiences with Discrimination and Impacts on Expectations for Long-Term Care: Results of a Survey in the United States’, *Journal of Applied Gerontology* 41(3), 650-660. The present paper does not take up the issues raised by this research but it would be a fruitful area for further work.

⁴⁸ See, e.g., B. Mikolajczyk, ‘International human rights law and the intangible face of ageism’, *Equality, Diversity and Inclusion: An International Journal* 42(3), pp. 434-448 (2023); M. De Pauw, B. Sleaf, & N. Georgantzi, ‘Ageism and age discrimination in international human rights law’, in I. Doron & N. Georgantzi, eds., *Ageing, Ageism and the Law*, ch. 8 (Cheltenham: Edward Elgar Publishing Limited, 2018); World Health Organization, *Global Report on Ageism* (2021); United Nations Office of the High Commissioner for Human Rights [OHCHR], *Update to the 2012 Analytical Outcome Study on the normative standards in international human rights law in relation to older persons* (2021).

persons.⁴⁹ Not only are the latter two approaches not the same, they are also different from an approach that targets ageism.

The conceptual problems raised by the different approaches are (at least) two-fold. On the one hand, there is currently no universally recognized definition for “older person” in use at the international level or across countries. To the contrary, scholars and advocates generally acknowledge that who is considered “old” or “older” differs within societies and social contexts, making it difficult to develop a consistent norm.⁵⁰ Relatedly, and in part due to ageism, labelling a certain group “older persons” is likely to generate significant controversy especially if the label is generated solely on the basis of a relatively arbitrary chronological age determination. On the other hand, ageism and ageist stereotypes are not limited to older persons. Ageism is meant to encompass a much broader field of social stratifications, including prejudicial treatment of people who would be considered biologically young but are nevertheless discriminated against on the basis of age. What this means is that a treaty framed around the concept of ageism will address a wide range of discriminatory conduct that impacts people of all ages, while a treaty framed around the recognition of older persons as a stand-alone identity group may face resistance from the very people it is meant to protect-and may do little to disrupt the social dynamics of ageing that impact women most. The gendered components of each of these are discussed in the sections below.

A. Age is more than a number

Defining the scope of who (or what) a new treaty covers is an important first step. With regard to the former, OHCHR has already noted some of the challenges that attend to defining older persons as a group. For one, chronological age can be a poor indicator of who is considered “old” in the global context even though it has tended to be the default in part due to the nature of demographic data collection methods.⁵¹ The Vienna International Plan of Action on Ageing,

⁴⁹ See OHCHR, *Update to the 2012 Analytical Outcome Study*, ¶¶ 24-32.

⁵⁰ See, e.g., N. Yuval-Davis, ‘Intersectionality and Feminist Politics’, *European Journal of Women’s Studies* 13(3), 193-209 (2006) (noting that age more than any other social category illustrates that the boundaries among social categories are not fixed but take on meaning in different historical, social, and individual contexts).

⁵¹ Over the past decades when the international community has raised the human rights of older persons as a group, the group has been referred to as “the elderly”, “the aged”, “the aging”, “older persons”, and persons experiencing “older age”. See, e.g., United Nations General Assembly. (1973). Resolution 3137: Questions of the elderly and the aged; United Nations General Assembly. (1977). Resolution 32/132; United Nations Economic and Social Council. (1980). Resolution 1980/26; United Nations General Assembly. (1980). Resolution 35/129; and See, e.g., United Nations General Assembly. (1978). Resolution 33/52 [on the decision to organize a world assembly on ageing].

adopted at the first World Assembly on Ageing in 1982, took a demographic approach and identified the relevant population for the Plan as those aged 60 and over.⁵² At the same time, however, the Report of the Assembly noted that in some developing countries, as little as five percent of the population reached the age of 60, illustrating the contingency of what it meant to be older in any given community.⁵³

As in the Vienna Plan of Action, the Madrid International Plan of Action on Ageing (2002) adopts chronological age—60 years of age and over—as its frame of reference for recognizing older persons and older age⁵⁴ and various UN entities have tended to do the same, although with some variation.⁵⁵ Similarly, both the African Union Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa (2016) and the Inter-American Convention on Protecting the Human Rights of Older Persons (2015) use the chronological age of 60 years and above to define older persons as a group.⁵⁶ Many national pension systems do the same, limiting entitlements to “old age pensions” to those above a particular chronological age.

At the same time, in its 2021 Analytical Outcome Study, OHCHR included an extended discussion of the challenges to defining older age exclusively on the basis of chronological age. The study notes the importance of social and cultural factors, such as gender, race, sex, indigeneity, and socio-economic status, among many others, to the ways people experience ageing and recognizes that biological age is just one component of a much more complex process.⁵⁷ This is consistent with scholarship which has increasingly recognized age as a socially constructed category which, much like gender, defines social relations and inequalities.⁵⁸ OHCHR further

⁵² Vienna International Plan of Action on Aging (1982), ¶¶ 7-11.

⁵³ Report of the [First] World Assembly on Ageing. (1982), ¶ 73.

⁵⁴ Political Declaration and Madrid International Plan of Action on Ageing, Article 2. (2002). Second World Assembly on Ageing, Madrid, Spain.

⁵⁵ See, e.g., World Health Organization, *Progress Report on the United Nations Decade of Healthy Ageing 2021-2023* (2023); OHCHR, *Update to the 2012 Analytical Outcome Study*; United Nations Refugee Agency (UNHCR). *Emergency Handbook: Older Persons* (updated 13 June 2024), <https://emergency.unhcr.org/protection/persons-risk/older-persons>, accessed 16 Mar. 2025. All of these entities adopt the chronological age of 60 years and over as the basis for defining the social group of older persons; but see UN Women, *Caring for carers: Recognizing the rights and contributions of older women*, <https://data.unwomen.org/features/caring-carers-recognizing-rights-and-contributions-older-women> (27 Oct. 2023) (highlighting data on women age 65 or older); UNFPA and WHO, *Women, Ageing, and Health: A Framework for Action* (2007) (defining older women as those age 50 and older).

⁵⁶ See African Union, *Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa*, Art. 1 (adopted 31 Jan. 2016); Organization of American States, *Inter-American Convention on Protecting the Human Rights of Older Persons*, Art. 2 (adopted 15 June 2015).

⁵⁷ OHCHR, *Update to the 2012 Analytical Outcome Study*, ¶ 26.

⁵⁸ See, e.g., C. Krekula, P. Nikander, & M. Wilinska, ‘Multiple Marginalizations Based on Age: Gendered Ageism and Beyond’ In L. Ayalon & C. Tesch-Romer, eds., *Contemporary Perspectives on Ageism*, 33-50 (Cham, Switzerland: Springer Nature, 2018); J. Coupland, ‘Discourse, identity and change in mid-to-late life:

recognizes that who is considered “old” and when is not static but rather changes with circumstances and social contexts, factors particularly relevant to women as will be discussed in more detail below.

B. Gender and chronological age

Not only is it challenging for an institution to define who should be considered “old”, ageing is a complicated and personal experience for those living through it who may or may not choose to see themselves as “old” or within the social group of “older persons”. Indeed, women who position—and choose to see—themselves as “not old” are among those who have the most successful experiences of ageing according to researchers.⁵⁹ Researchers have highlighted the social pressures women feel in some contexts as they age to look and act younger, whether through dyeing their hair, losing weight, using expensive skin treatments, and the like.⁶⁰ In interviews with women over the age of 50, Lir and Ayalon found that women found it difficult to accept visible signs of ageing in themselves and felt very real grief over what they perceived to be a (permanent) loss of attractiveness.⁶¹ The same is not true for ageing men, for whom visible signs of ageing like graying hair are not viewed negatively.⁶² In a study involving 158 women in the U.K. between 50 and 87 years of age, women overwhelmingly reported negative social experiences of ageing, including being ignored or talked down to in public spaces and being treated as incompetent.⁶³ In societies where youth and youthfulness are valued and hypervisible, especially for women, it

interdisciplinary perspectives on language and ageing’ *Ageing & Society* 29(6), 849-861 (2009).; C. Krekula, ‘Age-coding: On age-based practices of distinction’ *International Journal of Ageing and Later Life* 4(2), 7-31 (2010).

⁵⁹ See, e.g., H.L. Radtke, J. Young, & J. van Mens-Verhulst, ‘Ageing, Identity, and Women: Constructing the Third Age’, *Women & Therapy* 39(1-2), 86-105 (2016); P.S. Seow, G. Byrne, E. Arnold, & N. Pachana, ‘Relationships Between Aging Attitudes and Successful Aging Outcomes in Middle-Age and Older Women’ *Clinical Gerontologist* 48(1), 128-140 (2025); A. Symonds & C. Holland, ‘The same hairdo: The production of the stereotyped image of the older woman’, in R. Ward & B. Bytheway, eds., *Researching age and multiple discrimination*, 26-44 (London: Centre for Policy on Ageing, 2008).

⁶⁰ See, e.g., S.A. Lir & L. Ayalon, ‘Beauty work or beauty care? Women’s perceptions of appearance in the second half of life’, *Journal of Women & Aging* 36(3), 256-271 (2024); S. Westwood, ‘“It’s the not being seen that is most tiresome”: Older women, invisibility and social (in)justice’, *Journal of Women & Aging* 35(6), 557-572 (2023); L.H. Clarke, *Facing age: women growing older in anti-ageing culture* (Lanham, MD: The Rowman & Little Publishing Group, 2011); P.A. Rochon, S. Kalia & P. Higgs, ‘Gendered ageism: addressing discrimination based on age and sex’ *The Lancet* 398, 648-649 (2021). It should be noted that these studies collectively draw on qualitative data collected in the Global North. Because perceptions of ageing are grounded in social and cultural norms and expectations, it is likely that results would be different in different cultural and geographic contexts.

⁶¹ Lir & Ayalon, *Beauty work or beauty care?*; see also Westwood, *Older women, invisibility and social (in)justice*.

⁶² Rochon, et al., *Gendered ageism*; Westwood, *Older women, invisibility and social (in)justice*.

⁶³ Westwood, *Older women, invisibility and social (in)justice*.

should be no surprise that women are unlikely to want to identify themselves as “old” or even “older”, regardless of their chronological age.

Women’s resistance to and potential resentment of a label that defines them as “old”, with all of its social ramifications, simply on the basis of an arbitrary chronological grouping, represents an as yet undiscussed challenge to the concept of a new treaty ostensibly for the benefit of “older persons” as a group. Cloaking what many may consider an affront in the guise of offering protection for human rights—without (at this point) specifying that the rights of older persons *are* women’s rights—does not help. Although the intent may be to dismantle the social stigmas attached to ageing, hopefully including those specifically impacting women, framing it through a lens that forces women to *identify* themselves in a way they perceive as stigmatizing is a rough place to start.

To complicate matters still, much of the effectiveness of international human rights law is dependent on domestic mobilization.⁶⁴ Indeed, during a conversation with a senior human rights officer within the OHCHR, I was told that human rights bodies like the Human Rights Council are unlikely to take up specific human rights issues without evidence of a domestic constituency interested in and ready to mobilize on its behalf. If women resist seeing themselves as the constituency for a convention on the rights of older persons, its long term prospects could be very shaky indeed.

1. Ageism and age discrimination

Ageism was first defined by Robert Butler who recognized ageism as “a form of systematic stereotyping and discrimination against people simply because they are old.”⁶⁵ Butler saw ageism as a mechanism through which younger age groups distinguished themselves from those they saw

⁶⁴ The importance of domestic and transnational mobilization to human rights treaty enforcement has been demonstrated by scholars such as Beth Simmons (*Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge: Cambridge University Press, 2009)), Margaret Keck and Kathryn Sikkink (*Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998)), Jutta Joachim (*Agenda Setting, the UN, and NGOs: Gender Violence and Reproductive Rights* (Washington, D.C.: Georgetown University Press, 2007)), Mala Htun and S. Laurel Weldon (*The Logics of Gender Justice: State Action on Women’s Rights Around the World* (Cambridge: Cambridge University Press, 2018)), and Sylvanna Falcón (*Power Interrupted: Antiracist and Feminist Activism Inside the United Nations* (Seattle: University of Washington Press, 2016), among many others. It is beyond the scope of the present paper to take up the challenge ageism is likely to present to mobilization on behalf of the human rights of older persons in general and older women in particular in any detail however it remains an important question with which the drafters and advocates will need to contend.

⁶⁵ R. Butler, ‘Age-ism: Another form of bigotry’ *The Gerontologist* 9(4), 243-46 (1969).

as “rigid in thought and manner, old fashioned in morality and skills”.⁶⁶ For Butler, ageism manifested through generally negative attitudes, behaviours, and institutional practices toward older people.⁶⁷ Others have recognized that ageism has a personal component and can be directed at one’s self, intentionally or otherwise, with significant implications for how one sees oneself in the world and through social interactions.⁶⁸ Older people in general, and older women in particular, are likely to have internalized negative messages about ageing which impact how they see themselves and the people around them.⁶⁹ Butler was clear that ageism is not a phenomenon that exclusively impacts older people but rather recognized that ageism was also at work in older people’s negative attitudes toward younger people.⁷⁰

The World Health Organization’s 2021 *Global Report on Ageism* adopts an even broader lens, defining ageism as:

[T]he stereotypes (how we think), prejudice (how we feel), and discrimination (how we act) directed towards people on the basis of their age. It can be institutional, interpersonal or self-directed.⁷¹

It takes into account that ageism is not confined by group attitudes toward one another but rather encompasses a multitude of stereotypes and prejudices that are based in social beliefs about age rather than chronological age itself. In other words, chronologically young people can be targets of ageism in much the same way—albeit for potentially different reasons—as older persons. This is particularly significant for women experiencing discrimination at the intersection of gender and ageism.

2. Gendered ageism

Ageism is integrated with gender to such an extent scholars have adopted the concept of gendered ageism to refer to the negative impacts on women of ageist and gender stereotypes.

⁶⁶ Id. at 243.

⁶⁷ R. Butler, ‘Age-ism: A foreword’ *Journal of Social Issues* 36(2), 8-11 (1980); see also L. Ayalon & C. Tesch-Romer, ‘Introduction to the Section: Ageism-Concepts and Origins’, in L. Ayalon & C. Tesch-Romer, eds., *Contemporary Perspectives on Ageism*, 1-10 (Cham, Switzerland: Springer, 2018).

⁶⁸ Ayalon & Tesch-Romer, *Ageism-Concepts and Origins*, 3.

⁶⁹ Id.

⁷⁰ R. Butler, ‘Dispelling ageism: The cross-cutting intervention’, *The Annals of the American Academy of Political and Social Science* 503, 138-147 (1989); see also F. Snellman, ‘Normative, Empiricist, and Interpretive Considerations in the Ageism Research Process’, in L. Ayalon & C. Tesch-Romer, eds., *Contemporary Perspectives on Ageism*, 409-422 (Cham, Switzerland: Springer Nature, 2018).

⁷¹ World Health Organization [WHO], *Global report on ageism*, xv (2021).

Krekula, et al. define gendered ageism as: “[C]onsisting of differentiating practices which put demarcated age and gender groups in a marginalized position, or...practices which give age-based meaning to bodies...[that] result in the subordination of and an unequal division of resources for the demarcated group”.⁷² For women, ageism manifests in a variety of ways, including discrimination in labor markets and career advancement on the basis of their age, sex, and appearance, stereotyping by healthcare providers, including in some cases the denial of care for conditions such as cardiac disease, and their cultural devaluation especially after menopause and post-reproductive life and as women’s appearances change.⁷³ In a series of studies on age barriers in the workplace researchers found that gendered ageism was a key component of organizational cultures and correlated with discrimination against women in terms of career advancement to such an extent women were assumed to “peak” professionally at age 35 (compared with a much later age for men).⁷⁴ In a more recent study, Amy Diehl and colleagues concluded that women in corporate leadership face ageism at every age and that discriminatory treatment was in no way constrained to women over a certain chronological threshold.⁷⁵

As already noted, for women cultural emphases on youth, especially with respect to appearance, play a significant role in their experiences of stigma and social exclusion attaching to ageing.⁷⁶ Researchers have found that women—more than men—report feeling invisible to others and stigmatized socially for not looking young and acting youthful, especially as it becomes more

⁷² Krekula, et al., *Multiple Marginalizations Based on Age*, 42.

⁷³ Id.; see also Westwood, *Older women, invisibility, and social (in)justice*; Rochon, et al., *Gendered ageism*, 648-649; J. Chrisler, A. Barney & B. Palatino, ‘Ageism can be Hazardous to Women’s Health: Ageism, Sexism, and Stereotypes of Older Women in the Healthcare System’, *Journal of Social Issues* 72(1), 86-104 (2016); V. Cecil, L.F. Pendry, J. Salvatore, H. Mycroft, & T. Kurz, ‘Gendered ageism and gray hair: must older women choose between feeling authentic and looking competent?’, *Journal of Women & Aging* 34(2), 210-225 (2021); Editorial: Ageism, menopause, and health disparities in Latin America. *The Lancet Regional Health – The Americas* 27, 100638 (November 2023).

⁷⁴ C. Itzin & C. Phillipson, ‘Gendered ageism: A double jeopardy for women in organisations’, in C. Itzin and J. Newman, eds., *Gender, culture, and organizational change: Putting theory into practice*, 84-94 (London: Routledge, 1995); see also A. Diehl, L. Dzubinski & A. Stephenson, ‘How organizations can recognize-and end-gendered ageism’, in *Overcoming Ageism*, 171-178 (Boston: Harvard Business Review Women at Work Series, 2024).

⁷⁵ A. Diehl, L. Dzubinski & A. Stephenson, ‘Women in Leadership Face Ageism at Every Age’ *Harvard Business Review* (16 June 2023); see also Diehl, et al., *How organizations can recognize-and end-gendered ageism*.

⁷⁶ See, e.g., V. Cecil, L.F. Pendry, J. Salvatore, H. Mycroft & T. Kurz, ‘Gendered ageism and gray hair: must older women choose between feeling authentic and looking competent?’ *Journal of Women & Aging* 34(2), 210-225 (2021); Westwood, *Older women, invisibility and social (in)justice*.

difficult to hide physical signs of ageing.⁷⁷ These feelings of stigmatization intersect with other social circumstances, such as socio-economic class, race, disability, and sexual orientation.⁷⁸

Ageist stigmatization and the related cultural devaluation of women as they age is evident in attitudes toward the appropriate age for marriage for both girls and boys. Across the globe, women are married at younger ages than men, though the gap is narrower in countries where women have higher educational attainment and economic status.⁷⁹ In Nepal, for example, women are considered “old” for marriage at the age of 25, while it is considered acceptable for men to marry through the age of 30.⁸⁰ In China, women who are still single in their late twenties are colloquially referred to as “leftover women” and socially marginalized.⁸¹ While derogatory attitudes toward single women are intimately connected to gender norms around reproduction, femininity, and women’s traditional roles in the home and family, they are also ageist, becoming meaningful only as women age beyond arbitrary expectations for when girls should marry. The most explicit illustration of the ageism intersecting with gender in this context is the caricature of the “old maid” in Western discourses.⁸²

The stigmas that attach to gendered ageism have real world consequences for women and girls. Where women marry at younger ages they are less likely to complete schooling, more likely to leave the labor force (to provide childcare), and are likely to have more children.⁸³ Early marriage is also associated with lower decision-making ability within the marital household and

⁷⁷ See, e.g., Cecil, et al., *Gendered ageism and gray hair*; Westwood, *Older women, invisibility and social (in)justice*.

⁷⁸ See, e.g., Westwood, *Older women, invisibility and social (in)justice*, and sources cited therein; N.M.F.D. Rocha, R.d.S. Maia, G.M.V. Marques & R.L. Bandeira, ‘Intersectionalities and Old Age: Ageism in the Crossroads of Race, Gender, and Age’ in L. Dutra-Thomé, D.F. Rabelo, D. Ramos & E.F. Góes, eds., *Racism and Human Development*, ch. 12 (Cham, Switzerland: Springer Publishing, 2022); Krekula, et al., *Multiple Marginalizations Based on Age*, 42.

⁷⁹ K. Allendorf, A. Thornton, C. Mitchell, L. Young-DeMarco & D.J. Ghimire, ‘Early Women, Late Men: Timing Attitudes and Gender Differences in Marriage’, *Journal of Marriage and the Family* 79(5), 1478-1496 (2018); A. Esteve, C.R. Schwartz, J. Van Bavel, I. Permyer, M. Klesment & J. Garcia, ‘The End of Hypergamy: Global Trends and Implications’, *Population and Development Review* 42(4), 615-625 (2016); D. Halim & S. Rivera, ‘Love, marriage and development: 4 observations’, *World Bank Data Blog*, <https://blogs.worldbank.org/en/opendata/love-marriage-and-development-4-observations>, (2020), accessed 16 Mar. 2025.

⁸⁰ Allendorf, et al., *Early Women, Late Men*.

⁸¹ T. Gui, “‘Leftover Women’ or Single by Choice: Gender Role Negotiation of Single Professional Women in Contemporary China. *Journal of Family Issues* 41(11), 1956-1978 (2020); L.H. Fincher, *Leftover Women: The Resurgence of Gender Inequality in China* (London: Bloomsbury, 2014); J. Reynolds, M. Wetherell, & S. Taylor, ‘Choice and Chance: Negotiating Agency in Narratives of Singleness’ *The Sociological Review* 55(2), 331-351 (2007).

⁸² K. Lahad & H. Hazan, ‘The terror of the single old maid: On the insolubility of a cultural category’, *Women’s Studies International Forum* 47(A), 127-136 (2014).

⁸³ Halim & Rivera, *Love, marriage and development*.

higher rates of HIV infection in some countries.⁸⁴ As women age, the consequences of lower educational attainment and long absences from the formal workforce become particularly meaningful, exacerbating women's vulnerability to poverty and social exclusion.

Although widowhood has not been extensively studied for its connection to gendered ageism, it is considered an important challenge in aging which similarly has gendered dimensions.⁸⁵ Substantial age gaps between women and men at average age of first marriage as well as men's lower life expectancy make it more likely that women will outlive their spouses and be widowed at some point in their lives.⁸⁶ The UN estimates that there are as many as 258 million widows around the world.⁸⁷

Close to 10 percent of women who are widowed live in extreme poverty.⁸⁸ In many communities widows face the loss of their homes and property as a result of inheritance laws and customs which vest property rights exclusively in male heirs. They must also contend with social exclusion, isolation, and the loss of access to communal resources.⁸⁹ This is true regardless of the age at which women become widowed and persists even with re-marriage and/or entry into a male-headed household.⁹⁰

⁸⁴ Id.

⁸⁵ D. Carr & S. Bodnar-Deren, 'Gender, Aging, and Widowhood', in P. Uhlenberg, ed., *International Handbook of Population Aging*, 705-728 (Cham, Switzerland: Springer, 2009); J. Zheng & L. Yan, 'The impact of widowhood on the mental health of older adults and the buffering effect of social capital', *Frontiers in Public Health* 12, 1385592 (2024).

⁸⁶ P. Lloyd-Sherlock, B. Corso, & N. Minicuci, 'Widowhood, Socio-Economic Status, Health, and Well-Being in Low- and Middle-Income Countries', *The Journal of Development Studies* 51(10), 1374-1388 (2015); Carr & Bodnar-Deren, *Gender, Aging, and Widowhood*; M. Adena, D. Hamermesh, M. Myck & M. Oczkowska, 'Home Alone: Widows' Well-Being and Time', *Journal of Happiness Studies* 24(2), 813-838 (2023).

⁸⁷ United Nations, *Invisible Women, Invisible Problems*, <https://www.un.org/en/observances/widows-day>, (n.d.). Accessed 16 Mar. 2025.

⁸⁸ UN Women, *Turning Promises into Action: Gender Equality in the 2030 Agenda for Sustainable Development*, <https://www.unwomen.org/en/digital-library/publications/2018/2/gender-equality-in-the-2030-agenda-for-sustainable-development-2018> (2018). Accessed 16 Mar. 2025.

⁸⁹ UN Women, *Turning Promises into Action*; M. Dube, 'The challenges facing widows in African contexts: A literature review', *International Journal of Research in Business and Social Science* 12(7), 452-459 (2023); Carr & Bodnar-Deren, *Gender, Aging, and Widowhood*; Adena, et al., *Home Alone: Widows' Well-Being and Time*.

⁹⁰ See, e.g., D. Van de Walle, 'Lasting Welfare Effects of Widowhood in Mali', *World Development* 51, 1-19 (2013); E.P. Abdul Azeez, D. Palzor Negi, N. Mishra, J. Sharma, A.S. Nair & M. Mathew, "'Life after him was just hell": Young rural women's lived experiences of widowhood in Rajasthan, India', *Death Studies* 47(10), 1146-1157 (2023); see also P. Lloyd-Sherlock, B. Corso & N. Minicuci, 'Widowhood, Socio-Economic Status, Health, and Well-Being in Low- and Middle-Income Countries', *The Journal of Development Studies* 51(10), 1378 (2015) (noting findings that close to 20 percent of widows studied in South Africa and India had been widowed under the age of 40).

In some contexts widows are particularly vulnerable to violence, including sexual violence and harassment.⁹¹ Regardless of the age at which they are widowed, women who lose their spouse face higher mortality risks than their married peers.⁹² In many countries, women do not have the same rights to re-marry as men do, so widow-hood becomes a permanent state which women cannot escape.⁹³ Because women who are widowed experience forms of disadvantage that men do not, and those forms are most likely to harm increasing numbers of women as they age and outlive their (male) spouses, any assessment of harm attaching to chronological age alone that does not also take into account how patriarchal norms “dictated the advantage or disadvantage” associated with that age is necessarily incomplete.⁹⁴

What the discussion above demonstrates is that ageism and ageist stereotypes impact women well outside the grouping of “older persons” aged 60 years and above. For women in particular the intersection of gender and ageing leads to forms of discrimination and inequalities that men do not experience or share, at least to the same extent. The cultural devaluation of women as they age is a phenomenon unique to women but it is one which has been shown to contribute to the precariousness of life for many older women. It is thus incumbent on the drafters of any new convention purporting to protect the human rights of older persons to give more than lip service to the intersection of gender and ageing and take the challenges confronting women of all ages seriously. Recommendations for how that may be done are discussed in more detail in chapters two and five of this paper. The following sections investigate the conditions of older women’s lives, to the extent captured by available data, and the ways in which women have been integrated to date into discussions of the rights of older persons within the UN.

⁹¹ B. Sabri, S. Sabarwal, M.R. Decker, A. Shrestha, K. Sharma, L. Thapa & P. Surkan, ‘Violence Against Widows in Nepal: Experiences, Coping Behaviors, and Barriers in Seeking Help’, *Journal of Interpersonal Violence* 31(9), 1744-1766 (2015).

⁹² F. Dabergott, ‘The gendered widowhood effect and social mortality gap’, *Population Studies* 76(2), 295-307 (2022). Dabergott notes that widowhood also has significant health consequences for men, and these may in some cases be more significant than those for women. An in-depth discussion of men’s experiences of widowhood is beyond the scope of the present paper.

⁹³ World Bank Group, *Gender Data Portal*, <https://genderdata.worldbank.org/en/indicator/sg-rem-riqt-eq> (n.d.), accessed 16 Mar. 2025.

⁹⁴ *Volks v. Robinson*, 2005 (5) BCLR 446 (South African Constitutional Court) [dissenting opinion of Justice Albie Sachs] (quoted in S. Atrey. (2019) *Intersectional Discrimination* at 106).

C. The invisibility of older women

More than 1 in 4 women worldwide is over the age of 50 and that number is likely to rise as the global population ages.⁹⁵ Women over the age of 50 currently outnumber men in the same age group and by just 2030 are expected to represent more than 60 percent of persons over the age of 80.⁹⁶ Yet despite their numbers, women over the age of 50 are largely invisible in data related to gender (in)equalities, especially data available to international stakeholders monitoring implementation of the 2030 Sustainable Development Agenda,⁹⁷ and little is known about the conditions of their everyday lives. This section discusses four key areas with respect to which women experience significant disadvantage as they age, especially with respect to their male peers. These include: data collection, access to economic resources and economic precarity, health care and inclusion in relevant research, and evidence relating to violence against women. There is much more that can be said about the cumulative impact of gender inequalities across the life course, for example with respect to access to education,⁹⁸ sexual and reproductive rights, and the like, but these four areas highlight in stark terms the extent to which older women are quite simply invisible to policymakers, health care providers, researchers, and many, many others in ways that any effort to protect human rights must take into account. Unless otherwise noted, the discussion

⁹⁵ United Nations Department of Economic and Social Affairs, Population Division, *World Population Prospects: The 2024 Revision*, <https://population.un.org/dataportal/> (2024) Last accessed January 2025.

⁹⁶ Id.; R. Morgan, A. Kalbarczyk, D. Mohan, C., Jacobs, M. Mishra, P. Tyagi, C., Cox-Roman, & C. Williamson, ‘Counting older women: Measuring the health and wellbeing of older women in LMICs, *Cell Reports Medicine* 5 (2024), 1-3.

⁹⁷ The 2030 Sustainable Development Agenda (Transforming Our World) represents an agreed set of goals intended to promote sustainable development and bring an end to poverty. There are 17 goals including one (Goal 5) specific to gender equality. Goal 5 has nine targets and 14 related indicators by which progress is measured. Although several of the indicators are specific to particular age groups, none of the targets or indicators are specific to women aged 60 or over. See UN Women and United Nations Department of Economic and Social Affairs, Statistics Division, *The Gender Snapshot 2023*, <https://www.unwomen.org/sites/default/files/2023-09/progress-on-the-sustainable-development-goals-the-gender-snapshot-2023-en.pdf> for more details. Last accessed 16 Mar. 2025.

⁹⁸ See, e.g., United Nations Independent Expert on the enjoyment of all human rights by older persons, *Human rights of older women: the intersection between ageing and gender* (17 July 2021), A/76/157, <https://data.unwomen.org/publications/older-women-inequality-intersection-age-and-gender>, accessed 16 Mar. 2025; United Nations Economic Commission for Europe [UNECE], Working Group on Ageing, *Gender equality in ageing societies*, UNECE Policy Brief on Ageing No. 23, https://unece.org/fileadmin/DAM/pau/age/Policy_briefs/ECE_WG-1_34.pdf (March 2020), accessed 16 Mar. 2025; UNECE, *International Women’s Day 2025: Older women in the UNECE region are being left behind*, <https://unece.org/media/news/399973> (7 Mar. 2025), accessed 16 Mar. 2025. As one example, as many as 27% of women over the age of 65 lack basic literacy skills; just 31% of women ages 55-74 have at least basic digital skills (compared with 39% of men in the same age group).

accepts as given the definition of older women used by sources, which generally is women 60 years of age or over.

1. Demographic data collection

There are large gaps in sex-disaggregated data generally, including on topics relating to gender equality.⁹⁹ However, what disaggregated survey data there is frequently excludes older women from samples, leaving policy makers entirely in the dark about the conditions in which older women live. Demographic and Health surveys, as one example, have been a consistent source of data collection across a variety of domains, including population, health, and nutrition.¹⁰⁰ The survey questionnaires include questions related to education, gender-based violence, HIV/AIDS knowledge and behavior, and women's decision-making authority, among other topics. They have been administered in over 90 countries around the world, most considered low- or middle-income countries. But the DHS excludes women over the age of 50 and men over the age of 60 from the samples, leaving large gaps in information relating to older women's experiences of violence in the home, knowledge about prevention and treatment of sexually transmitted diseases like HIV and AIDS, and their empowerment within the household, among other topics.¹⁰¹

The World Bank Group's Gender Data Portal collects statistical and other data from a variety of sources including the Demographic and Household Surveys, ILO Labour Market-related indicators, and country reports on SDG indicators and publishes global and national comparisons, trends, and the like.¹⁰² A brief review of the data on women's experience of sexual violence, ability to make decisions relating to sexual relations, and reproductive health shows that it is limited to women between the ages of 15 and 49. The same is true for data on incidence of HIV, and use of condoms even though women over the age of 50 are at increased risk of acquiring HIV

⁹⁹ See, e.g., UN Women and United Nations Department of Economic and Social Affairs, Statistics Division, *The Gender Snapshot 2023*, <https://www.unwomen.org/sites/default/files/2023-09/progress-on-the-sustainable-development-goals-the-gender-snapshot-2023-en.pdf> (2023), accessed 16 Mar. 2025.

¹⁰⁰ The DHS Program, *Demographic and Health Survey Overview*, <https://dhsprogram.com/methodology/survey-Types/dHs.cfm>, (n.d.), last accessed January 2025 [It should be noted that the DHS is/was a project of the U.S. Agency for International Development (USAID) and is on hold as of January 2025]; Morgan, et al., *Counting older women*, 101607.

¹⁰¹ Morgan, et al., *Counting older women*. Morgan, et al. also note that respondents to the WHO's STEPwise, a survey to collect national level data on risk factors for non-communicable diseases, do not generally include data on people over the age of 64 (p.2).

¹⁰² World Bank Group, *Gender Data Portal*, <https://genderdata.worldbank.org/en/home> (n.d.), accessed 16 Mar. 2025.

during sex.¹⁰³ While the Gender Data Portal includes data on a number of indicators relating to women and girls and menstruation, there is no data on menopause or the availability of post-reproductive health care for women.

2. Access to economic resources

Overall, older women have access to far fewer economic resources than men their age. Women over the age of 60 enjoy access to universal pensions in fewer than half (56 of 116) of countries reporting pension data.¹⁰⁴ In low- and middle-income countries, just 8 percent of women are covered by pension schemes, compared with 21 percent of men.¹⁰⁵

The amounts of pensions also differ considerably between women and men, with women receiving far less on average. In the EU, the average gender pension gap is 37%, and gender pay gaps for older women are substantial (50% in Nepal, 30% in Portugal).¹⁰⁶ The large gaps are due in part to women's time out of the formal workforce to meet gendered and unpaid care responsibilities, in part due to women being clustered in lower paying professional fields and positions, and in part due to gender pay gaps which increase as women age.¹⁰⁷ In nearly half of global economies, pension benefits available to women do not take into account periods of time when women were absent to provide childcare for their families.¹⁰⁸

Disregard for women's unpaid labor continues as women age. Older women continue to bear the burden of unequal care responsibilities, acting as the primary caregivers for spouses as they age as well as acting as caregivers for children of migrant parents and orphaned children.¹⁰⁹

¹⁰³ Id.; see UNAIDS, *The Gap Report 2014: People Aged 50 Years and Older*, https://www.unaids.org/sites/default/files/media_asset/12_Peopleaged50yearsandolder.pdf (2014), accessed 16 Mar. 2025.

¹⁰⁴ UN Women and UNDESA, *The Gender Snapshot 2023*.

¹⁰⁵ UN Women, *Advocacy Brief: Older Women: Inequality at the Intersection of Age and Gender*, https://data.unwomen.org/sites/default/files/documents/Publications/Advocacy-Brief_Older-Women.pdf (n.d.), accessed 16 Mar. 2025; see also UN Women and UNDESA, *The Gender Snapshot 2023*.

¹⁰⁶ Report of the Independent Expert, ¶¶ 22, 26-27.

¹⁰⁷ Id., ¶¶ 25-27; see also UN Women, *Advocacy Brief: Older Women: Inequality at the Intersection of Age and Gender*.

¹⁰⁸ World Bank, *Women, Business, and the Law 2024*. Executive Summary available at: <https://openknowledge.worldbank.org/server/api/core/bitstreams/b339e2a7-ca65-4ed0-a471-d285ded8c4c7/content>, accessed 16 Mar. 2025.

¹⁰⁹ See, e.g., J. Birchall & A. Holt, 'Who cares? The grandmother kinship carers shouldering the burden within a gendered care economy' *Journal of Women & Ageing* 35(5), 465-475 (2022). During a research trip on behalf of HelpAge International in summer 2019, I interviewed older women in Cambodia, Viet Nam, Indonesia, and later over zoom in Bangladesh. In Cambodia, nearly all were caring for the children of their grown children who had

According to data collected by UN Women from 47 countries, women over the age of 65 spend nearly twice the time performing unpaid care and domestic work tasks as men.¹¹⁰

Women in the formal workforce are also pushed into retirement at earlier ages than men. Sixty-two countries impose an earlier mandatory retirement date on women than on men, reducing the amount of time women have in the formal workforce to build up retirement assets and contributory pension benefits.¹¹¹ As a result, women over the age of 55 are more likely to live in extreme poverty than men the same age, with the gap widening as women age.¹¹² In one study by UN Women, nearly one-third of women over the age of 50 reported being food insecure and many had experienced the inability to meet basic needs including housing and access to water.¹¹³

Women's vulnerability to poverty in older age is in part attributable to legal and customary restrictions on their ability to inherit or retain marital property on the death of a spouse, partner, or male family member, particularly land. Women do not have equal rights to own land in at least 21 countries and have fewer rights to inherit from their parents or spouses in 43 countries.¹¹⁴ The cumulative impact of fewer opportunities in the workplace, fewer rights to obtain and retain economic assets, and little to know recognition of the unequal burden of unpaid care work leave many women in a far more precarious financial position as they age than their male peers. This financial precarity is mirrored in health care disparities which significantly disadvantage women.

3. Health care disparities

Far too often the health care needs of older people are treated as uniform without specific attention to sex and gender differences, with profound consequences for older women.

migrated to work in garment and other factories. Many had had little formal education and most were subsistence farmers. They were food insecure, unable to procure necessary medications, but several said the thing they needed most was rest as they were not physically able to care for young children and secure food.

¹¹⁰ UN Women and UNDESA, *The Gender Snapshot 2023*; see also Birchall & Holt, *Who cares? The grandmother kinship carers*.

¹¹¹ World Bank, *Women, Business, and the Law 2024*.

¹¹² UN Women and UNDESA, *The Gender Snapshot 2023*; European Institute for Gender Equality, *Gender Equality Index 2020: Digitalisation and the future of work*, https://eige.europa.eu/publications-resources/toolkits-guides/gender-equality-index-2020-report/grave-risk-poverty-harsh-reality-older-women-and-every-second-lone-mother?language_content_entity=en (2020), accessed 16 Mar. 2025.

¹¹³ UN Women, *Advocacy Brief: Older Women: Inequality at the Intersection of Age and Gender*; see also HelpAge International, 'Things have just gotten worse': *The impact of the global food, fuel, and finance crisis on older people*, https://www.helpage.org/wp-content/uploads/2023/06/Things-have-just-gotten-worse_Report.pdf (2023), accessed 16 Mar. 2025.

¹¹⁴ World Bank, *Women, Business, and the Law 2024*.

Researchers have identified numerous reports relating to global responses to ageing and meeting the needs of older populations that make no mention of sex and gender differences, even though women make up the majority of older populations.¹¹⁵ Indeed, the landing page of the World Health Organization’s Fact Sheet on Ageing and Health (last updated in October 2024) speaks of older persons in general, and makes just one reference to the potential for sex—along with a list of other factors—to influence the experience of ageing.¹¹⁶ Likewise, the WHO’s Global Report on Ageism (2021) offers no recommendations to address gendered ageism, gender data gaps, or otherwise recognize that health needs for women as they age are not the same as those for men.¹¹⁷

That medical research has not historically taken female patients into account has been recognized for some time,¹¹⁸ but its consequences for older women are significant. A recent review of research on biological aging processes revealed that more than 99 percent of studies ignore the consequences of menopause for older women’s health.¹¹⁹ The same is true for the long-term biological impacts of pregnancy, birthing, and breastfeeding.¹²⁰ The absence of relevant research is important because researchers acknowledge that more than 3 in 4 aging-related diseases in women are influenced by the systemic effects of menopause.¹²¹ What this means is that health care systems simply have no data on which to base health care treatments and decision-making on age-related conditions experienced by older women.

In addition to being excluded from health research, older women are also likely to experience disparities in access to basic health care, including screenings for known health risks. For example, women are excluded from screening for certain cancers after a certain age, even though incidence and mortality risks remain high (cervical cancer).¹²² They are also routinely

¹¹⁵ See, e.g., Rochon, et al., *Increasing the visibility of older women in clinical research*.

¹¹⁶ World Health Organization, *Ageing and Health*, <https://www.who.int/news-room/fact-sheets/detail/ageing-and-health> (1 Oct. 2024), accessed 16 Mar. 2025.

¹¹⁷ World Health Organization, *Global Report on Ageism*, <https://iris.who.int/bitstream/handle/10665/340208/9789240016866-eng.pdf?sequence=1> (2021), accessed 16 Mar. 2025.

¹¹⁸ See, e.g., B. Balch, *Why we know so little about women’s health*, <https://www.aamc.org/news/why-we-know-so-little-about-women-s-health> (AAMC, 26 Mar 2024), accessed 16 Mar. 2025. The timeline referenced notes that it was not until 1993 that the U.S. FDA officially mandated the inclusion of women in clinical research.

¹¹⁹ G. Gilmer, Z. Hettinger, Y. Tuakli-Wosornu, E. Skidmore, J. Silver, R. Thurston, D. Lowe & F. Ambrosio, ‘Female aging: when translational models don’t translate’ *Nature Aging* 3, 1500-1508 (2023).

¹²⁰ *Id.*

¹²¹ *Id.*; see also J. Walsh, *How Gaps in Research Lead to Gaps in Care for Aging Women*. Harvard Medical School, <https://hms.harvard.edu/news/how-gaps-scientific-data-lead-gaps-care-aging-women> (10 Jan 2024), accessed 16 Mar. 2025.

¹²² See, e.g., M.C. White, M. Shoemaker & V.B. Benard, ‘Cervical Cancer Screening and Incidence by Age: Unmet Needs Near and After the Stopping Age for Screening’, *American Journal of Preventive Medicine* 53(3), 392-395

excluded from studies relating to the management of HIV/AIDS and other sexually transmitted diseases. A review of interventions to improve care for women aged 40 and over who are living with HIV/AIDS in the United States found that just 4 percent of eligible studies reported results relevant to older women and none focused on women diagnosed after the age of 40 or who were caring for dependents with HIV/AIDS.¹²³ Even though cardiac disease is the most common cause of death for both women and men, women are less likely to receive various forms of treatment including bypass surgery and relevant prescriptions, even when they report the same symptoms as men.¹²⁴

In settings where patriarchal norms vest household decision-making authority exclusively in men, older women can face gendered barriers to accessing health care. In a study among older women in rural Bangladesh, researchers found a high prevalence of chronic health conditions among older women for which they were unlikely to receive care.¹²⁵ All of the women were dependent on their families for care but whether they received that care was conditioned on their status within their respective households. As women, they had to rely on male relatives to make decisions about their healthcare. Those who were widowed and did not have sons in the household were particularly vulnerable to neglect.¹²⁶

The persistence of exclusion of older women in research, data, and care continues even with respect to a topic widely recognized as disproportionately impacting women's lives: namely, violence against women.

(2017); T. Malagón, S. Kulasingam, M.H. Mayrand, G. Ogilvie, L. Smith, C. Bouchard, W. Gotlieb & E. Franco, 'Age at last screening and remaining lifetime risk of cervical cancer in older, unvaccinated women: a modelling study', *The Lancet Oncology* 19(12), 1569-1578 (2018); C.S. Lee, D. Sengupta, M. Bhargavan-Chatfield, E. Sickles, E. Burnside & M. Zuley, 'Association of Patient Age With Outcomes of Current-Era, Large-Scale Screening Mammography', *The Lancet Oncology* 3(8), 1134-1136 (2017).

¹²³ G.P. Adam, M. Di, S. Cu-Uvin, C. Halladay, B.T. Smith & T. Trikalinos, 'Strategies for Improving the Lives of Women Aged 40 and Above Living with HIV/AIDS', Agency for Healthcare Research and Quality (US), Technical Brief No. 29, <https://www.ncbi.nlm.nih.gov/books/NBK401283/> (2016), accessed 16 Mar. 2025.

¹²⁴ J.C. Chrisler, A. Barney & B. Palatino, 'Ageism can be Hazardous to Women's Health: Ageism, Sexism, and Stereotypes of Older Women in the Healthcare System' *Journal of Social Issues* 72(1), 86-104 (2016).

¹²⁵ M. Hamiduzzaman, S. Torres, A. Fletcher, M.R. Islam, N.A. Siddiquee & J. Greenhill, 'Aging, care and dependency in multimorbidity: how do relationships affect older Bangladeshi women's use of homecare and health services?', *Journal of Women & Ageing* 34(6), 731-744 (2022).

¹²⁶ Id.

4. Violence against women

Despite increased attention to violence against women as a global health crisis, there is scant information on the prevalence of violence against older women and on the unique barriers they face seeking and obtaining help. In part, this is due to conceptual approaches which, as in healthcare research, treat the experiences of persons over the age of 60 as uniform. This leads to the categorization of violence against older women as “elder abuse” or “adult mistreatment”, thereby erasing the gendered dimensions of violence.¹²⁷ Where research is specifically designed to capture data on gender-based violence or violence against women, it has typically been limited to women of reproductive age (15-49 years), excluding all women past the age of 49.¹²⁸ A 2024 scoping review of prevalence data on violence against women over 60 found that as of 2018, 161 countries had at least one population-based survey on violence against women, but just 104 of those measured violence against women aged 50 and over.¹²⁹ Most of these were in high-income settings and using common survey instruments, such as the European Union Agency for Fundamental Rights survey on violence against women. Only one country (Mexico) included a set of questions specific to women 60 years old and over in its own national survey tracking violence against women.¹³⁰

D. Ageing and gender in international policy

Given the persistence of gender inequalities impacting women as they age, one might expect that issues affecting women would have been key drivers of the movement toward a new convention on older persons. While women have certainly featured in the discussions of the Open-Ended Working Group on Aging and the work of the Independent Expert on the enjoyment of human rights by older persons, it has most often been through a lens that emphasizes older women as vulnerable rather than one which evidences a clear intent to address the structural dimensions

¹²⁷ See S.R. Meyer, M.E. Lasater & C. Garcia-Moreno, ‘Violence against older women: A systematic review of qualitative literature’, PLOS One, <https://doi.org/10.1371/journal.pone.0239560> (24 Sept. 2020), accessed 16 Mar. 2025.

¹²⁸ Id.

¹²⁹ World Health Organization, *Violence against women 60 years and older: data availability, methodological issues and recommendations for good practices*, <https://iris.who.int/bitstream/handle/10665/376338/9789240090996-eng.pdf?sequence=1> (2024), accessed 16 Mar. 2025.

¹³⁰ Id.

of gendered ageism. The sections below provide a brief descriptive overview of how gender (in this case, women) has been treated in UN policy frameworks relating to ageing, and, conversely, how (older) age has been addressed in gender equality mechanisms.

1. Gender in UN ageing frameworks

Both the Vienna International Plan of Action on Ageing (1982) and the Madrid International Plan of Action on Ageing (MIPAA) (2002) make reference to older women as a group regarding whom governments should take special policy measures.¹³¹ The MIPAA includes an article calling for the mainstreaming of a gender perspective in all policies and programmes related to older persons and development (Art. 8) and recognizes gender equality as a cross-cutting commitment within the International Plan of Action on Ageing (¶ 12(f)). Subsequent reviews of progress under the MIPAA, however, have been inconsistent about accounting for progress in these areas. The First Review and Appraisal, adopted in 2007, was silent on the topic of gender and referred to older women as a group just once, with reference to the inadequacy of many pensions to cover the basic needs of older retirees.¹³² The Second Review made repeated reference to gender and the mandate in the MIPAA to mainstream a gender perspective into national policies, but did so primarily when noting governments' limited steps in this area so far – and intent to do more.¹³³ The same pattern is evident through the Fourth Review, which was completed in November 2022.¹³⁴ In short, while the MIPAA evidences a recognition that ageing has gendered dimensions and that it is incumbent on governments to take some action, the slow pace at which governments have heeded their own call is telling.

The same is true for the United Nations Decade of Healthy Ageing, which launched in 2021. In its first progress report on the Decade, the World Health Organization incorporated

¹³¹ See, e.g., Report of the [First] World Assembly on Ageing, International Plan of Action on Aging and Other Resolutions and Decisions of the World Assembly. Chapter VI, ¶¶ 31(g), 45, 66 and 67 (1982); Political Declaration and Madrid International Plan of Action on Ageing, Article 8 (calling for gender mainstreaming in policies and programmes), paras. 19, 22, 25, and 28, among others (2002).

¹³² United Nations Economic and Social Council, *First review and appraisal of the Madrid International Plan of Action on Ageing: preliminary assessment*. U.N. Doc. No. E/CN.5/2008/7 (2007).

¹³³ United Nations Economic and Social Council, *Second review and appraisal of the Madrid International Plan of Action on Ageing, 2002*. U.N. Doc. No. E/CN.5/2013/6 (2012).

¹³⁴ United Nations Economic and Social Council, *Fourth review and appraisal of the Madrid International Plan of Action on Ageing, 2002*. U.N. Doc. No. E/CN.5/2023/6 (2022); United Nations Economic and Social Council, Resolution adopted by the Economic and Social Council on 17 April 2018 [concerning the Third review and appraisal of the Madrid International Plan of Action on Ageing, 2002]. U.N. Doc. No. E/RES/2018/6 (2018)

research finding gender inequities in a variety of fields but identified few areas of progress at addressing those.¹³⁵ Instead, references to older women effectively reiterated findings that they experienced particular forms of exclusion and inequality and pointed out issues on which women demanded change, particularly with respect to unmet needs to health care.¹³⁶

While these reviews addressed gender in a limited way, the U.N. General Assembly has adopted a number of resolutions which call out the need for action on gender discrimination including where the intersection of gender and age exacerbates discrimination against older women.¹³⁷ In its most recent follow-up to the Second World Assembly on Ageing, which focused on intergenerational solidarity, the UNGA emphasized the “paramount” need to address gender discrimination, especially in the workforce, including at the intersection of gender and age.¹³⁸ Resolution 78/177, adopted a few months before, was also explicit about the “multiple and intersecting forms of discrimination” potentially creating vulnerability for older women, and called on Member States to incorporate both a gender and disability perspective in policy relating to ageing.¹³⁹

In its concluding report, the Open-ended Working Group on Ageing highlighted the harm ageism causes in notable terms, asserting that “Ageism not only drove human rights violations but also made such violations seem natural or inevitable. Laws and policies, including international human rights instruments that were *age-neutral*, as well as institutions and mechanisms that implemented and protected them, often reflected the same biases and ageist assumptions that existed in society” (emphasis added).¹⁴⁰ The OWGA separately also acknowledged that older women are likely to face discrimination on the basis of gender and face particular forms of inequalities at the intersection of gender and age but it neglected to consider the possibility that

¹³⁵ World Health Organization, *Progress report on the United Nations Decade of Healthy Ageing, 2021-2023* (2023).

¹³⁶ *Id.* at 15-18.

¹³⁷ United Nations General Assembly, *Follow-up to the International Year of Older Persons: Second World Assembly on Ageing*, ¶¶ 12, 18. U.N. Doc. No. A/79/157 (15 July 2024); United Nations General Assembly, Resolution adopted by the General Assembly on 19 December 2023, 78/177 Follow-up to the Second World Assembly on Ageing. U.N. Doc. No. A/RES/78/177 (22 December 2023); see also, *inter alia*, United Nations General Assembly, Resolution adopted by the General Assembly, 65/182 Follow-up to the Second World Assembly on Ageing. U.N. Doc. No. A/RES/65/182 (4 February 2011); United Nations General Assembly, Resolution adopted by the General Assembly on 17 December 2015. 70/164 Measures to enhance the promotion and protection of the human rights and dignity of older persons. U.N. Doc. No. A/RES/70/164 (22 February 2016).

¹³⁸ UNGA, 2024 at ¶ 12.

¹³⁹ UNGA, 2023 at 3/12 and ¶ 36 (8/12).

¹⁴⁰ United Nations, Report of the Open-ended Working Group on Ageing on its fourteenth session, 14/20. A/AC.278/2024/2 (2024).

the ostensibly *gender-neutral* language it used when describing older persons might reinforce those same gendered dynamics.¹⁴¹ Nevertheless, although the OWGA did not explicitly reference gendered ageism or the specific dimensions discussed above, its recognition that older women face intersecting forms of discrimination on grounds of both age and gender is a promising step and offers a base from which the drafters of the new convention could build.

2. Age in UN gender frameworks

The UN has developed a robust framework to promote gender equality (more accurately, women's rights) over the past several decades. While that framework recognizes the impact of ageing and age discrimination on older women in some respects, its review processes also fall short in identifying concrete actions governments are taking.

The Beijing Declaration and Platform for Action, adopted in 1995, raises multiple concerns regarding the denial of equality to older women across a range of issues such as opportunities in labor markets, access to sexual and reproductive health care, and availability of age-appropriate information and services to meet the health needs of women as they age.¹⁴² But its review processes have similarly left older women out.¹⁴³ The thirty-year review process is currently underway and will be completed in March 2025. However a scoping review of a limited number of national reports on progress indicated that, while older women were not wholly invisible, they were overwhelmingly referenced in the context of social protection policies, measures to prevent gender-based violence, and data on the COVID-19 pandemic.¹⁴⁴

Within the UN institution, the United Nations Chief Executives Board for Coordination endorsed a System-Wide Action Plan on Gender Equality and Women's Empowerment (the Gender SWAP) which is meant to create an accountability system for progress on mainstreaming gender throughout the work of the UN.¹⁴⁵ The Gender SWAP establishes performance indicators

¹⁴¹ Id., 8/20 (¶19), 16/20.

¹⁴² Beijing Declaration and Platform for Action, ¶¶ 52, 60(a), 95, and 101 (1995).

¹⁴³ See, e.g. Office of the High Commissioner for Human Rights, *Beijing +20 Review: 'Older women must not remain invisible' – UN expert urges all Governments*, <https://www.ohchr.org/en/press-releases/2015/03/beijing20-review-older-women-must-not-remain-invisible-un-expert-urges-all> (12 March 2015), accessed 16 Mar. 2025; Report of the Independent Expert, *Human rights of older women*.

¹⁴⁴ The review included publicly available reports from: Armenia, Australia, Azerbaijan, Bangladesh, Bhutan, Japan, Nepal, Philippines, and Viet Nam only.

¹⁴⁵ United Nations Chief Executives Board for Coordination, *United Nations system-wide policy on gender equality and the empowerment of women: focusing on results and impact*, U.N. Doc. No. CEB/2006/2 (15 December 2006);

tracking the inclusion of gender equality in the policies and strategies of UN entities, the use of gender-related standards for monitoring and evaluation, including gender-responsive auditing and financial resource tracking, and efforts to generate and contribute to knowledge development on gender equality, among other things. The only references to age in the Gender SWAP are with respect to age-disaggregated data collection. In the 2023 update to the Gender SWAP, there are no references to age or older women, and no indicators which specifically hold entities accountable for adopting intersectional approaches, incorporating intersectionality in policies or strategies, or otherwise measuring performance on gender equality goals or equal representation of women on an intersectional basis. This is not to say that UN entities are unsupportive of the rights of older women or have failed to engage in efforts to advance those rights, but rather it is to point out that as others have noted in other contexts that “what gets counted counts”.¹⁴⁶

United Nations, *System-Wide Action Plan for Implementation of the United Nations CEB Policy on Gender Equality and the Empowerment of Women*, https://unsceb.org/sites/default/files/2021-01/SWAP_0.pdf (2012); UN Women, *UN-SWAP 2.0 Accountability Framework for Mainstreaming Gender Equality and the Empowerment of Women in United Nations Entities*, [https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/How We Work/UNSystemCoordination/UN-SWAP/UN-SWAP-2-TN-en.pdf](https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/How%20We%20Work/UNSystemCoordination/UN-SWAP/UN-SWAP-2-TN-en.pdf) (2023), accessed 16 Mar. 2025; United Nations, *UN-SWAP 3.0 (2024-2030)*, <https://gendercoordinationandmainstreaming.unwomen.org/building-block/un-swap-30> (2024), accessed 16 Mar. 2025.

¹⁴⁶ C. D’Ignazio & L.F. Klein, *Data Feminism*, ch. 4 (Boston: The MIT Press, 2020).

Chapter 2: Intersectionality and feminist approaches to international human rights law

All feminist theorizing rests on curiosity about women's lives.

Hilary Charlesworth, 2024.¹⁴⁷

[Y]ou can be hit by a structure; you can be bruised by a structure. An individual man who violates you is given permission: that is structure. His violence is justified as natural and inevitable: that is structure. A girl is made responsible for his violence: that is structure. A policeman who turns away because it is a domestic call: that is structure. A judge who talks about what she was wearing: that is structure. A structure is an arrangement, an order, a building; an assembly.

Sara Ahmed, 2017¹⁴⁸

International human rights conventions have typically approached human rights through one of two lenses: (1) recognizing the rights of specific groups who are categorized based on a shared identity and believed to be disadvantaged on the basis of that identity; and (2) recognizing specific human rights the violations of which harm members of multiple groups.¹⁴⁹ The final report of the Open-ended Working Group on Ageing suggests that any new convention on the rights of older persons would be approached through the identity grouping lens, calling for protection of the human rights of older persons and prevention of discrimination on the basis of (older) age and/or membership in a perceived group of older persons, however defined. In the previous chapter, I discussed the challenges flowing from this approach which include defining the identity group. This chapter builds on that discussion to analyze the theoretical challenges attendant on taking a “single-axis” approach to discrimination against older persons as a group. I argue here

¹⁴⁷ H. Charlesworth, ‘Feminist Futures in Human Rights’, in N. Bhupal, ed., *Human Rights in Transition*, 185 (2024).

¹⁴⁸ S. Ahmed, *Living a Feminist Life*, 30 (Durham: Duke University Press, 2017).

¹⁴⁹ S. Atrey, ‘Beyond Universality: An Intersectional Justification of Human Rights’, in S. Atrey & P. Dunne, eds., *Intersectionality and Human Rights Law*, ch. 1 (Oxford: Hart Publishing, 2020). Examples of the first group include the Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW] (1981), the Convention on the Rights of the Child [CRC] (1990), the Convention on the Elimination of Racial Discrimination [CERD] (1969), the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families [CMW] (2003), and the Convention on the Rights of Persons with Disabilities [CRPD] (2008). Examples of the latter group include the International Covenant on Civil and Political Rights [ICCPR] (1976), the International Covenant on Economic, Social and Cultural Rights [ICESCR] (1976), the Convention Against Torture [CAT] (1987), and International Convention for the Protection of All Persons from Enforced Disappearances [CED] (2010).

that such an approach will leave undisturbed the structural conditions that permit and sustain such discrimination, with particular focus on the intersections of sex, gender and ageing. By emphasizing a formal view of equality based on an essentialized group of homogenous “older persons”, whatever rights protections such a treaty might purport to offer are likely to make little change in the overall conditions of women’s lives as they age.

This chapter discusses two related strategies through which to give effect to the human rights of women, the first, intersectionality, originating in feminist challenges to essentialism and the second, gender mainstreaming, grown out of the women and development movement. Intersectionality originated in the work of feminists of color, postcolonial scholars, and others who contested the idea that women shared the same set of interests, experiences, and conditions of everyday life. Gender mainstreaming similarly took issue with essentialist approaches that assumed all farmers were men, for example, and excluded women from international development programming. Each of these will be discussed in turn below. The first section reviews feminist critiques of international law generally, particularly the illusion of its gender neutrality. The subsequent sections provide an overview of what an intersectional approach is and what questions it raises for the protection of women’s rights as they age.

Intersectionality

References to intersectionality have become ubiquitous at international levels and in academic publications. A recent scan of the literature in just one general database identified 1,200 peer reviewed articles with “intersectional” and variants in the title published in just the past five years.¹⁵⁰ Among human rights mechanisms within the United Nations the terminology of intersectionality has proliferated since at least the early 2000s, initially in analyses of racial and gender discrimination but more recently in reference to inequalities based in indigenous status, disability, rurality, and a host of other factors.¹⁵¹ But even as the terminology has proliferated,

¹⁵⁰ Search conducted on Oct. 12, 2024 in Academic Search Complete using intersectional! as the sole search term. Filters included title only, peer-reviewed, and within past 5 years.

¹⁵¹ See, e.g., United Nations Division for the Advancement of Women (DAW), United Nations Office of the High Commissioner for Human Rights (OHCHR), and United Nations Development Fund for Women (UNIFEM), *Report of the Expert Group Meeting on Gender and Racial Discrimination*, A/CONF.189/PC.2/20 (November 2000); United Nations Partnership on the Rights of Persons with Disabilities (UNPRPD) and UN Women, *Intersectionality Resource Guide and Toolkit: An Intersectional Approach to Leave No One Behind*, <https://www.unwomen.org/en/digital-library/publications/2022/01/intersectionality-resource-guide-and-toolkit>

confusion about the concept and when and how to apply it has persisted. More importantly, as one scholar has noted, the role of intersectionality in international human rights law remains under researched.¹⁵² How far and how deeply intersectionality theory has penetrated within human rights mechanisms, however, will be discussed in the next chapter.

The sections below review the concept of intersectionality and its relevance to international law and policy. The first section discusses the origins of the intersectional critique of essentialism, particularly in anti-discrimination law, and its limitations. It is followed by an assessment of the role of intersectionality in international law, and its relevance to the drafting of a new convention on older persons. The intention here is not to review the breadth of intersectional scholarship over the past four decades and more but rather to engage with intersectionality as a method of analysis through which to effect policy reform.¹⁵³ In particular, the sections below are concerned with how the concept of intersectionality can be applied in the drafting of a new human rights instrument so that it centers older women.

A. Seeing and being seen

Much of feminist scholarship has been committed to exploring and exposing the diversity in women's lived experiences, histories, and social realities. From Sojourner Truth's famous *Ain't I a Woman* address in 1851 through the work of critical race, post-colonial, indigenous, and women of color feminist theorists including bell hooks¹⁵⁴, Audre Lorde¹⁵⁵, Chandra Mohanty¹⁵⁶, the members of the Combahee River Collective¹⁵⁷, and many others, feminist scholars challenged

(2021), accessed 16 Mar. 2025; S.M. Falcón, *Power Interrupted: Antiracist and Feminist Activism Inside the United Nations* (Seattle: University of Washington Press, 2016).

¹⁵² S. Atrey, 'Introduction: Intersectionality from Equality to Human Rights', in S. Atrey and P. Dunne, eds., *Intersectionality and Human Rights Law*, 6 (Oxford: Hart Publishing, 2020).

¹⁵³ P.H. Collins, *Intersectionality as Critical Theory*, 34-41 (Durham: Duke University Press, 2019); L. Sosa, *Intersectionality in the Human Rights Legal Framework on Violence Against Women: At the Centre or the Margins?*, 13-15 (Cambridge: Cambridge University Press, 2017) (and authors cited therein); V. May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries*, 18-62 (New York and London: Routledge, 2015).

¹⁵⁴ G.T. Hull, P.B. Scott & B. Smith, eds., *All the Women are White, All the Blacks are Men, But Some of Us are Brave: Black Women's Studies* (Old Westbury, NY: The Feminist Press, 1982).

¹⁵⁵ A. Lorde, *Sister Outsider: Essays and Speeches* (Trumansburg, NY: Crossing Press, 1984).

¹⁵⁶ C.T. Mohanty, 'Under Western eyes: Feminist Scholarship and Colonial Discourses', *Feminist Review* 30(1), 61-88.

¹⁵⁷ A Black Feminist Statement. (2009[1978]). In S.M. James, F. Smith Foster & B. Guy-Sheftall, eds., *Still Brave: The Evolution of Black Women's Studies*, 3-11 (New York City: The Feminist Press at the City University New York, 2009).

singular conceptions of gender and women that assumed both were universal and homogenous categories.¹⁵⁸ They called for attention to multiple systems of power beyond patriarchal oppression, and the links between them, including those which disadvantaged women of color, women in post-colonial settings, lesbian women, and more.¹⁵⁹

Kimberlé Crenshaw is typically credited with being the first to use the term “intersectionality”. Challenging the treatment of race and gender as “mutually exclusive categories of experience and analysis”, particularly but not exclusively in discrimination law, Crenshaw argued that analyses of discrimination that focused on a single category had the effect of erasing far more complex realities.¹⁶⁰ Using the metaphor of an intersection, Crenshaw argued that the experience of discrimination for Black women could not be captured by either anti-racist or anti-sexist narratives standing alone, that they are broader than what the dominant single categorical analyses could capture.¹⁶¹

At the center of Crenshaw’s critique is its challenge to the way discrimination had traditionally been approached in U.S. law. By assuming that discrimination can and does occur solely on the basis of a single factor, Crenshaw argued that discrimination law establishes a “but for” test of causation, meaning that the law will recognize discrimination on the basis of sex if a victim can establish that “but for” her sex she would not be disadvantaged. Likewise, discrimination on the basis of race assumes that “but for” its victim’s race, he would not experience disadvantage. The ‘but for’ test flows from a conceptualization of discrimination that assumes the discriminator means to (1) target a single social identity group for negative or disadvantageous treatment on the basis of membership in that group; and (2) intends to (or acts in a way that has the effect of) treat(ing) all of the members within the targeted group the same or disadvantage them similarly.¹⁶²

¹⁵⁸ L. McCall, ‘The Complexity of Intersectionality’, *Signs* 30(3), 1771-1800, at 1776 (2005).

¹⁵⁹ Sosa, *Intersectionality in the Human Rights Legal Framework*, 13-32; A. Hancock, *Intersectionality: an intellectual history* (Oxford: Oxford University Press, 2016); T. Grillo, ‘Anti-Essentialism and Intersectionality: Tools to Dismantle the Master’s House’, *Berkeley Women’s Law Journal* 10(1), 16-30 (1995).

¹⁶⁰ K. Crenshaw, ‘Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics’, *University of Chicago Legal Forum*, 139-167, at 139 (1989); see also K. Crenshaw, ‘Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color’, *Stanford Law Review* 43(6), 1241-1299 (1991).

¹⁶¹ Crenshaw, *Demarginalizing the Intersection of Race and Sex*, 149.

¹⁶² L. Roseberry, ‘Multiple discrimination’, in M. Sargeant, ed., *Age Discrimination and Diversity: Multiple Discrimination from an Age Perspective*, ch. 2 (Cambridge: Cambridge University Press, 2011); see also Crenshaw, *Demarginalizing the Intersection of Race and Sex* at 150.

This results in what Carbado and Harris refer to as the “sameness/difference” dimension of discrimination law, where in some cases courts have held that Black women are sufficiently the same as white women that if white women do not experience sexism (e.g. in a workplace), neither do Black women; conversely, Black women are as the same as Black men with respect to racism such that if Black men do not experience racism, Black women do not either. At the same time, courts have also denied Black women the ability to represent a class of plaintiffs that include white women or Black men because race/sex make them so different as not to be representative. (2221).

Not only does this drastically simplify the reality of discrimination in practice, it has the effect of privileging those members of a group, such as white women or Black men, who are already the most privileged (or least disadvantaged) within the group. By focusing only on a single factor or category as the basis for discrimination (e.g. sex OR race), antidiscrimination law had the effect of setting as its baseline the experiences of those who experienced just one category of discrimination, such as white women who may experience sex discrimination but whose race was privileged. In other words, by refusing to recognize the possibility that women may be discriminated against on the basis of *both* their sex and race, discrimination law “focuses only on the most privileged ‘victims’ of discrimination” – and marginalizes the rest.¹⁶³

What Crenshaw sought to instill instead is the recognition that while Black women shared similar experiences of discrimination and disadvantage with white women on the basis of their same sex, and similar experiences of disadvantage and discrimination with Black men on the basis of their same race, they also experienced different forms of disadvantage from both groups because of their race *and* sex. Intersectional analysis, then, must be attentive to *both* how certain forms of group disadvantage are similar and where and how there are intra-group differences.¹⁶⁴

This illustrates one key theme in intersectional scholarship, namely an insistence on recognizing that we are all more than one thing at any given moment in time.¹⁶⁵ We have a race, ethnicity, age, abilities, sexual orientation, gender identity, and often more than one of each, no one of which can be isolated from who we are and how we move in the world. Intersectionality

¹⁶³ Crenshaw, *Demarginalizing the Intersection of Race and Sex* at 140, 151; Roseberry, *Multiple discrimination* at 24.

¹⁶⁴ See Crenshaw, *Demarginalizing the Intersection of Race and Sex*, 150-152; Atrey, *Intersectional Discrimination*, 37-41; see also D.W. Carbado & C.I. Harris, ‘Intersectionality at 30: Mapping the Margins of Anti-Essentialism, Intersectionality, and Dominance Theory’, *Harvard Law Review* 132, 2193-2239 (2019); McCall, *The Complexity of Intersectionality*, 1771-1800.

¹⁶⁵ G. Quinn, ‘Reflections on the Value of Intersectionality to the Development of Non-Discrimination Law’, *The Equal Rights Review* 16, 63-72 (2016).

insists on a recognition of this multi-dimensionality of human experience in the way we think about and address discrimination. Iris Marion Young emphasized that the focus should be not on group identity per se but rather on how individuals are positioned within social structures determined in part by the expectations of others:

Social structures position individuals in relations of labour and production, power and subordination, desire and sexuality, prestige and status...Legal rules function as important constraints, but so do cultural norms...A configuration of particular assets, rules, norms and preferences creates the constraints that define what we call social groups based on gender, class, race, age, and so on. Thus membership in the group called 'women' is the product of a loose configuration of different structural factors.¹⁶⁶

Crenshaw's critique is important not only because it exposes mechanisms of marginalization but also because it draws attention to the corresponding reinforcement of unspoken privilege. In other words, for Crenshaw and other scholars who have built on her insights the objective of intersectional analysis is not only to draw attention to systems of oppression but correspondingly to identify how those systems and related political structures maintain privileges attached to certain social groupings.¹⁶⁷ As Vivian May has pointed out,

When single-axis models are relied on, the experiences and knowledge of some are often (falsely) universalized as if they could adequately represent the experiences, needs, and claims of all group members: this obscures within-group differences, the relationality of power, and interactions among and permeability between categories....Intersectionality is thus especially useful for unpacking how it is that many equality strategies paradoxically legitimize and even expand the forms of violence or harm they seek to dismantle, in large part because they do not depart from the binary logics and hierarchical processes that undergird inequality.¹⁶⁸

Intersectional analysis thus focuses on both oppression and dominance, subordination *and* privilege, with the objective of understanding how each are related to the other.¹⁶⁹

In the context of older women, for example, any effort to strip out gender (or race, class, geography, ability, sexual orientation, gender identity, and the like) from the experience of ageing necessarily elevates the experience of ageing men and establishes it as the norm against which other experiences are merely a subset. Trina Grillo makes this point in reference to race and

¹⁶⁶ I.M. Young, 'Lived Body vs. Gender: Reflections on social structure and subjectivity', *Ratio* 15(4), 420-421 (2002).

¹⁶⁷ See, e.g. May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries*, 79.

¹⁶⁸ *Id.*, 82.

¹⁶⁹ *Id.*, 4.

gender, quoting Elizabeth Spelman: “[S]uch essentialism makes the participation of other women inessential to the production of the story. How lovely: the many turn out to be one, and the one that they are is me.”¹⁷⁰

By being attentive to what is unspoken or taken for granted in law and other social institutions, intersectionality exposes “sites of omission” and asks us to consider what meanings attach to those silences.¹⁷¹

B. Anti-essentialism and intersectionality – tools in the same toolbox?

Intersectionality has at times been conflated with anti-essentialism, or a firm rejection of the premise of “a unitary, ‘essential’, women’s experience [which] can be isolated and described independently of race, class, sexual orientation, and other realities of experience”.¹⁷² Anti-essentialism refers to opposition to the idea that the experience of any member of a social group is or can be representative of all other members of the same social group.¹⁷³ At its most extreme, anti-essentialism could be read to challenge categorization per se, as some scholars have indeed done.¹⁷⁴ In practice, however, the conflation of the two concepts has frequently led to the fragmenting of social groups into ever smaller subsets with the idea being that an identity-based politics demands representation of as many identities as possible.¹⁷⁵

¹⁷⁰ Grillo, *Anti-Essentialism and Intersectionality*, 19.

¹⁷¹ May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries*, 4.

¹⁷² A. Harris, ‘Race and Essentialism in Feminist Legal Theory’, *Stanford Law Review* 42, 581, 585 (1990) (quoted in Carbado & Harris, *Intersectionality at 30*, 2200; see also Grillo, *Anti-Essentialism and Intersectionality*, 19-30; McCall, *The Complexities of Intersectionality*, 1771-1800.

¹⁷³ See, e.g., Carbado & Harris, *Intersectionality at 30*, 2193-2239; Harris, *Race and Essentialism in Feminist Legal Theory*, 581; Grillo, *Anti-Essentialism and Intersectionality*, 19-30; McCall, *The Complexities of Intersectionality*, 1771-1800.

¹⁷⁴ See discussion in McCall, *The Complexities of Intersectionality*, 1771-1800; see also J. Butler, *Gender Trouble: Feminism and the Subversion of Identity*, 182 (New York, NY: Routledge, 1990); Carbado & Harris, *Intersectionality at 30* at 2211 (noting Crenshaw’s objection to “vulgar anti-essentialism” and its dismissal of racial categories as a basis for analysis. In Crenshaw, K. ‘Introduction’, in K. Crenshaw, N. Gotanda, G. Peller & K. Thomas, eds., *Critical Race Theory: The Key Writings that Formed the Movement* (New York, NY: The New Press, 1995)).

¹⁷⁵ During a recent meeting I attended of senior UN human rights officers to discuss the scope of a major research report on disability one of the most robust debates concerned the creation of a chapter on “identities” and who (or which) should be included.

While intersectionality has what one scholar referred to as “anti-essentialist tendencies”,¹⁷⁶ emphasizing differences within social categories, others have noted that Crenshaw’s argument was slightly different. Carbado and Harris, for example, point out that Crenshaw was concerned not primarily with anti-essentialism and the exclusion of particular identities, but rather on how systems of power (re)produced racial and gender subordination by delimiting the scope of antidiscrimination law and discourse”.¹⁷⁷ In other words, while intersectionality challenges the homogenization of experience endemic to rigid forms of categorization, it still relies to some extent on categories to identify and describe social inequalities. More importantly, it is not concerned with categorization per se but much more by its political effects. As Trina Grillo points out, “The question is whether the essentialism, which is sometimes unavoidable, is explicit, is considered temporary, and is contingent.”¹⁷⁸

This points to two key and related insights: first, the recognition that while social categories are meaningful to personal identity formation they are tied to power systems that change across time and context, and second, that the meanings social identity categories hold are relational and need to be placed in context to be understood. As Carbado and Harris note, simply fragmenting a social category or identity grouping into ever smaller subgroups does not answer the anti-essentialist challenge. The grouping made up of indigenous women activists with disabilities from Latin-America can no more be assumed to share universal characteristics than any other.¹⁷⁹

One of the dangers of identity-based approaches to discrimination is that the boundaries between identity groupings are not always clear and are likely to be contested, as discussed in chapter 1 of this paper.¹⁸⁰ Recognizing that social identities are inconsistent and unstable categories of analysis, intersectionality scholars point to the importance of context or what Stuart Hall and Nira Yuval-Davis have variously referred to as *positionings* as a more relevant basis for

¹⁷⁶ P.Y. Chow, ‘Has Intersectionality Reached Its Limits? Intersectionality in the UN Human Rights Treaty-Body Practice and the Issue of Ambivalence’, *Human Rights Law Review* 16, 453-481 (2016); see also Carbado & Harris, *Intersectionality at 30* at 22211, n. 94.

¹⁷⁷ Carbado & Harris, *Intersectionality at 30* at 2199-2200.

¹⁷⁸ Grillo, *Anti-Essentialism and Intersectionality* at 21.

¹⁷⁹ Carbado & Harris, *Intersectionality at 30*, 2193-2239; see also Grillo, *Anti-Essentialism and Intersectionality*, 16-30.

¹⁸⁰ See also, e.g., N. Yuval-Davis, ‘Intersectionality and Feminist Politics’, *European Journal of Women’s Studies* 13(3) at 204 (2006); J. Price & N. Goyal, ‘The Fluid Connections and Uncertain Spaces of Women with Disabilities: Making Links Across and Beyond the Global South’, in S. Grech and K. Soldatic, eds., *Disability in the Global South*, 303-321 (Cham, Switzerland: Springer, 2016); R. Garland-Thomson, ‘Feminist Disability Studies’, *Signs* 30(2), 1557-1587 (2005); S. Wendell, *The Rejected Body: Feminist Philosophical Reflections on Disability* (New York, NY: Routledge, 1996).

analysis. Stuart Hall noted, “Identity is not a set of fixed attributes, the unchanging essence of the inner self, but a constantly shifting process of *positioning*. We tend to think of identity as taking us back to our roots, the part of us which remains essentially the same across time. In fact identity is always a never-completed process of becoming – a process of shifting *identifications*, rather than a singular, complete, finished state of being.”¹⁸¹ This is especially true for a category such as chronological age and ageing, especially the latter’s gendered expressions, which by definition change with time.

Scholars have also pointed out that if we accept that identities are not static, we must also acknowledge that they are shaped by and take on meaning as a result of discourses.¹⁸² In other words, identities are formed through what Chow refers to as “process[es] of interpretation” based on cultural, social, and political narratives and dominant media discourses.¹⁸³

Reflecting on what this dynamic meant for understanding multidimensional inequalities, Yuval-Davis noted that “What is important is to analyse how specific positionings and (not necessarily corresponding) identities and political values are constructed and interrelate and affect each other in particular locations and contexts. Similarly important would be an examination of the particular ways in which the different divisions are intermeshed. One cannot assume the same effect or constellation each time and, hence, the investigation of the specific social, political, and economic processes involved in each historical instance is important.”¹⁸⁴

Scholars have argued that a focus on identity(ies) misses the point of the intersectional critique Kimberlé Crenshaw sought to prompt. As Nira Yuval-Davis has pointed out, by essentializing race, gender, class, and other social “identities” and attaching them to specific forms of oppression, analysts conflate social identity with social positioning and erase or mask the experiences of those at the margin of a particular social category.¹⁸⁵ Yuval-Davis has argued for the recognition of intersectionality as a tool not of identity politics but rather a method for *avoiding* the conflation of identities with social positionings and the presumed effects of each. The objective is not to challenge the existence of identity groupings but rather to avoid fixing certain identity

¹⁸¹ S. Hall, *Familiar Stranger: A Life Between Two Islands*, 16, B. Schwarz, ed. (Durham: Duke University Press, 2017) (quoted in Collins, *Intersectionality as Critical Social Theory* at 37).

¹⁸² See, e.g., McCall, *The Complexity of Intersectionality* at 1781-1782; Chow, *Has Intersectionality Reached Its Limits?*, 453-481.

¹⁸³ Chow, *Has Intersectionality Reached Its Limits?* at 460.

¹⁸⁴ Yuval-Davis, *Intersectionality and Feminist Politics*, 200.

¹⁸⁵ *Id.*

groupings with specific sets of outcomes or effects. In other words, Yuval-Davis points out that to be Black or to be a woman is not another way of being poor or in a lower socio-economic class even if it can be said that the majority of people in lower socio-economic classes in certain countries are Black.¹⁸⁶

Sandra Fredman argues that intersectionality is a key component to achieving substantive equality because in her view it focuses attention on *disadvantage* over identity. Whereas anti-discrimination law tends to encourage a comparative approach (e.g. is this group better/worse off than another), Fredman contends intersectionality and its recognition that disadvantage stems from the interaction of multiple social factors allow for a more complete understanding of how rights are violated in practice.¹⁸⁷ By being attentive to the multiple factors coalescing to cause disadvantage, an intersectional approach avoids the need to identify a comparator against which disadvantage is measured. In Fredman's reading, the question becomes not whether black students have the same ability to attend school as white students but whether a pregnant Black student in a poor, racialized school is excluded from a meaningful opportunity to learn.¹⁸⁸ In that way, attention is focused on the steps necessary to redress the disadvantage such a learner faces rather than merely prohibiting discrimination on the basis of race in admission to school.

Pointing to a series of U.S. Supreme Court cases in the wake of *Brown v. Board of Education*, Fredman argues that it is only when litigants pursued claims challenging the *adequacy* of education rather than the equity of racialized school spending that courts began to address the real disadvantage that Black students experienced not just because of their race but because of structural disadvantages caused by poverty, housing patterns, racialized zoning, political powerlessness, and a host of related factors.¹⁸⁹

More than a decade after her groundbreaking publications, Crenshaw commented on her original intent: “[M]y own use of the term ‘intersectionality’ was just a metaphor. I’m amazed at how it gets over- and underused; sometimes I can’t even recognize it in the literature anymore. I was simply looking at how these systems of oppression overlap. But more importantly, how in the process of that structural convergence rhetorical politics and identity politics—based on the idea

¹⁸⁶ Yuval-Davis, *Intersectionality and Feminist Politics* at 200.

¹⁸⁷ S. Fredman, ‘The Right to Education and Substantive Equality: An Intersectional Reading’, in S. Atrey and P. Dunne, eds., *Intersectionality and Human Rights Law*, ch. 4 (Oxford: Hart Publishing, 2020).

¹⁸⁸ *Id.* at 87.

¹⁸⁹ *Id.*

that systems of subordination do not overlap—would abandon issues and causes and people who actually were affected by overlapping systems of subordination.”¹⁹⁰

C. Shaken, not stirred – multiple, overlapping, and intersectional discrimination

Not only is intersectionality not the same as anti-essentialism, it is also not the same as multiple discrimination. Crenshaw and others have emphasized that the intent behind intersectionality is not to recognize different identitarian forms of discrimination and presume they produce an additive or compounded dimension.¹⁹¹ Rather, it is to highlight that there is a form of discrimination which exists *at the intersection* of social categories that is unique to that intersection and cannot be resolved by measures address each component one by one. It is not sequential but simultaneous, a particular form of “enmeshed” subordination that cannot be disentangled into one-dimensional frames.¹⁹² With reference to Black women, Crenshaw emphasized that “the intersectional experience is greater than the sum of racism and sexism”, it is rather a particular form of subordination that Black women experience on grounds of being *both* Black and women.¹⁹³

Multiple or additive approaches to discrimination, by comparison, leave identity categories intact and analyze each as a one-dimensional form of discrimination. They both presume that it is possible to disentangle the experience of, say, subordination on the basis of sex, from the experience of subordination on the basis of any other category.¹⁹⁴ They do not disrupt the effect

¹⁹⁰ K. Guidroz & M.T. Berger, ‘A Conversation with Founding Scholars of Intersectionality: Kimberle Crenshaw, Nira Yuval-Davis, and Michelle Fine’, in K. Guidroz & M. Berger, eds., *The Intersectional Approach: Transforming the Academy Through Race, Class and Gender*, 61-78 (Chapel Hill, NC: The University of North Carolina Press, 2009) (quoted in Collins, *Intersectionality as Critical Social Theory*, 25).

¹⁹¹ See, e.g., May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries*, 22 (“Intersectionality...is not a cumulative or arithmetical identity formula (race + gender + class + sexuality + disability + citizenship status, and so on, as if these were sequential, separate factors)"); see also Carbado & Harris, *Intersectionality at 30* at 2200 on Angela Harris’s foundational work, *Race and Essentialism in Feminist Legal Theory*: “Her project, rather, is to identify the harms of gender essentialism. These harms include the practice of ‘reduc[ing] the lives of people who experience multiple forms of oppression to addition problems’ in which racism is added to sexism in ways that obscure fundamental realities of Black women’s social experiences”.

¹⁹² May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries* at 22.

¹⁹³ Crenshaw, *Demarginalizing the Intersection of Race and Sex*, 139-168.

¹⁹⁴ See, e.g. R. Garland-Thomson, ‘Integrating Disability, Transforming Feminist Theory’, in K.Q. Hall, ed., *Feminist Disability Studies*, ch. 1 (Bloomington: Indiana University Press, 2011); Roseberry, *Multiple discrimination*.

of privilege within each category but rather work in the same way as single-axis frameworks to reinforce the most advantaged within a group as the norm.¹⁹⁵ Johanna Bond distinguishes the two in this way:

Multiple discrimination views identity categories, and the concomitant subordination or privilege attached to those categories, as fixed and layered...Intersectionality, by contrast, views intersecting identities as dynamic and mutually constitutive, combining to form new and unique experiences of subordination, privilege, or both.¹⁹⁶

Intersectional analysis thus calls for what Vivian May describes as “matrix thinking” that looks at how inequalities “intermingle and span and transform structures and activities at all levels and in all institutional contexts”.¹⁹⁷ The objective is to expose kinds of harm within group disadvantage which might otherwise be erased to that they can be addressed (or redressed) and transformed.¹⁹⁸

Intersectionality in international law

The silences of the discipline are as important as its positive rules and rhetorical structures.

Hilary Charlesworth and Christine Chinkin, 2000¹⁹⁹

International law, including human rights law, has not been immune to feminist critique for its approaches to equality and discrimination. Indeed, scholars and advocates have raised similar challenges to international law, particularly with respect to its embrace of a heteronormative male standard but also its slow integration of intersectional perspectives. The following sections review feminist critiques of international law and discuss its penetration into international human rights practices, most notably within the UN treaty bodies.

¹⁹⁵ May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries*, 22.

¹⁹⁶ J. Bond, *Global Intersectionality and Human Rights*, 54. (Oxford: Oxford University Press., 2021).

¹⁹⁷ May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries*, at 22.

¹⁹⁸ Atrey, *Intersectional Discrimination*, 37.

¹⁹⁹ H. Charlesworth & C. Chinkin, *The boundaries of international law: A feminist analysis*, 49 (Manchester: Manchester University Publishing, 2000).

A. Feminist approaches to international law

Feminists²⁰⁰ have long found fault with international law's purported claims to gender neutrality, noting its tendency to "sidestep" issues of particular interest to women, such as gender-based violence, illiteracy, and reproductive health, and address those in so-called "soft law" instruments which do not have binding effect.²⁰¹ Critics have also challenged the "ghettoization" of the human rights of women into specialized instruments like the Convention on the Elimination of All Forms of Discrimination Against Women, arguing that doing so marginalizes women and discourages recognition of women as relevant to implementation of what could be considered mainstream human rights instruments.²⁰² This has been attributed in part to the absence of women in international policy-making fora, including international legal institutions.²⁰³ Since its creation in 1947, the International Law Commission, the body with responsibility for the development and codification of international law²⁰⁴, has had just 7 women members (compared with 229 men). Only the African Court of Human and Peoples' Rights and the International Criminal Court have achieved gender parity among judges.²⁰⁵ Neither the International Court of Justice, the European

²⁰⁰ Following the practice of Hilary Charlesworth, I use feminism and feminist throughout this paper to indicate an intentional "way of asking questions" that seeks to illustrate both how women's lives are constructed and erased within the field of human rights. Charlesworth, *Feminist Futures in Human Rights*.

²⁰¹ Charlesworth & Chinkin, *The boundaries of international law: A feminist analysis*; H. Charlesworth, 'The Women Question in International Law', *Asian Journal of International Law* 1, 33-38 (2011); see also H. Charlesworth, 'The Hidden Gender of International Law', *Temple International and Comparative Law Journal* 16, 93-102 (2002); H. Charlesworth, C. Chinkin & S. Wright, 'Feminist Approaches to International Law', *American Journal of International Law* 85(4), 613-645 (1991). For example, the Declaration on the Elimination of Violence Against Women was adopted by resolution of the UN General Assembly in February 1994. It is a non-binding statement of principles that does not have the legal effect of a treaty under international law.

²⁰² H. Charlesworth, 'Not Waving but Drowning: Gender Mainstreaming and Human Rights in the United Nations', *Harvard Human Rights Journal* 18, 1-18 (2005); see also Charlesworth, et al., *Feminist Approaches to International Law*, 625.

²⁰³ Charlesworth, *The Women Question*, 33-34; see also Charlesworth, et al., *Feminist Approaches to International Law*, 614-615 (ascribing the lack of representativeness to the organizational structure of international law and adoption of states, with their patriarchal structures, as its (sole) subjects). Little has changed in the more than two decades since Charlesworth and Chinkin raised this argument. Fewer than one-third of UN Member States have ever had a woman head of government and as of October 2024, just 13 of the 193 member states were led by women. See Pew Research Center. (3 Oct. 2024). *About a third of UN member states have ever had a woman leader*. Accessed at: <https://www.pewresearch.org/short-reads/2024/10/03/women-leaders-around-the-world/>.

²⁰⁴ Statute of the International Law Commission, Art. 1(1). (adopted by the General Assembly, 21 Nov. 1947); see also Charter of the United Nations, Art. 13(1)(A).

²⁰⁵ A. Follesdal, 'How many women judges are enough on international courts?', *Journal of Social Philosophy* 52(4), 436-458 (2021); International Criminal Court. Who's Who (as of January 2025), <https://www.icc-cpi.int/judges/judges-who-s-who>, accessed 16 Mar. 2025.

Court of Human Rights, nor the Inter-American Court of Human Rights have had equal numbers of women and men judges in their respective histories.²⁰⁶

Similar, though less extreme, disparities are present in the human rights treaty bodies. In a 2021 report, the U.N. Human Rights Council found that women are significantly underrepresented in the human rights treaty bodies, with most women members clustered in those committees focused on the rights of women, children, and persons with disabilities.²⁰⁷ Likewise, within the UN fewer than 1 in 4 Permanent Representatives of Member States are women and in 2023, just 12 women spoke during the UN General Assembly in New York.²⁰⁸ Hilary Charlesworth, one of the few women to have served on the International Court of Justice, has labeled the lack of representation of women within the human rights organs of the United Nations itself a violation of human rights and the mandate in the CEDAW to ensure women have equal rights to participation in international work “on equal terms with men and without discrimination”.²⁰⁹

Women’s rights advocates have also challenged the way in which international law adopted the notion of formal equality, purporting to protect individuals from discrimination on the basis of group membership but in the process reifying men’s experiences as the norm against which discrimination was assessed.²¹⁰ Catherine MacKinnon notes “Concealed is the substantive way in which man has become the measure of all things. Under the sameness standard, women are measured according to our correspondence with man...Gender neutrality is thus simply the male

²⁰⁶ See H. Keller, C. Heri & M. Christ, ‘Fifty Years of Women at the European Court of Human Rights: Successes and Failures of the Council of Europe’s Gender Agenda’, in F. Baetens, ed., *Identity and Diversity on the International Bench: Who is the Judge?* (Oxford: Oxford University Press, 2020); International Association of Women Judges, *Women Judges in International Courts: The Way to Parity*, https://www.iawj.org/content.aspx?page_id=2507&club_id=882224&item_id=4921&pst=22260 (21 Sept. 2021), accessed 16 Mar. 2025; E.O. Benito, *Symposium on Gender Representation: Gender Parity in International Courts – The Voice of an International Judge*, <http://opiniojuris.org/2021/10/04/symposium-on-gender-representation-gender-parity-in-international-courts-the-voice-of-an-international-judge/> (10 April 2021), accessed 16 Mar. 2025.

²⁰⁷ Report of the Human Rights Council Advisory Committee, *Current levels of representation of women in human rights organs and mechanisms: ensuring gender balance*. UN Doc. No. A/HRC/47/51 (21 May 2021).

²⁰⁸ Inter-Parliamentary Union, *Making the UN General Assembly Gender Equal: What Will It Take?* <https://www.ipu.org/event/making-un-general-assembly-gender-equal-what-will-it-take> (3 May 2023), accessed 16 Mar. 2025; M. Nichols, *UN assembly: Fewer than 12% of key speakers were women*, Reuters (26 Sept. 2023).

²⁰⁹ Charlesworth, *The Women Question in International Law*, 33.

²¹⁰ C. MacKinnon, *Feminism Unmodified: Discourses on Life and Law*, 34 (Cambridge, MA: Harvard University Press, 1987); J. Bond, ‘International Intersectionality: A Theoretical and Pragmatic Exploration of Women’s International Human Rights Violations’, *Emory Law Journal* 52, 71-186 (2003); R. Kayess & P. French, ‘Out of Darkness into Light: Introducing the Convention on the Rights of Persons with Disabilities’, *Human Rights Law Review* 8(1), 1-34 (2008).

standard”.²¹¹ In other words, in instruments which adopted a facially gender-neutral approach, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, the only way for women to prove gender-specific abuses was to demonstrate that State laws treated them differently than they treated men.²¹² There was no recognition that women might have been differently situated and that difference was a product of discriminatory systems.²¹³ The presumed remedy for discrimination was that everyone should be treated the same, thus discounting gender-specific experiences and forms of subordination such as unequal burdens of unpaid care work, gender-based violence, and the like.

Anti-essentialism also figured in critiques of international law—and of the women’s human rights movement. The ideas that women could constitute a universal social grouping globally or that all women shared the same forms or degrees of oppression were challenged at the international level by women of colour, post-colonial scholars and others.²¹⁴ This was not to say that women did not share some degree of common experience but rather that assessments of gender inequalities needed to take seriously the “transnational, regional, cross-cutting thematic, and unique national conditions” in any particular context to assess the forms oppression might take.²¹⁵

To resolve the tensions between seeking (or acknowledging) common ground and resisting the idea of the “universal woman”, scholars like Chandra Mohanty and Gayatri Spivak proposed strategic engagements with social categories, an “imagined community” through which advocates can explore transnational collaboration while still acknowledging the real differences between them.²¹⁶ Charlesworth and Chinkin quote Spivak approvingly for her dismissal of “theoretical purity” over strategic engagement:

You pick up the universal that will give you the power to fight against the other side and what you are throwing away by doing that is your theoretical purity. Whereas the great custodians of the anti-universal are obliged therefore simply to act in the

²¹¹ MacKinnon, *Feminism Unmodified*, 34; see also S. Fredman, ‘Substantive equality revisited’, *International Journal of Constitutional Law* 14(3), 712-738 (2016).

²¹² Bond, *International Intersectionality* at 83.

²¹³ Kayess & French, *Out of the Darkness* at 8.

²¹⁴ See, e.g., Charlesworth & Chinkin, *The boundaries of international law*; Bond, *International Intersectionality*; Falcón, *Power Interrupted*, 15-21.

²¹⁵ Falcón, *Power Interrupted* at 17.

²¹⁶ C. T. Mohanty, ‘Cartographies of struggle: third world women and the politics of feminism’, in C. Mohanty, A. Russo, & L. Torres, eds., *Third World Women and the Politics of Feminism*, 1-7 (Bloomington, IN: Indiana University Press, 1991); see also Charlesworth & Chinkin, *The boundaries of international law*, 53; Falcón, *Power Interrupted* at 17-21.

interest of a great narrative, the narrative of exploitation, while they keep themselves clean by not committing themselves to anything.²¹⁷

In her study of antiracist feminist activism within the UN, Sylvanna Falcón found just this kind of strategic coming together of activists and representatives from civil society and non-governmental organizations formulating positions with (some) shared goals but speaking from and of highly localized experiences.²¹⁸

1. Gender mainstreaming as intersectionality ‘lite’²¹⁹

Intersectionality as a concept has been widely recognized in human rights mechanisms within the UN over the past two decades or more. It is the subject of a Resource Guide and Toolkit developed by UN Women and is identified as a cross-cutting theme in the United Nations Disability Inclusion Strategy, adopted in 2019.²²⁰ In practice, however, the most common tool to integrate women in the work of the UN, including within the human rights treaty bodies, has tended to be gender mainstreaming. Mainstreaming was one of the strategies proposed during the negotiations of the CRPD as a way to integrate women with disabilities in the treaty text.²²¹ It is therefore a strategy likely to be significant in the drafting of a new convention on the rights of older persons and is therefore worth discussing here.

Gender mainstreaming is defined as “the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns of women as well as of men an integral part of

²¹⁷ Charlesworth & Chinkin, *The boundaries of international law* at 55 (quoting Spivak, G. (1990). Criticism, feminism and the institution. *These Eleven 10/11* at 184).

²¹⁸ Falcón, *Power Interrupted*, 152-158.

²¹⁹ Bond, *Global Intersectionality and Contemporary Human Rights*, 60.

²²⁰ UN Women and UN Partnership on the Rights of Persons with Disabilities [UNPRPD], *Intersectionality Resource Guide and Toolkit: An Intersectional Approach to Leave No One Behind*. <https://www.unwomen.org/sites/default/files/2022-01/Intersectionality-resource-guide-and-toolkit-en.pdf> (2022), accessed 16 Mar. 2025; United Nations. *United Nations Disability Inclusion Strategy*. <https://www.un.org/en/content/disabilitystrategy/> (2019), accessed 16 Mar. 2025.

²²¹ R. Kayess, T. Sands & K.R. Fisher, ‘International Power and Local Action – Implications for the Intersectionality of the Rights of Women with Disability’, *Australian Journal of Public Administration* 73(3), 383-396 at 389 (2014); International Disability Alliance, *From Beijing to the CRPD: the missing keystone*, https://www.internationaldisabilityalliance.org/sites/default/files/documents/ida_beijing_reportfinal_16-03-2023.pdf (n.d.); M.Y. Kim, ‘Women with Disabilities: The Convention Through the Prism of Gender’, in M. Schulze and M. Sabatello, eds., *Human Rights and Disability Advocacy*, ch. 7 (Philadelphia: University of Pennsylvania Press, 2014).

the design, implementation, monitoring and evaluation of policies and programmes... so that women and men benefit equally and inequality is not perpetuated.”²²² It is widely used as a way to promote related strategies like gender auditing, gender budgeting, collection of sex-disaggregated data, and the like, and has no doubt contributed to greater visibility of women within UN mechanisms.²²³ The concept nevertheless has its critics, especially with respect to its equation with an intersectional approach.

For one, there has been substantial criticism of the term “mainstreaming” for its lack of specificity. The Commentary on the CEDAW, which pre-dates use of the term, notes persistent objections to the use of mainstreaming by the OHCHR, which prefers instead to speak of the “integration of a gender perspective”.²²⁴ The authors raise their own objections as well, taking issue with the term’s “narrow and exclusionary vision of women’s place in the world, suggesting that they are a group that has to be deliberately included by those in power rather than rightfully enjoying their engagement as half of humankind”.²²⁵ What exactly is meant by or required for “mainstreaming” and how it should be measured are all similarly contested, with some authors recognizing the concept as a technical and highly specialized approach to protecting the rights of vulnerable groups and others emphasizing it as a command to fully integrate the rights of vulnerable groups within policy and programmes.²²⁶ Hilary Charlesworth has also pointed out that

²²² United Nations Sustainable Development Group, *Gender Mainstreaming*, [https://unsdg.un.org/sites/default/files/2019-09/Gender Mainstreaming.pdf](https://unsdg.un.org/sites/default/files/2019-09/Gender%20Mainstreaming.pdf) (2019); see also United Nations Economic and Social Council, *Agreed Conclusions 1997/2*, recorded in <https://www.un.org/womenwatch/osagi/pdf/ECOSOCAC1997.2.PDF>, accessed 16 Mar. 2025; *Report of the Secretary-General: Coordination of the Policies and Activities of the Specialized Agencies and Other Bodies of the United Nations System: Mainstreaming the gender perspective into all policies and programmes in the United Nations system*, U.N. Doc. No. E/1997/100 (12 June 1997); United Nations Economic and Social Council, *Resolution 2004/4: Review of Economic and Social Council agreed conclusions 1997/2 on mainstreaming the gender perspective into all policies and programmes in the United Nations system*, U.N. Doc. No. E/2004/INF/2/Add.2 (7 July 2004); UNGA, Resolution adopted by the General Assembly on 19 December 2023. 78/150. Achieving gender equality and empowering all women and girls for realizing all Sustainable Development Goals, ¶ 1. U.N.Doc. No. A/RES/78/150 (21 December 2023).

²²³ See, e.g. Bond, *Global Intersectionality and Contemporary Human Rights*, 59-60; Kayess, et al., *International Power and Local Action*, 383-396.

²²⁴ C. Chinkin & M. Freeman, ‘Introduction’, in M. Freeman, C. Chinkin & B. Rudolf, eds., *The UN Convention on the Elimination of All Forms of Discrimination against Women: A Commentary*, 30 (2012).

²²⁵ Id.

²²⁶ M. L. Krook & J. True, ‘Rethinking the life cycles of international norms: The United Nations and gender mainstreaming’, *European Journal of International Relations* 18(1), 103-127 (2010); K. Skarstad & M.A. Stein, ‘Mainstreaming disability in the United Nations treaty bodies’, *Journal of Human Rights* 17(1), 1-24 (2018).

the term “mainstreaming” is not easily translatable into other languages which alone limits its practical usefulness and value in an international institution.²²⁷

But more importantly, mainstreaming has been met with substantial critique for its propensity to promote a single-axis framing of disadvantage contrary to the objectives of intersectionality. By exclusively focusing on gender—or more accurately, women—gender mainstreaming reifies the presumption that there is a form of disadvantage common to all women, exactly the position intersectional theorists sought to contest.²²⁸ As Johanna Bond notes, it encourages a view of women’s rights that is one-dimensional and does nothing to encourage women’s organizations or advocates to think intersectionally or act more inclusively.²²⁹

It also ignores the structural dimensions of subordination and relational nature of gender, both elements intersectional theorists sought to make more visible. By equating gender with women, Hilary Charlesworth argues that the concept of gender mainstreaming is stripped of real impact beyond counting the number of women in a given room.²³⁰ It leaves untouched the role of men or male gender identities and the performative aspects of gender for both women and men.²³¹

In short, it is an idea with what some have seen as transformative potential but is problematic and limited in application.²³² It would be difficult to see mainstreaming of the rights of older women in the new treaty on the rights of older persons as a promising approach.

Intersectionality as method – not the driver but a vehicle of change²³³

If gender mainstreaming is an inadequate method for integrating an intersectional analysis, the question then becomes what is the alternative. While Leslie McCall has noted that there is a

²²⁷ Charlesworth, *Not Waving But Drowning*, 12.

²²⁸ Bond, *Global Intersectionality and Contemporary Human Rights* at 60.

²²⁹ Id. I have seen this repeatedly in work with organizations focused on sexual and reproductive health and rights and/or gender-based violence, who have no notion of including women with disabilities, and at conferences including the annual meetings of the Commission on the Status of Women where the vast majority of side events do not speak to disability (or older age) and those which do are predominantly attended by disabled or older women.

²³⁰ Charlesworth, *Not Waving But Drowning*, 13.

²³¹ Id.

²³² See, e.g., S. Walby, ‘Introduction: Comparative Gender Mainstreaming in a Global Era’, *International Journal of Feminist Politics* 7(4), 453-470 (2005); J. True, ‘Mainstreaming Gender in Global Public Policy’, *International Feminist Journal of Politics* 5(3), 368-396 (2003); C. Moser & A. Moser, ‘Gender mainstreaming since Beijing: A review of success and limitations in international institutions’, *Gender & Development* 13(2), 11-22 (2005).

²³³ D. Petrovna, ‘Intersectionality’, *The Equal Rights Review* 16, 5-10, at 9 (2016).

paucity of research into the methods of intersectionality,²³⁴ there is widespread agreement that intersectionality is at its most useful *as* a method.²³⁵ For example, Patricia Hill Collins recommends recognizing intersectionality as a heuristic, a “technique for social problem solving” that offers a lens through which to assess and shape social action.²³⁶ It offers tools through which to recognize and explore intra-categorical difference and make visible previously hidden forms of disadvantage.²³⁷

A number of scholars have taken up those tools and used them to assess human rights mechanisms, including the work of the treaty bodies, and determine if and how they were using intersectional approaches. The following section briefly reviews two strategies and discusses how intersectionality is used in the succeeding chapters of this paper.

In an assessment of British policy on violence against women, Sofia Strid, Sylvia Walby and Jo Armstrong used intersectionality as an empirical tool to test how well the policy took multiple inequalities into account.²³⁸ They reviewed policies on violence against women developed over a ten-year period, 2001-2011, to examine how visible multiple inequalities, including age, class, disability, ethnicity/race, gender, immigrant status, religion/belief, and sexual orientation, were. They did not test whether visibility led to particular policy outcomes but rather were interested in whether the policies were drafted in a way that was inclusive of multiple inequalities. The researchers concluded that intersectionality operated on a continuum, with (i) the naming of inequalities at the weakest level of inclusion, (ii) the naming of inequalities and their connection across different policy domains and intersecting fields of violence the next level of inclusion; and (iii) the inclusion of the voices of minoritized women in the policymaking process representing the strongest form of visibility and inclusion.²³⁹ They credited the final level as most

²³⁴ McCall, *The Complexity of Intersectionality* at 71.

²³⁵ See, e.g., Collins, *Intersectionality as Critical Social Theory*, 34; see also May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries* at 4 (describing intersectionality as an interpretive orientation); L. Hodson, ‘A feminist approach to *Alyne da Silva Pimentel Teixeira (deceased) v. Brazil*’, in D. Gonzalez-Salberg and L. Hodson, eds., *Research Methods for International Human Rights Law*, ch. 3. (New York and London: Routledge, 2020); G. De Beco, ‘Harnessing the Full Potential of Intersectionality Theory in International Human Rights Law: Lessons from Disabled Children’s Right to Education’, in S. Atrey & P. Dunne, eds., *Intersectionality and Human Rights Law*, ch. 2. (Oxford: Hart Publishing, 2020).

²³⁶ Collins, *Intersectionality as Critical Social Theory*, 34; see also May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries* at 4 (describing intersectionality as an interpretive orientation).

²³⁷ A. Hancock, *Intersectionality: An intellectual history*, 33 (Oxford: Oxford University Press, 2016).

²³⁸ S. Strid, S. Walby & J. Armstrong, ‘Intersectionality and Multiple Inequalities: Visibility in British Policy on Violence Against Women’ *Social Politics* 20(4), 558-581 (2013).

²³⁹ *Id.* at 559.

robust in large part because of what it demonstrated in terms of civil society engagement and investment in the policy outcome, as well as state appreciation for the input of minoritized women impacted by the policies.

In a later study on the use of intersectionality in the human rights framework on violence against women, Lorena Sosa adopted the same three-step analysis focusing on visibility, naming, and outcome.²⁴⁰ In this instance, she identified explicit references to intersectionality as the starting point for visibility, then sought to determine whether these references corresponded to the foundational ideas of intersectionality (highlighting the connection between inequalities and social norms, recognizing that the construction of social categories was structural, not personal, and distinguishes intersectionality from multiple discrimination).²⁴¹ She assessed the third level of inclusion by determining whether the reference to intersectionality reflected a meaningful influence of the concept on the programmatic aspect of the documents she reviewed.²⁴²

The present study is inspired in large part by these analytical approaches and uses them as a starting point for analysis. This assessment reviews three sets of outputs of the Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of Persons with Disabilities: (1) their respective general comments/recommendations, (2) jurisprudence in a time-limited sample, and (3) concluding observations published during a time-limited period. Each of these outputs are scanned for the visibility of older women and/or (older) age as well as the visibility of women with disabilities. Recognizing that both are diverse and fluid categories, the intent is to engage in “strategic essentialism” in service of a broader point, namely the relative silences within the human rights mechanisms toward certain forms of oppression.

It was not possible during this study to evaluate the visibility of the voices of older women or women with disabilities or their respective input into the documents being reviewed, if any. That evaluation would be a rich area for further development of this project.

Conclusions

If we see human rights law as a locus through which oppressed groups seek recognition and respect, then its discourses should be expected to reflect the complexities of their

²⁴⁰ Sosa, *Intersectionality in the Human Rights Legal Framework*, ch. 1.

²⁴¹ *Id.* at 17-18.

²⁴² *Id.* at 35.

experiences.²⁴³ One of the primary emphases of legal intersectional analysis is to recognize what Conaghan refers to as the “*performative* aspects of law” (emphasis in original), the ways in which law – including human rights law – confers meaning on and shapes understandings of social identit(ies) by reifying certain experiences and erasing or repressing others. (28). Conaghan notes, “Intersectionality analysis thus becomes located within a particular critical and theoretical approach which posits law as a discourse with active, constitutive effects in relation to meaning and understanding, identity and subjectivity, inequality and subordination with much of the current legal scholarship on intersectionality falling within this frame.” (28)

In sum, the question remains: what work does intersectionality do? In an essay on equality and nondiscrimination law, Gerard Quinn points out that intersectionality offers an opportunity to reach beyond individual harms try to find real justice. Whereas legal remedies are generally designed to compensate individual claimants for poor treatment, an intersectional orientation leads to broader social justice goals, recognizing the impacts of accumulated disadvantage and their systemic reinforcement.²⁴⁴ Whether the work of the human rights treaty bodies is pointed toward meaningful social justice for older women is the subject of the next chapter.

²⁴³ J. Conaghan, ‘Intersectionality and the feminist project in law’, in E. Grabham, D. Cooper, J. Krishnadas, & D. Herman, eds., *Intersectionality and Beyond: Law, Power, and the Politics of Location*, 28 (Abingdon, UK and New York, NY: Taylor & Francis Group, 2008).

²⁴⁴ G. Quinn, ‘Reflections on the Value of Intersectionality to the Development of Non-Discrimination Law’, *The Equal Rights Review* 16, pp. 63-72 (2016).

Chapter 3: Intersectionality in practice: Assessing inclusion of older women in the work of the UN treaty bodies

As discussed in the previous chapter, one of the most significant components of intersectionality is its objective of transforming social institutions by making visible the very real experiences of those belonging to multiply disadvantaged groups.²⁴⁵ An intersectional policy analysis, then, requires not just an assessment of references to intersectional inequalities or multiply disadvantaged groups but also consideration of whether those references correspond with the objectives of transformation and visibility.²⁴⁶

The questions considered in this chapter are how international human rights bodies have recognized older women as a multiply disadvantaged group, and how they have sought to develop awareness of and protections against intersectional discrimination against older women within human rights law. The chapter focuses on the work of two treaty bodies, the Committee on the Elimination of Discrimination Against Women (CEDAWee) and the Committee on the Rights of Persons with Disabilities (CRPDee). These treaty bodies are responsible for monitoring implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD), respectively. It considers how each committee has mobilized its respective convention to engage with intersectional forms of discrimination in general comments and recommendations, concluding observations, and jurisprudence resolving complaints against States Parties.

In particular, I searched for references to women in two partially overlapping groups: older women and women with disabilities. My intent is to highlight both the limited recognition of the

²⁴⁵ See, e.g., Atrey, *Intersectional Discrimination*; May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries*; Collins, *Intersectionality as Critical Social Theory*.

²⁴⁶ Sosa, *Intersectionality in the Human Rights Legal Framework*; Strid, et al., *Intersectionality and Multiple Inequalities*, 558-581.

former as a multiply disadvantaged group and the restricted view of social transformation the committees considered for older women as a group as opposed to (younger) women with disabilities.

The value of looking at the work of the CEDAW Committee and the CRPD Committee lies in at least two different areas. On the one hand, it enables an assessment of whether and where the situation of older women globally has been taken up by both committees. It also offers a lens into the extent to which the ubiquitous references to intersectionality in international human rights discourse have penetrated into the work of the treaty bodies.²⁴⁷

At the same time, by analyzing how the CEDAW Committee in particular has taken up the concerns of women with disabilities and integrated calls for greater inclusion into its recommendations for State action, the study provides some insight into how specific attention to older women in a new convention may spur consideration of their interests by other treaty bodies. The CRPD is notable for being the first human rights treaty to recognize the potential for intersectional forms of discrimination against persons with disabilities generally, and to include an article specific to the rights of women with disabilities (Art. 6). Although the analysis that follows does not seek to draw a direct causal link between the adoption of Article 6 and the CEDAWee's approach to women with disabilities in its work, a comparison between its recognition of older women and women with disabilities lends weight to that argument and points to the value of—at minimum—a like consideration of older women in the proposed new convention.

The sections below provide an overview first of how ageism and age discrimination have been recognized in the work of human rights mechanisms generally, then offer a more in-depth analysis of the work of the CEDAWee and the CRPDee in three primary respects: (1) inclusion of older women and age as one component of intersectional discrimination in general recommendations and comments; (2) age discrimination and intersectional analysis in the jurisprudence of each committee; and (3) consideration of the rights of older women particularly in concluding observations and recommendations to States parties.

²⁴⁷ In 2021, the Office of the High Commissioner for Human Rights prepared a working paper in which it reviewed how the human rights mechanisms, including the CEDAWee and the CRPDee, had considered the human rights of older persons in practice. While that review touched on the potential that discrimination on the basis of age could be intersectional and overlap with other grounds of discrimination, and identified intersectional discrimination based on age as an important issue, it did not analyze how it might impact older women's life experiences at any length. The assessment in this chapter is an attempt to fill that gap.

Previous assessments of inclusion of older women in the work of the human rights treaty bodies

One of the justifications for a new treaty on the rights of older persons is that there is currently no explicit prohibition against discrimination on the basis of age in international human rights law. Age discrimination is not expressly incorporated in the core international human rights instruments.²⁴⁸ The Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR) all prohibit discrimination on a variety of grounds but do not explicitly recognize age among those grounds. Instead, age has been recognized by their respective treaty bodies as implicitly included within references to “other status” in the ICESCR and ICCPR.²⁴⁹ Among the nine human rights treaties, only the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families explicitly includes age as one among the grounds on which discrimination is prohibited (see Art. 7).

Advocates for the new treaty contend that this silence has led to the persistent marginalization of older persons’ rights and interests and has rendered them nearly invisible to the human rights mechanisms.²⁵⁰ In a 2021 working paper reviewing normative standards in international human rights law relating to older persons, the Office of the High Commissioner of Human Rights considered how human rights mechanisms had engaged with the rights of older

²⁴⁸ see, e.g., S. Hopf, F. Previtali & N. Georgantzi, New Forms of Ageism as a Challenge for a UN Convention on the Rights of Older Persons. *University of Toronto Quarterly* 90(2), 242-261 (2021); B. Mikolajczyk, ‘International human rights law and the intangible face of ageism’, *Equality, Diversity and Inclusion: An International Journal* 42(3), 434-448 (2023); see also G.L. Neuman & A.M. Ibrahim, ‘When is Age Discrimination a Human Rights Violation?’, *Harvard Human Rights Journal* 36, 223-246 (2023) for a review of international and regional human rights treaties and their respective treatment of age discrimination.

²⁴⁹ See Committee on Economic, Social, and Cultural Rights, *General comment No. 19, The right to social security (art. 9)*, E/C.12/GC/19 (2009); Human Rights Committee, *Love, et al. v. Australia*, Communication No. 983/2001, U.N. Doc. No. CCPR/C/77/D/983/2001 (28 April 2003) (in which the Committee concluded: “[A] distinction related to age which is not based on reasonable and objective criteria may amount to discrimination on the ground of ‘other status’ under [the ICCPR]”); see also Human Rights Committee, *Albareda, et al. v. Uruguay*, Communication Nos. 1637/2007, 1757/2008, and 1765/2008. U.N. Doc. No. CCPR/C/103/D/1637/2007, 1757&1765/2008 (recognizing that “age may constitute one of the grounds for discrimination prohibited under article 26”). The Human Rights Committee has also issued a general comment on the rights of the child (General Comment No. 17, 1989) in which it recognized the right of every child to be free from discrimination on a number of grounds. The General Comment did not specify an age of minority/majority.

²⁵⁰ M. De Pauw, B. Sleaf & N. Georgantzi, ‘Ageism and age discrimination in international human rights law’, in I. Doron & N. Georgantzi, eds., *Ageing, Ageism and the Law: European Perspectives on the Rights of Older Persons*, ch. 8 (2018); W. J. Mitchell, ‘Making the case for a convention on the human rights of older persons’, *Australian Journal of Human Rights* 27(3), 532-553 (2021); Mikolajczyk, *International human rights law and the intangible face of ageism*, 434-448; see also OHCHR, 2021, ¶¶ 23, 31, 50-53.

persons in practice.²⁵¹ While the OHCHR noted that there had been a slight increase in attention paid to the interests of older persons in the previous decade, it concluded that “the overall position of older persons is still one of relative invisibility” which it attributed in part to the absence of an “explicit and coherent framework” within the human rights system.²⁵² A text search²⁵³ of the Universal Human Rights Index (UHRI) database conducted for the present assessment captured the recommendations of the Human Rights Council in the Universal Periodic Review process, the human rights treaty bodies, and the special procedures of the Human Rights Council, and found little had changed since the OHCHR’s 2021 report. Just two of these mechanisms had used the term “ageism” in their work at all, with the Independent Expert on the enjoyment of all human rights by older persons responsible for 19 of the 20 total references.²⁵⁴

The Independent Expert on the enjoyment of human rights by older persons has singled out the invisibility of older women in particular in the work of the human rights treaty bodies. In her 2021 Report on the Human Rights of Older Women (A/76/157) she drew attention to the lack of systematic or comprehensive attention to older women by other human rights mechanisms. Noting the tendency to include older women as one among several disadvantaged or marginalized groups, she pointed out missed opportunities by the Committee on Economic, Social, and Cultural Rights, the CEDAWee, and others to take up the specific needs of older women. In her recommendations she called on the United Nations system to “place a more specific focus on older persons, including the intersection based on age and gender as well as discrimination on other grounds” in order to make violations of their rights more visible and promote recognition of older women as rights-holders.²⁵⁵

The invisibility of older persons—particularly older women—in human rights law is by no means universal. Two regional instruments, the Inter-American Convention on Protecting the

²⁵¹ Office of the High Commissioner for Human Rights, *Update to the 2012 Analytical Study on the normative standards in international human rights law in relation to older persons* (March 2021).

²⁵² *Id.*, ¶ 53.

²⁵³ The UHRI database (<https://uhri.ohchr.org/en>) contains observations and recommendations only. It does not include the jurisprudence of the human rights treaty bodies. The search was conducted on November 8, 2024 and was date unlimited. The earliest recommendation captured was from 2015.

²⁵⁴ The Special Rapporteur on violence against women, its causes and consequences, authored the only other recommendation using the term “ageism” in her report on her visit to Australia (see A/HRC/38/47/ADD.1) (2018).

²⁵⁵ United Nations Independent Expert on the enjoyment of all human rights by older persons, *Human rights of older women: the intersection between ageing and gender* (17 July 2021), A/76/157, ¶¶ 85-86 <https://data.unwomen.org/publications/older-women-inequality-intersection-age-and-gender>, accessed 16 Mar 2025.

Human Rights of Older Persons²⁵⁶ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons²⁵⁷ have both been celebrated for their affirmation of the rights of older persons. Both also contain measures recognizing the potential for intersectional discrimination against older women. Each are briefly reviewed below.

1. Inter-American Convention on Protecting the Human Rights of Older Persons

The Inter-American Convention on Protecting the Human Rights of Older Persons affirms that older persons have the same human rights and are entitled to the same fundamental freedoms as all other persons. The Convention further emphasizes the agency and autonomy of older persons and endorses their full and active integration and participation in the economic, social, cultural, and political life of their communities.

The Convention is notable in that it calls for incorporation of a gender perspective in all Member State policies meant to ensure the enjoyment of rights by older persons. It also recognizes gender equity and gender equality as general principles applying to the Convention (Art. 3) and directs Member States to include specific actions in legislation on ageing for older persons who are subjected to multiple forms of discrimination, including older women, among others (Art. 5).

The Convention takes an expansive approach to the right to safety and prohibits violence against older persons on the basis of gender along with a host of other factors (Art. 9). Article 9 integrates the due diligence principle previously articulated in the Convention of Belém do Pará (OAS, Convention on the Prevention of Violence against Women, art. 7 (1994)), obligating States to prevent, investigate, prosecute, and punish acts of violence against older persons. Article 9 contains a number of subsections designed to promote access to justice services for those affected by violence, requiring States to “promote appropriate and effective complaint mechanisms” and strengthen institutional mechanisms to address them.

²⁵⁶ The Convention was adopted in 2015 and entered into force in 2017. States Parties include: Argentina, Bolivia, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Mexico, Peru, Suriname, and Uruguay. Brazil is a signatory but has not formally acceded to the Convention.

²⁵⁷ The Protocol was adopted in 2016 and entered into force on November 4, 2024. States Parties include: Angola, Benin, Burundi, Cameroon, Ethiopia, Kenya, Lesotho, Malawi, Mozambique, Niger, Nigeria, Rwanda, Saharawi Arab Democratic Republic, Sao Tome and Principe, and Togo.

Finally, the Convention calls for a gender perspective in State legislation and policies relating to long-term care, emphasizing the importance of respect for the dignity, and physical and mental integrity of persons receiving care (Art. 12).

Drafters of the Convention pointed to its role in facilitating the development of legal and policy mechanisms to protect the human rights of older persons and prevent mistreatment and abuse. Far from framing older persons as vulnerable, the Convention adopts an expressly human rights-based approach and emphasizes the contributions older persons make to their communities. In fact, there is not a single reference to “care” or “vulnerability” in the Preamble, a trend which, as will be demonstrated below, is all too common in the approaches of the treaty bodies.

2. Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa

The Protocol recognizes a wide range of rights belonging to older persons, including rights to equal protection and access to justice, the right to make decisions without interference, protection against discrimination in employment and access to work opportunities, the right to an adequate pension, and the right to affordable residential care, among others. Like the Inter-American Convention, the Protocol includes a number of measures with reference to older women, including an article (9) recognizing women’s rights to protection from violence and abuse, including with respect to property and land rights, and rights of inheritance. Article 8 also references the importance of national measures to prohibit harmful traditional practices such as accusations of witchcraft which disproportionately impact older women.

While the Protocol cross-references the Protocol to the African Charter on the Rights of Women in Africa with respect to Article 22, which incorporates protections for “elderly women”,²⁵⁸ it does not follow the Inter-American Convention in integrating a gender-sensitive approach throughout the text, nor does it call on States Parties to consider gender in national

²⁵⁸ Article 22 obligates States Parties to “provide protection to elderly women and take specific measures commensurate with their physical, economic and social needs as well as their access to employment and professional training; [and] ensure [their] right to freedom from violence, including sexual abuse, discrimination based on age, and the right to be treated with dignity”. Available at: https://au.int/sites/default/files/treaties/37077-treaty-charter_on_rights_of_women_in_africa.pdf

legislation to the same degree. The two regional treaties thus offer similar but divergent approaches whose impact on the conditions of older women's lives in States Parties will be valuable to compare in future.

The present analysis turns to the work of the UN treaty bodies, specifically the Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of Persons with Disabilities. What it shows is that while the respective treaty bodies recognize that the rights of older women, including those with disabilities, are within their respective mandates, they overwhelmingly view older women through the lens of vulnerability, repeatedly emphasizing their disadvantage, marginalization, and oppression instead of their agency and autonomy. In so doing, the treaty bodies discursively construct the "older woman" as dependent, poor, vulnerable, and decidedly limited in her life choices and prospects. This is in stark contrast to their respective construction of the "disabled woman" who, though still described as disadvantaged, is nevertheless envisioned as politically, economically and socially engaged, sexually active, and productive once disabling barriers are removed.

The following sections discuss how older women have figured in the respective Committee's work in the following three respects: (1) general recommendations and comments; (2) the jurisprudence of each committee; and (3) consideration of the rights of older women particularly in concluding observations and recommendations to States parties.

Committee on the Elimination of Discrimination Against Women

While the CEDAW contains no specific provisions explicitly referring to intersectional or multiple discrimination against women as such, the Convention does recognize that women are likely to face different forms of discrimination based on social factors in addition to sex or gender. Article 14 obligates States parties to address the "particular problems faced by rural women" and other articles recognize the potential for discrimination on the basis of marital status (Art. 16), pregnancy (Art. 11(2)), and nationality (Art. 9). Likewise, the preamble calls attention to the inequalities women experience living in poverty, or under foreign occupation or aggression, or circumstances of racial discrimination or apartheid.²⁵⁹

²⁵⁹ Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979; see also A. Byrnes, 'Article 1', in M.A. Freeman, C. Chinkin & B. Rudolf, eds., *The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary* (Oxford: Oxford University Press, 2012); M. Campbell,

As Meghan Campbell notes in her analysis of how the CEDAWee has handled the intersection of gender and rurality, there is “rich promise” within the Convention and an implicit commitment to the elimination of intersectional discrimination.²⁶⁰ Indeed, the CEDAWee has recognized intersectionality as a “basic concept for understanding the scope of States parties’ obligations” under the Convention (see GR 28, ¶ 18), and has adopted multiple general recommendations addressing intersectional discrimination on the basis of sex and gender and other social factors, including GR 39 on the rights of indigenous women and girls, GR 38 on trafficking of women and girls who are migrants, refugees, or asylum-seekers, GR 34 on the rights of rural women, and, most significantly for the present analysis, GR 27 on the rights of older women.

Although there are no specific references to age or age discrimination in the CEDAW, the Convention affords multiple protections likely to become relevant to women at later stages of their lives. Article 11 obligates States Parties to ensure that women have access to social security in old age (11(1)(e)), Article 10 does the same for adult literacy and continuing education, and Article 15 protects women’s rights to exercise legal capacity on an equal basis with men. Article 16 also guarantees to women the same rights in marriage as men, including rights with respect to ownership of property which are particularly significant as women outlive their spouses.

The CEDAW was innovative in that it explicitly called on States parties to address cultural and traditional patterns that reinforced stereotypes about women (and men) and their respective roles and responsibilities in the family (Art. 5). While the text of the Convention does not address how harmful stereotypes may be exacerbated or amplified as women age,²⁶¹ its condemnation of customs, practices, and prejudices which presume women’s inferiority or limit them to particular roles within private or public life offers a powerful avenue through which to address ageist stereotypes impacting older women.

The CEDAW thus offers multiple avenues through which the CEDAWee can raise the visibility of older women and encourage action on the part of States parties to fulfill their obligations to eliminate discrimination. While the Committee has been more consistent than others

‘The Distance Between Us: Sexual and Reproductive Health Rights of Rural Women and Girls’, in S. Atrey and P. Dunne, eds., *Intersectionality and Human Rights Law*, ch. 7 (Oxford: Hart Publishing, 2020).

²⁶⁰ Campbell, *The Distance Between Us*, 154-155.

²⁶¹ See, e.g., S. Cusack, ‘The CEDAW as a legal framework for transnational discourses on gender stereotyping’, in A. Hellum and H. Sindig Aasen, eds., *Women’s Human Rights: CEDAW in International, Regional and National Law*. (Cambridge: Cambridge University Press, 2013).

in making reference to older women in its work,²⁶² the present study demonstrates that there is still some way to go. Indeed, review of the Committee’s concluding observations in particular demonstrates that while the Committee is consistent about raising the visibility of multiple inequalities and intersectionality, not all inequalities are recognized in the same way or to the same extent.²⁶³

A. General recommendations and inclusion of older women

Article 21(1) of the Convention authorizes the Committee to “make suggestions and general recommendations” based on information received from States parties, which the Committee has used to develop a deep set of interpretive material covering specific articles of the Convention as well as conceptual guidelines.²⁶⁴ General recommendations afford the Committee the opportunity to advise States Parties to the Convention on how to understand and implement their obligations in much more detail than the text of the Convention otherwise provides. The CEDAWee has adopted general recommendations covering a range of issues, most prominently gender-based violence²⁶⁵, as well as women belonging to minoritized identity groupings, such as women with disabilities²⁶⁶, women migrant workers²⁶⁷, rural women²⁶⁸, and indigenous women²⁶⁹. Although the CEDAWee has noted that women often experience discrimination on multiple grounds, including age, it has infrequently raised the specific rights and needs of older women as a concern and has tended to do so with respect to a limited number of issues.

²⁶² See Report of the Independent Expert, ¶ 66.

²⁶³ This suggests, in keeping with the findings of Strid, et al., the existence of hierarchies within inequalities in the eyes of Committee members, national policymakers, and—potentially—civil society organizations engaging with the human rights mechanisms (Strid, et al., 2013).

²⁶⁴ A. Byrnes, ‘The Committee on the Elimination of Discrimination Against Women’, in A. Hellum and H. Sinding Aasen, eds., *Women’s Human Rights: CEDAW in International, Regional and National Law* (Cambridge: Cambridge University Press, 2013).

²⁶⁵ Gender-based violence is the subject of three general recommendations including General recommendation No. 12 (1989), General recommendation No. 19 (1992), and General recommendation No. 35 (2017).

²⁶⁶ Committee on the Elimination of Discrimination Against Women, *General recommendation No. 18: Disabled Women* (1991). All general recommendations adopted by the Committee are available in the UN Treaty Body Database, <https://tbinternet.ohchr.org/>.

²⁶⁷ Committee on the Elimination of Discrimination Against Women, *General recommendation No. 26 on women migrant workers*, U.N. Doc. No. CEDAW/C/2009/WP.1/R (2009).

²⁶⁸ Committee on the Elimination of Discrimination Against Women, *General recommendation No. 34 on the rights of rural women*, U.N. Doc. No. CEDAW/C/GC/34 (2016).

²⁶⁹ Committee on the Elimination of Discrimination Against Women, *General recommendation No. 39 on the rights of Indigenous Women and Girls*, CEDAW/C/GC/39 (2022).

1. Intersectional discrimination and older women

Through general recommendations, the CEDAWee has emphasized that the obligation to eliminate discrimination against women applies both to direct and indirect discrimination, as well as discrimination caused by the failure to act, including by preventing discrimination against women by private parties (GR 28).

It has also laid a strong foundation for the recognition and elimination of intersectional discrimination. The CEDAWee has noted that discrimination against women on the basis of sex or gender “is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity” (GR 28, ¶ 18). Emphasizing that discrimination against women can occur throughout women’s lifespan, both general recommendations 27 and 28 call for State action to eliminate discriminatory practices impacting older women and ensure that they can participate fully and effectively in all aspects of life.²⁷⁰

General recommendation 27 (GR27) on older women and protection of their human rights is instructive as to how the CEDAWee conceives of discrimination against older women and what measures it considers necessary to achieve gender equality. The recommendation does not define who is meant to be incorporated within the group identified as “older women” but references the Vienna and Madrid International Plans of Action on Ageing (both of which use the chronological age of 60 years and over) and refers throughout to women over the age of 60, suggesting that as the lower bounds of the group. The Committee does not refer to ageism or discuss the complexity of defining age or ageing. The CEDAWee does, however, emphasize that discrimination against older women is likely to be multidimensional and compounded by other forms of discrimination, including disability among others. It also recognizes the harms caused by gender stereotyping that presumes older women have no productive value and are likely to be perceived as burdens to their families (¶¶ 13, 15). The CEDAWee even highlights the invisibility of women in academic and

²⁷⁰ Committee on the Elimination of Discrimination Against Women, *General recommendation No. 27 [on] Older women and protection of their human rights*, ¶ 29, U.N.Doc. No. CEDAW/C/GC/27 (2010); *General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women*, ¶ 31, U.N. Doc. No. CEDAW/C/GC/28 (2010); see also *General recommendation No. 25 on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination Against Women, on temporary special measures*, ¶ 12 [recognizing age as a factor in intersectional discrimination] (2004).

scientific research especially with respect to post-menopausal and post-reproductive health care needs, including mental health care.

To address these and other forms of discrimination, the CEDAWee calls for State action with respect to, among other things: (1) ensuring access to justice through age-appropriate accommodations and legal literacy; (2) measures to eliminate gender stereotypes; (3) exercise of due diligence in investigating, prosecuting and punishing acts of violence against older women; (4) promoting opportunities for older women to participate in public and political life, including by holding and running for office; (5) ensuring access to lifelong learning opportunities and adult education; (6) ensuring access to age-appropriate health care including screening for diseases prevalent among older women; (7) access to social support systems and social benefits; (8) protecting women's rights to land and housing and inheritance rights; and (9) facilitating older women's access to paid work. The CEDAWee also calls for the collection of age-disaggregated data to inform policy development and reform, and inclusion of older women in planning for adaptation to climate change and disaster risk reduction.

The recommendations also recognize the (typically unpaid) labour older women often perform within families, caring for children of young adults who have migrated as well as caring for elderly parents and spouses. The CEDAWee advocates for non-contributory pensions and allowances for older women as well as access to childcare benefits and emotional support (¶¶ 43-44, 46).

GR27 thus offers a comprehensive recognition of the patterns of disadvantage older women face as a group, animated not solely because of their status as women or their chronological age but rather the “inextricabl[e]...and mutually reinforcing” dimensions of ageing as a woman.²⁷¹ Its calls for State action are expansive but also recognize that not all older women are likely to experience discrimination in the same way or at the same time, incorporating references to the diversity of older women on grounds of race, ethnicity, and disability, as well as the ways in which context, such as exposure to man-made or natural disaster, armed conflict, or rural geography can limit older women's ability to benefit from national policy. In this sense, the recommendation

²⁷¹ Atrey, *Intersectional Discrimination* at 43.

evidences an apparent commitment to see older women “just as they are”, and open space for older women’s life experiences to become both more visible and more significant to policymakers.²⁷²

2. Older women in recommendations since GR 27

Since the adoption of GR27, the CEDAWee has made reference to older women in several of its subsequent general recommendations including General recommendation No. 39 (GR39) (2022) on the rights of indigenous women, General recommendation No. 37 (GR37) (2018) on the gender-related dimensions of disaster risk reduction, and General recommendation No. 35 (GR35) (2017) on gender-based violence against women.²⁷³ However, in these three examples older women were almost exclusively referenced as one among a list of groups of women the Committee recognized as disproportionately affected by climate change or violence. Both GR 39 and GR 37 included older women within their recommendations but without any specificity as to what would be necessary to meet older women’s needs.²⁷⁴ GR 39 was the only one of the three to note unique forms of stigma impacting older women, especially widows or childless women.²⁷⁵ Even though GR 35 notes the potential for violence against women throughout the “life cycle”, it follows this point by calling on States Parties to address violence against *girls* and makes no reference to older women in this context.²⁷⁶

General recommendation No. 24, which pre-dates the Committee’s adoption of GR 27, is one of the few recommendations to make specific reference to older women and identify a unique set of care needs. GR 24 concerns women’s right to health and emphasizes that States Parties are obligated to eliminate discrimination in health care services “throughout the life cycle” (¶ 2). The Committee emphasizes its concern about health care services for older women and admonishes States to ensure accessibility of health services to address disabilities related to ageing (¶ 24).

²⁷² Atrey, *Intersectional Discrimination* at 47; B. Eidelson, ‘Treating People as Individuals’, in D. Hellman and S. Moreau, eds., *Philosophical Foundations of Discrimination Law* (Oxford: Oxford University Press, 2013).

²⁷³ Committee on the Elimination of Discrimination Against Women [hereinafter CEDAWee], *General recommendation No. 39 on the rights of Indigenous women and girls*, U.N. Doc. No. CEDAW/C/GC/39 (2022); CEDAWee, *General recommendation No. 37 on the gender-related dimensions of disaster risk reduction in the context of climate change*, U.N. Doc. No. CEDAW/C/GC/37 (2018); CEDAWee, *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19*, U.N. Doc. No. CEDAW/C/GC/35 (2017).

²⁷⁴ CEDAWee, GR 39 at ¶¶ 23, 46(i), and 52; CEDAWee, GR 37 at ¶ 26(a), 54(c), and 68(f).

²⁷⁵ CEDAWee, GR 39 at ¶¶ 36 and 37 (noting the vulnerability of older Indigenous women to violence in institutions and the targeting of older unmarried women as witches).

²⁷⁶ CEDAWee, GR 35 at ¶¶ 13 and 14.

Collectively, the recommendations evidence an intent to make older women more visible in both the Committee’s own work and in the policy approaches of States Parties. But the nature of that engagement, generally limited to a cross-reference to GR 27 and inclusion of older women in a list of disadvantaged groups, remains fairly superficial and offers little in the way of guidance to States Parties on how to address the structural dimensions of gendered ageism. It does not move beyond the concept of older women as an identity group, chronologically defined and definable, with a coherent and cohesive set of interests. Moreover, the consistency with which older women are recognized solely or primarily in the contexts of violence and abuse and (poor) health reinforces the idea that those interests are circumscribed and concern protection first and foremost. It also reinscribes, however unintentionally, a dis-empowered, dependent image of the older woman as vulnerable and in need of care, which is inconsistent with the stated goals of GR 27.

The Committee’s most recent recommendation, General recommendation No. 40 (GR40) on the equal and inclusive representation of women in decision-making systems, takes a more assertive approach to gender inequalities and offers a (potentially) more empowering approach to age and ageing. Although GR40 is still void of specific recommendations relating to older women, in it the Committee stresses intersectionality and diversity as a key pillar of inclusive political representation and highlights older age as one basis on which women are excluded from decision-making systems.²⁷⁷ It calls out patriarchal structures contributing to “gender apartheid” and embedding hierarchical divisions of labor and insists on the need for structural transformation (¶¶ 11, 20). Most importantly, the Committee calls for the dismantling of gender stereotypes and includes detailed recommendations for how to accomplish that, such as incorporating women’s history in school curricula, facilitating and expanding girls’ access to courses of study traditionally dominated by men, and developing pipeline programs to accelerate girls’ and women’s employment and advancement (¶¶ 5, 43). The Committee also includes recommendations likely to benefit older women particularly, such as the recommendation to ensure voting access to illiterate women, provide accessible polling locations and free public transportation, and prohibit the practice of “family voting” (¶ 43).

But even though the Committee highlights the potential for age to be used as a basis for exclusion, its attention seems to be concentrated as disadvantages faced by *younger* women. The

²⁷⁷ CEDAWee, *General recommendation No. 40 on the equal and inclusive representation of women in decision-making systems*, ¶ 17 [cross-referencing GR27]. U.N. Doc. No. CEDAW/C/GC/40 (2024).

recommendation identifies youth leadership as one of the pillars of inclusive representation and includes a number of specific measures States Parties should take to support organizations led by and focused on girls and young women and promote youth engagement overall (¶¶ 13, 16, 41(a), 43(b), 61(l)). Where the Committee calls for an “age-responsive” approach to policy design it is to recognize the important role of *young* women to conflict prevention and peacebuilding. There is no mention of any role for older women (¶ 61(l)).

Similarly, where the Committee raises the importance of challenging gender stereotypes its focus is on those stereotypes which reinforce the dominant position of men with respect to women, rather than on those stereotypes which disadvantage some women relative to other women (¶ 30). There is no reference to ageism in the recommendation, even with respect to its impact on younger women, and no discussion of known tools of discrimination against older women such as early retirement mandates.

In short, while the Committee appears to be using its general recommendations to highlight some of the most persistent barriers to gender equality and point the way toward a gender transformative approach, inclusion of older women in that transformation is primarily viewed as a passive exercise rather than an opportunity for women of all ages to contribute on an equal basis.

The following sections continue this discussion and assesses how and when the Committee has raised issues related to age and ageing in its jurisprudence and concluding observations. Unfortunately, the discussion illustrates a similar pattern, exposing the limited reach of the CEDAWee’s advocacy on behalf of older women over the years following its adoption of GR 27.

B. Committee jurisprudence²⁷⁸

Multiple scholars have analyzed the decisions made by treaty bodies in response to individual complaints of discrimination to see how the committees have navigated intersectional discrimination.²⁷⁹ Scholars looking specifically at the work of the CEDAWee have had mixed

²⁷⁸ Decisions on the merits issued between Jan. 1, 2014 to October 15, 2024, n=48. The review included only the decisions on the merits and did not include review of additional documents related to the respective complaints. In this respect, it captures the Committee’s summary of the claims made, which may differ in important respects from the original submissions.

²⁷⁹ See, e.g. K. Skarstad and M.A. Stein, ‘Mainstreaming disability in the United Nations treaty bodies’, *Journal of Human Rights* 17(1), 1-24 (2018); L. Hodson, ‘A feminist approach to *Alyne da Silva Pimental Teixeira (deceased) v. Brazil*’ in D. Gonzalez-Salzberg and L. Hodson, eds., *Research Methods for International Human Rights Law* (New York and London: Routledge, 2020); I. Truscan and J. Bourke-Martignoni, ‘International Human Rights Law

reactions with some lauding their approach to intersectionality,²⁸⁰ and others decrying missed opportunities.²⁸¹ For purposes of the present study, I reviewed decisions adopted by the Committee between January 1, 2014 and October 15, 2024 specifically for the CEDAWee's approach to age. As a preliminary matter, I was interested in seeing whether the CEDAWee had been presented with any claims in which older age was or could have been a factor to the discrimination alleged, and if so, how the CEDAWee had addressed the intersection of age and gender in its decision(s). I limited my review to decisions on the merits of complaints. This section does not consider matters the Committee deemed inadmissible, nor does it include review of underlying documents such as communications from the parties.

The review demonstrates that while the CEDAWee were presented with multiple claims during the relevant time period which raised issues of intersectional discrimination,²⁸² few prompted the CEDAWee to engage with age as a relevant factor. Of those few, it was the younger age of claimants which the Committee recognized as significant to their experiences of discrimination or vulnerability.²⁸³ In the three cases involving women who might be considered older, in only two of which the Committee found for the claimant, the (older) age of the claimants was not treated as significant to the decisions.²⁸⁴ Each of these will be discussed in more detail below.

and Intersectional Discrimination', *Equal Rights Review* 16, 103-131 (2016); P.Y. S. Chow, 'Has Intersectionality Reached Its Limits? Intersectionality in the UN Human Rights Treaty Body Practice and the Issue of Ambivalence' *Human Rights Law Review* 16, 453 (2016).

²⁸⁰ See, e.g., R.J. Cook, 'Human Rights and Maternal Health: Exploring the Effectiveness of the Alyne Decision' *The Journal of Law, Medicine and Ethics* 41, 103 (2013); Atrey, *Intersectional Discrimination*; Campbell, *The Distance Between Us*.

²⁸¹ See, e.g., Hodson, *A feminist approach to Alyne da Silva Pimental Teixeira*; Truscan and Bourke-Martignoni, *International Human Rights Law and Intersectional Discrimination*; Chow, *Has Intersectionality Reached Its Limits?*.

²⁸² See, e.g. Shpagina (deceased) v. Russian Federation (Feb. 2023) (claimant was a drug user, widow, and single mother; X. v. Cambodia (May 2023) (claimant was a land rights activist who identified herself as both a rural woman and a human rights defender).

²⁸³ See, e.g. L.A. et al. v. North Macedonia (February 2020); S.N. and E.R. v. North Macedonia (February 2020); R.P.B. v. Philippines (February 2014).

²⁸⁴ See Ciobanu v. Republic of Moldova (November 2019); E.S. and S.C. v. United Republic of Tanzania (March 2015); V.P. v. Belarus (June 2021) (finding for State Party).

1. Age in individual complaints

E.S. and S.C. v. United Republic of Tanzania (April 2015)

In the oldest of the cases discussed here, E.S. and S.C. were both widows, both in their mid-40's at the time of the complaint. Both women had minor children and both were evicted from their homes on the death of their spouses. In each case, a male in-law was granted control of the complainant's deceased spouse's estate and claimed the (exclusive) right to administer that property, including by disposing of the respective complainant's homes.

E.S. and S.C. alleged that the continued application by the State Party of discriminatory customary laws deprived them and millions of other women like them of rights to inherit property as widows, daughters, and mothers of the deceased.

In its decision, the CEDAWee focused on the economic consequences of the State's failure to eliminate customary laws discriminating against widows and depriving them of inheritance rights. Noting the mandate in Art. 16 of the Convention to ensure equal rights in marriage, especially with respect to the economic consequences of marriage and its dissolution,²⁸⁵ the CEDAWee took issue with the consequences of widows being forced to depend on male relatives and children for economic survival (¶ 7.8). It noted that:

[T]he authors were left economically vulnerable, with no property, no home to live in with their children and no form of financial support...[which] restricted the authors' economic autonomy and prevented them from enjoying equal economic opportunities[.]

(¶ 7.8). The CEDAWee did not engage with the claimants' ethnicity, rural status, socio-economic class, or age in any meaningful way, nor did they consider the potential impact of one of the claimants' having been in a customary marriage.²⁸⁶ Where the Committee noted the role of gender stereotypes, it discussed those which deny women equal status in the family and not the potential for stigma attaching to unmarried or widowed women as such. What the Committee was concerned with was not the "prism of disadvantage" in Fredman's sense, then, but rather the relative inequality Tanzania's legal system allowed by treating widows and widowers

²⁸⁵ See also CEDAWee, *General recommendation No. 29 [on] Article 16 – Economic consequences of marriage, family relations and their dissolution*, U.N. Doc. No. CEDAW/C/GC/29 (2013).

²⁸⁶ Truscan and Bourke-Martignoni, *International Human Rights Law and Intersectional Discrimination*, 130.

differently.²⁸⁷ In other words, even though the case presented an opportunity to pursue an intersectional analysis, the CEDAWee declined to act on it.

Ciobanu v. Republic of Moldova (December 2019)

Natalia Ciobanu is a Moldovan national who was 60 years old at the time of her complaint. She had been employed for approximately twenty years when her daughter was diagnosed with a significant disability which required constant care and assistance. Moldova did not provide assistance for persons with severe disabilities outside of institutions. Ciobanu refused to institutionalize her daughter and resigned her employment to care for her daughter. When her daughter died, Ciobanu applied to national authorities to receive her retirement pension (social insurance pension). She learned then that her pension would not include credit for the time she spent caring for her daughter and amounted to a sum far below the minimum necessary for subsistence.

In her complaint to the CEDAWee, Ciobanu alleged discrimination not specifically on the basis of her age but rather on her status as a mother and the primary caregiver of her child. She argued that the Moldovan social security system discriminated against women who provided care for children with severe disabilities because it did not guarantee a social insurance pension for the periods during which the women provided care (¶ 3.1). She further alleged that because Moldovan society expected women to provide care for children with disabilities, women were most often excluded from the social security system, forcing them to be dependent on their husbands (¶ 3.1) or be “condemned to a life below the poverty line when they reach retirement age (¶ 3.2). In her view, Moldova had an obligation to provide sufficient support for Ciobanu’s professional development that she could have worked and still met her childcare obligations. (¶ 7.2).

In its discussion of the merits of the complaint, the CEDAWee again recognized the multiple dimensions of Ciobanu’s circumstances, emphasizing the impact of gender stereotypes that lead to women spending significantly more time in unpaid labor, including but not only providing childcare. The CEDAWee noted that without compensatory contributions to social security for that unpaid labor, women would be persistently disadvantaged in older age (¶¶ 7.10-7.11). It emphasized that one of the purposes of social insurance is to guarantee “human dignity”

²⁸⁷ Fredman, *The Right to Education and Substantive Equality*, 87.

in old age and pointed out the importance of States providing minimum non-contributory pensions to provide assistance to those who have no other source of income (¶ 7.6).

The Committee also highlighted how Ciobanu's position as a mother of a disabled child contributed to her experience of discrimination, in this case by association with a person with disabilities:

The Committee notes...that the author is an older person who is in a critical economic situation after having provided care for her severely disabled (and now deceased) daughter for 20 years and that the intersection of the alleged gender discrimination and discrimination on the grounds of her association with her disabled child makes her particularly vulnerable to discrimination in comparison with the general population in the Republic of Moldova.

(¶ 7.11). Although the CEDAWee appears to view Ciobanu's age as significant to her vulnerability and the precariousness of her economic situation, it does not seem to see age—or ageism—as the basis for discrimination against her. Age was relevant to the Committee primarily as a stand-in for disadvantage and vulnerability, not for its own significance. In other words, that Ciobanu was older and that she was poor were taken as one and the same thing.

Instead, it was gender- and disability-related stereotypes which it perceived to be the key factors animating or producing the discriminatory treatment, however indirectly. For example, the Committee emphasized that women provide nearly all domestic care work in Moldova and noted that while care work was excluded from pension calculations, mandatory military service by men was not (¶ 7.14). It was that inequality in treatment on which the Committee grounded its decision in the complainant's favor.

At the same time, the Committee's decision did little to dislodge those stereotypes giving rise to the inequalities it recognized. For example, it is not clear from the Committee's decision whether it would have reached the same result if Ciobanu had left the workforce to care for a non-disabled child. Indeed, the Committee's repeated references to the burdens placed on mothers acting as caregivers for disabled children is dangerously resonant of persistent tropes figuring disability as a family tragedy and parents as selfless providers of care.²⁸⁸ The decision also leaves unchallenged the proposition that women in Moldova are the dominant providers of care and is

²⁸⁸ See, e.g., A. Kafer, *Feminist Queer Crip*, 47-68 (Bloomington: Indiana University Press, 2013); R. Garland-Thomson, *Extraordinary Bodies: Figuring Disability in American Culture and Literature* (New York, NY: Columbia University Press, 1997).

silent as to the (unmet) obligations of Ciobanu's daughter's other parent or of the State to ensure both parents.

In its recommendations to the State Party, the CEDAWee declined to call for action to address the stereotyping to which it had pointed. Instead, it called for legal reforms to ensure adequate social benefits for women providing (unpaid) care to their disabled children.²⁸⁹ It declined to go further and propose remedies challenging unequal care burdens falling on women or, indeed, to challenge discrimination on the basis of disability, including in the denial of care and support services for persons with disabilities outside of institutional settings.

L.A., et al. v. North Macedonia/S.N. and E.R. v. North Macedonia (February 2020)

In 2016, a group of six young women of Roma descent, the oldest of whom was 26 and the youngest 15, were evicted with others from an informal settlement.²⁹⁰ At the time, all of the girls and young women were pregnant and three of the six had young children. None had access to clean water or obstetric care. They had lived for years in informal settlements which the national authorities had destroyed from time to time, removing or destroying their property and leaving them without documentation necessary to obtain public benefits.

The European Roma Rights Centre brought complaints on behalf of two sets of claimants, one set included four of the young women aged between 17 and 26, and the other two girls aged 15 and 16. Their respective complaints alleged violations of articles 2 (State obligations under the CEDAW), 4 (temporary special measures), 12 (right to health), and 14 (rights of rural women). It explicitly alleged that the claimants had "suffered intersecting forms of discrimination on the basis of their gender, ethnicity, age, class, and health status" (para. 3.1). The *L.A. et al.* complaint emphasized that all these factors contributed to the State's failure to protect them from discrimination:

That the authors are Roma women, pregnant, homeless, living in poverty and in conditions equivalent to those of women in a rural setting indicates that they are

²⁸⁹ It should be noted that at the time of the Committee's decision Moldova had reformed its legislation to close the gap in social insurance for parents of children with severe possibilities, and that the State's action may have led the Committee to adopt a less comprehensive set of recommendations.

²⁹⁰ The facts in both cases are similar with both sets of claimants having been evicted from the same settlement in 2016. In *S.N. and E.R. v. North Macedonia*, both claimants were minors (ages 15 and 16 at the time of the complaint) and neither had identity documents which appear to have been the basis for the separation of the claims. The claimants in *L.A. et al. v. North Macedonia* were between the ages of 17 and 26. Both sets of claimants were represented by the European Roma Rights Centre.

likely to become victims of multiple and intersecting forms of discrimination and are therefore in need of special preventative and protective measures; however, the State Party has taken no such measures.

(¶ 3.4)

In its discussion of the merits of the claims, the CEDAWee made specific note that at the time the claimants were evicted they were all “in a particularly vulnerable situation” in part because they were pregnant or had recently given birth, but also because they were young and single (¶ 9.3). The CEDAWee concluded that the State Party’s failure to consider their particular needs as young, pregnant Roma women alone constituted discrimination against them (Id.). The CEDAWee went on to emphasize various aspects of the claimants’ identities, reminding the State Party, for example, of its obligations with respect to health care for pregnant women, during and after pregnancy, and its duty to prevent stigmatization of Roma women in particular. The CEDAWee also paid particular attention to the claimants’ poverty, emphasizing that they were unable to pay for gynecological services without State assistance. In total, the CEDAWee effectively drew attention to the multitude of factors which ultimately led to the inadequate and unsafe treatment claimants received. The CEDAWee also called on the State Party to invest in civil society organizations, including women’s organizations representing Roma women and girls, and support their efforts to advocate against intersectional discrimination and promote equal participation of Roma women in all aspects of life (¶ 9.8(vi.)).

Yet even while it repeatedly noted the claimants’ youth as a contributor to their vulnerability, the CEDAWee neglected to engage with the conditions which made being young, single, poor and pregnant more likely. The CEDAWee’s recommendations to the State Party were directed at access to safe housing and sanitation, poverty alleviation especially for Roma women and girls, access to affordable health care and legal assistance, and temporary measures to address intersectional discrimination, all of which were significant. But the recommendations say nothing about ensuring access to public education, addressing high drop-out rates among young women, especially when they become pregnant, or promoting access to employment or vocational training. Nor do they suggest measures to address damaging gender stereotypes held by Roma men or health care providers, or improving access to comprehensive sexuality education and contraception for both girls and young men. The CEDAWee was clearly aware of—and insisted the State Party act to redress—the social dynamics underlying the claimants’ treatment as members of a disfavored ethnic minority, yet it still failed to fully develop the ways in which (younger) age played a role.

The cases discussed here represent a small subset of the jurisprudence of the CEDAWee and thus are an inadequate basis on which to draw broad conclusions about the CEDAWee’s approach to intersectional discrimination generally. What they do show, however, is an overall lack of engagement with issues related to ageing and ageist stigma attaching to women. The Committee issued a total of 47 decisions on the merits during the sampling period and just one of those involved a self-described “older woman”. The only other decision in which age played a meaningful part concerned very young women.

The Committee is not responsible for the kinds of complaints claimants choose to bring but the near total absence of old(er) age-related complaints may be attributable in part to the perception, fair or not, that the CEDAW does not protect older women’s rights or speak to ageist discrimination. Older women or women who have been subjected to intersectional discrimination in which age was a factor may not see the Convention as a relevant or viable source of relief or protection, a possibility noted by the OHCHR in its 2021 analysis.²⁹¹ Given that age-related complaints *have* been raised to the Human Rights Committee and potentially other treaty bodies, it would be interesting to explore further what real or perceived barriers may be limiting access to relief from the CEDAWee.

It would also be interesting to explore the degree to which advocates and organizations representing women, including especially those representing women in cases before the CEDAWee and other treaty bodies at the international and regional level, recognize ageism and its intersection with sexism and gender discrimination as a meaningful foundation for a claim under the Convention. It is possible that the specific forms of oppression which plague older women, such as denial of access to age-appropriate sexual and reproductive health care, including screening for reproductive cancers and education on prevention of sexually transmitted infections; limited financial literacy and access to digital and other technologies; persistent demands for unpaid labor; and isolation and exclusion, among other things, are not seen—or prioritized—as “women’s issues” such that redress under the Convention would be deemed appropriate. A detailed qualitative assessment of advocates’ attitudes toward older women and ageism is beyond the scope of this project but would be a valuable contribution overall. As Gauthier De Beco has noted, a significant challenge to the “identitarian understanding of intersectionality” endorsed by the

²⁹¹ OHCHR, *Update to the 2012 Analytical Outcome Study*, ¶ 88.

international human rights system is that it leaves undeveloped how identities can be connected with “specific forms of oppression [made manifest only] as those identities interact and intersect in multiple permutations and combinations”.²⁹²

Despite the relative invisibility of age in the CEDAWee’s jurisprudence, the cases I reviewed demonstrate that the Committee has at times wrestled with multidimensional aspects of discrimination in its decisions and has increasingly proposed remedies targeting discriminatory stereotyping and strengthening advocacy. For example, in *E.S. and S.C. v. Tanzania* and in several subsequent cases the Committee recommended the State Party variously engage with civil society and women’s organizations (*E.S. and S.C. v. Tanzania*, *L.A. et al. v. North Macedonia*), promote public dialogue (*M.D.C.P. v. Spain*), strengthen advocacy (*S.B. and M.B. v. North Macedonia*), and otherwise create a “safe and enabling environment” for advocates and activists (*Matson et al. v. Canada*, *Flamer-Caldera v. Sri Lanka*, and *X. v. Cambodia*), all in cases involving the rights of minoritized women. These cases demonstrate significant shifts from decisions pre-dating the present sample, in which the CEDAWee declined to address the bases for intersectional disadvantage in its recommendations to States Parties.²⁹³ By calling on States Parties to ensure that the voices of minoritized women can be and are heard, the CEDAWee is increasingly lending its weight to a vision of social action in which the right to be seen and heard is a necessary first step.²⁹⁴

Whether that movement extends to the CEDAWee’s recommendations to States Parties in the context of concluding observations is the subject of the next section.

C. Concluding observations

One of the most visible activities of the treaty bodies is their review of State Party reports on progress meeting their obligations under a given treaty. The review process includes the opportunity for stakeholders to be heard and allows for the exchange of views between committee members and States Parties. At the conclusion of each review the respective committee issues concluding observations consisting of its findings on State progress and its recommendations for

²⁹² De Beco, *Harnessing the Full Potential of Intersectionality Theory*, 54-55.

²⁹³ See, e.g., cases discussed in Hodson, 2020; Truscan and Bourke-Martignoni, 2016, among others

²⁹⁴ See, e.g., Strid, et al., *Intersectionality and Multiple Inequalities*, 558-581; Fredman, *The Right to Education and Substantive Equality*, 94-96; Collins, *Intersectionality as Critical Social Theory*.

further action. The authoritativeness of concluding observations is a matter of some debate but they are generally “specific, practical, and persuasive” statements intended to promote (or provoke) treaty compliance.²⁹⁵

This section reviews the concluding observations adopted by the CEDAWee over the roughly five-year period between January 1, 2019 and October 30, 2024. The review sought to identify how often and with respect to what topics or issues the Committee explicitly recognized older women, and when this recognition translated to a specific policy or other recommendation regarding actions States Parties should be expected to take to address inequalities affecting older women as a group. The results, detailed below, illustrate that despite the promise of GR 27, older women do not figure prominently in the recommendations of the CEDAWee.

By comparison, I also reviewed how often and with respect to what issues the Committee recognized women with disabilities as a group. In part, this was intended to ensure the review was as inclusive as possible and captured what are likely to be partially overlapping groups.²⁹⁶ The assumption was that recommendations applicable to older women will benefit some women with disabilities and vice versa. But comparing the Committee’s treatment of each group is revealing. Whereas the Committee calls for State action to include women with disabilities across a broad range of topics and issues, its view of the potential and prospects of the “older woman” is far more constrained. A more detailed discussion of these findings follows.

The concluding observations discussed below were identified through a search of the UN treaty bodies database (<https://tbinternet.ohchr.org>), limited to the time period between January 1, 2019 and October 15, 2024. Each CO was reviewed using the following search terms: older, age,

²⁹⁵ I. Bantekas & L. Oette, *International Human Rights Law and Practice*, 4th ed., 207 (Cambridge: Cambridge University Press, 2024); F. Viljoen & R. Murray, ‘What a Difference do 20 Years Make? The Impact of the Core UN Human Rights Treaties on the Domestic Level in Selected States between 1999 and 2019’, in C. Heyns, F. Viljoen, & R. Murray, eds., *The Impact of the United Nations Human Rights Treaties on the Domestic Level: Twenty Years On*. (Leiden and Boston: Brill, 2002); Hodson, *A feminist approach to Alyne da Silva Pimentel Teixeira*.

²⁹⁶ As discussed previously, older women represent the majority of older persons and are more likely than older men to be disabled later in life. See, e.g., E.M. Crimmins, J.K. Kim, & A. Sole-Auro, ‘Gender differences in health: results from SHARE, ELSA and HR’, *European Journal of Public Health* 21(1), 81-91 (2011); M. Serrano-Alarcon, & J. Perelman, ‘Ageing under unequal circumstances: a cross-sectional analysis of the gender and socioeconomic patterning of functional limitations among the Southern European elderly’, *International Journal for Equity in Health* 16(1), 175 (2017); A.R. Hosseinpoor, N. Bergen, N. Kostanjsek, P. Kowal, A. Officer, & S. Chatterji, ‘Socio-demographic patterns of disability among older adult populations of low-income and middle-income countries: results from World Health Survey’, *International Journal of Public Health* 61, 337-345 (2015). See also J.E. Prynne, S. Polack, I. Mactaggart, L. Morgon Banks, S. Hameed, C. Dionicio, S. Neupane, G.V.S. Murthy, J. Oye, J. Naber, & H. Kuper, ‘Disability among Older People: Analysis of Data from Disability Surveys in Six Low- and Middle-Income Countries’, *International Journal of Environmental Research and Public Health* 18, 6962 (2021).

disabilities/disability, widow, and intersecting/intersection. Excerpts referring to older women, older age, widows, or old age were collected in one column, excerpts referring to women with disabilities in a second column, and references to age were summarized in a third column of an Excel spreadsheet. Excerpts were then coded for context. Coding for context was focused on identifying with which issues respective terms were associated, for example with respect to which issues older women and/or women with disabilities were most often referenced. The results are discussed in more detail below. A more detailed methodology is included in the appendix at A.

1. Older Women in Concluding Observations

The CEDAW Committee adopted a total of 106 Concluding Observations between January 1, 2019 and October 15, 2024. The States parties reviewed during this period are listed in the appendix at C.1. The Concluding Observations followed a typical pattern consistent with the simplified reporting procedure and reporting guidelines in place since 2022.²⁹⁷ Concluding Observations represent the Committee's views on the reporting State Party's progress implementing the Convention as well as the Committee's assessment of where obstacles remain to be addressed.

Given the Committee's recognition in GR 27 of older women as a group and the potential for sex and gender to intersect with age, among other factors, one might expect the Committee to be attentive to issues likely to impact older women in State Party reports, especially those the Committee highlighted in GR 27. However, as Figure 3.1 illustrates, just over half (64 of 106) of the total number of Concluding Observations over the past five years have included at least one reference to older women as a group.²⁹⁸ Most of these (57 of 64) are limited to references to older

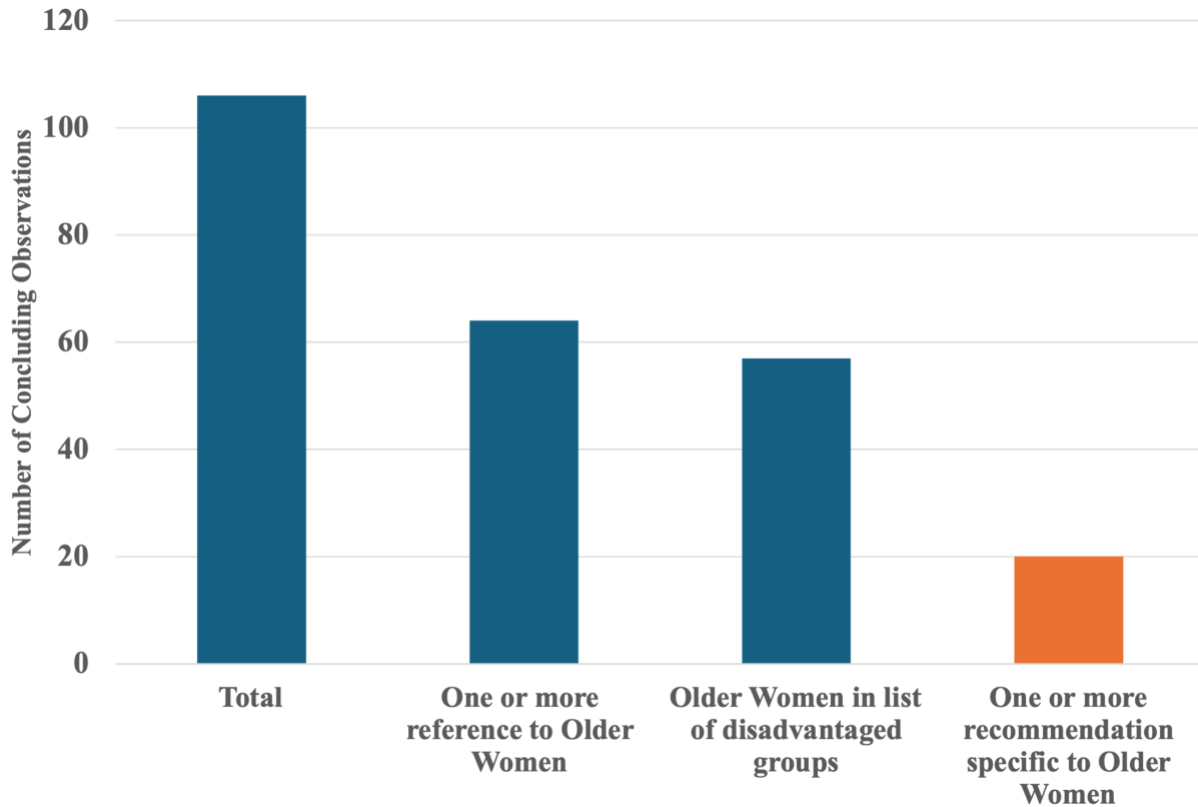
²⁹⁷ See Rules of procedure and working methods, Committee on the Elimination of Discrimination Against Women, <https://www.ohchr.org/en/treaty-bodies/cedaw/rules-procedure-and-working-methods-ftn14>; Rules of Procedure of the Committee on the Elimination of Discrimination Against Women, Rule 53, HRI/GEN/3/Rev.3; see also Guidance Note for States parties on the form and content of their reports, to ensure reports to the CEDAW Committee are comprehensive and presented in a uniform manner, CEDAW/C/74/3/Rev.1 (September 2022), available at: <https://www.ohchr.org/en/treaty-bodies/cedaw/reporting-guidelines>. Because of the backlog of work and the length of time between receipt of reports and their review by the Committee, most if not all of the Concluding Observations considered in this analysis reviewed State Party reports pre-dating adoption of the guidelines.

²⁹⁸ This number captures those Concluding Observations using the terms “older”, “elderly”, “aged” or “old” with respect to women. The CEDAW Committee did not define how it was using the term or who it meant to include by it in any of the Concluding Observations. Given its reference to women over the age of 60 in GR 27, this paper assumes that is the group to whom the Committee intends to refer when it uses the term “older women”.

women as one among a list of disadvantaged or marginalized groups. Just 20 of the total of 106 Concluding Observations included any recommendation or discussion of a concern specific to older women.

References to age, which were present in nearly all Concluding Observations, most often concerned the minimum age of marriage for girls and/or their access to age-appropriate comprehensive sexuality education or other aspects of sexual and reproductive health and rights. The Committee also included frequent requests for age-disaggregated data, most often in the context of data on gender-based violence. While the latter might have been meant to be inclusive of older women, it is unlikely. As noted in chapter 1 section ___ of this paper, few States consistently collect data on gender-based violence against women over the age of 60 suggesting that a request for such data might require new data collection strategies, potentially facing resistance at national levels. In the absence of a specific request by the Committee for data inclusive of older women, then, the present analysis assumes one was not intended by a general mention of age-disaggregated data.

Figure 3.1: CEDAW Concluding Observations referencing older women



On the one hand, that older women are explicitly referenced by the CEDAWee in as many as half of its Concluding Observations could be seen as a step in a positive direction. The references also increase (modestly) with time, suggesting the Committee is paying more attention to the interests of older women currently than it has before. For example, in 2019 the CEDAWee recognized older women in just over half (11 of 21) of its Concluding Observations while in 2023 that percentage rose to 83 percent (19 of 23). The increased attention could be related to the launch in 2021 of the United Nations Decade of Healthy Ageing (2021-2030)²⁹⁹ or increased public awareness of the precarity of many older persons' lives in the wake of the COVID-19 pandemic or a variety of other factors.

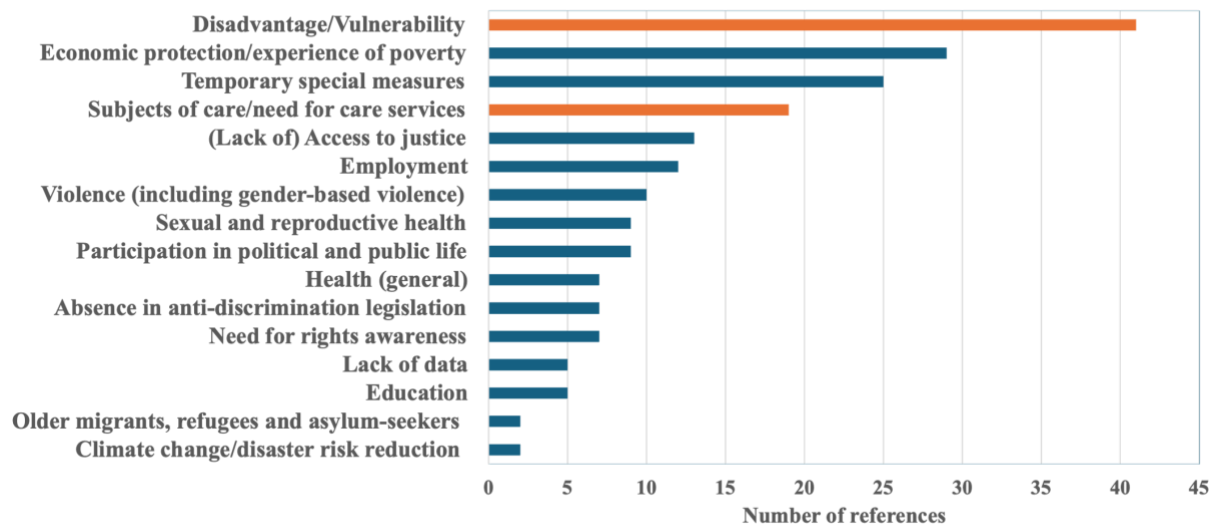
²⁹⁹ United Nations Decade of Healthy Ageing Platform. Accessed at: <https://www.decadeofhealthyageing.org/>.

At the same time, the recognition of older women is consistently weak, most often limited to merely identifying older women as one among many marginalized groups, without any accompanying recommendation. Indeed, fewer than one in five Concluding Observations during the sample period included a recommendation specifically calling for State action on the rights of older women. As Strid, et al. emphasized, simply acknowledging some form of inequality or group disadvantage represents the weakest form of inclusion and is likely to accomplish little in terms of meaningful change.³⁰⁰ Here, the data suggest a very modest engagement with age and ageism as factors intersecting with gender to produce unique forms of discrimination against older women. It is all the more surprising given the Committee's effort to highlight this specific form of group disadvantage just a few years before.

Added to this, the Concluding Observations referencing older women overwhelmingly did so in contexts associated with vulnerability, protection, and dependency. Figure 3.2 below illustrates the degree to which the Committee associated particular issues or circumstances with older women. By far the most frequent reference to older women was made with respect to disadvantage. Older women were included in lists of so-called disadvantaged, marginalized, or vulnerable groups in nearly all of the 64 Concluding Observations mentioning them in any capacity.

³⁰⁰ See Strid, et al., *Intersectionality and Multiple Inequalities* at 565, and discussion in chapter 2 of this paper.

Figure 3.2: Issues raised by the CEDAW Committee concerning Older Women



Following that, older women’s vulnerability to poverty in old age and anticipated need for social protection was also a core concern.

Much less significant were older women’s rights to lifelong learning and adult literacy training, their rights to participate in public life, and their rights to age-appropriate health care and screening, all of which figured prominently in the recommendations the Committee made to States Parties in GR 27. Just two Concluding Observations touched on measures to prevent disproportionate impacts of climate change and disaster risk from falling on older women, which, again, was included in GR 27.

It is important to note here that the category “temporary special measures” could partially fill the significant gap in coverage identified. Temporary special measures are referred to in Article 4 of the Convention and have been elaborated on by the Committee in its General recommendation no. 25 (1999). GR 25 explains that the intent of temporary special measures is to “accelerate the equal participation of women in the political, economic, social, cultural, [and] civil” life of their communities. Temporary special measures may be used to remedy past discrimination or to otherwise improve the position of women to one of substantive equality with men. They offer a mechanism through which to address (or redress) structural forms of discrimination and promote the objective of substantive equality. For older women, temporary special measures are rich with possibility as they could, if adopted, compensate to some degree for the cumulative impacts of discrimination throughout the life course.

For purposes of the present assessment, coding captured whether the Committee recommended temporary special measures specifically for older women or included older women in a list of others for whom temporary special measures were recommended. Generally these lists were identified either as “disadvantaged groups” or those experiencing “intersecting forms of discrimination”. Temporary special measures were also recommended for instances where certain groups of women “are under-represented or disadvantaged”. In these instances, the present analysis considered the reference to older women to be a reference to them as disadvantaged and coded the reference accordingly.

As Figure 3.2 illustrates, the Committee called for temporary special measures to address inequalities affecting older women *among other groups* in fewer than one in four of its Concluding Observations. The review did not identify any instance in which the Committee recommended temporary special measures specific to older women. Given the paucity and generality of the references, they do little to counter the overall shallow nature of the Committee’s engagement with older women, a superficiality highlighted by comparison with the Committee’s recognition of women with disabilities, discussed in the following section.

2. Women with disabilities in CEDAW Concluding Observations 2019-2024

Comparing the CEDAWee’s treatment of older women with its recognition of women with disabilities is revealing and offers some direction for inclusion of older women in the proposed treaty on the rights of older persons. As with older women, there is no explicit provision in the text of the CEDAW that refers to women with disabilities. The CEDAWee adopted a general recommendation in 1991 on the rights of women with disabilities but a 2018 analysis of disability mainstreaming within the human rights treaty bodies found that between 2000 and 2006 the CEDAWee’s engagement with disability was modest (referencing disability in just 15 percent of Concluding Observations).³⁰¹ However, after the adoption of the Convention on the Rights of Persons with Disabilities in 2006 the CEDAWee showed a marked increase in attention, raising the rights of women with disabilities in close to half (46 percent) of its Concluding Observations.³⁰²

³⁰¹ Skarstad & Stein, *Mainstreaming disability in the United Nations treaty bodies*, 9-13.

³⁰² *Id.* at 10.

Skarstad and Stein emphasize that the increased number of references are not alone indicative of meaningful attention to disability, pointing out that most initially were part of admonitions to States Parties to collect disaggregated data on women with disabilities and other groups. But they also found that in subsequent years the CEDAWee demonstrated an increasing understanding of disability rights and integrated them more fully into its advice to States Parties.³⁰³ The present review picks up a few years after Skarstad and Stein left off and shows a decided shift in the Committee's approach to disability and understanding of disability rights.

To begin, nearly *all* the Concluding Observations adopted during the sample period included at least one reference to women with disabilities (see Figure 3.3).³⁰⁴ In addition, nearly all of the Concluding Observations include multiple references to women with disabilities and do so with respect to a broad range of topics.

For example, the Committee discussed women with responsibilities 8 times as often as they recognized older women (see Figure 3.4).

³⁰³ Id. at 13.

³⁰⁴ The one exception is the Committee's Concluding Observations on the sixth periodic report of Lebanon, adopted 1 March 2022. U.N. Doc. No. CEDAW/C/LBN/CO/6.

Figure 3.3: Older Women and Women with Disabilities in CEDAW Concluding Observations 2019-2024

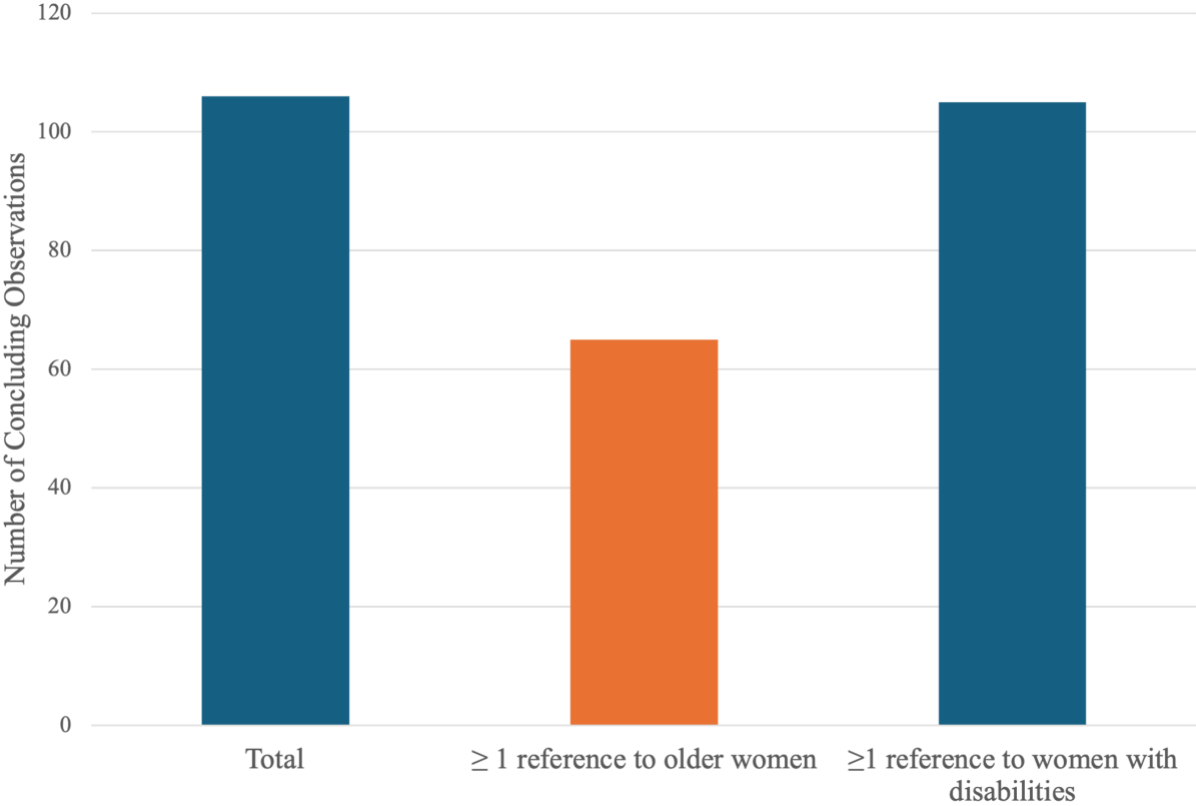
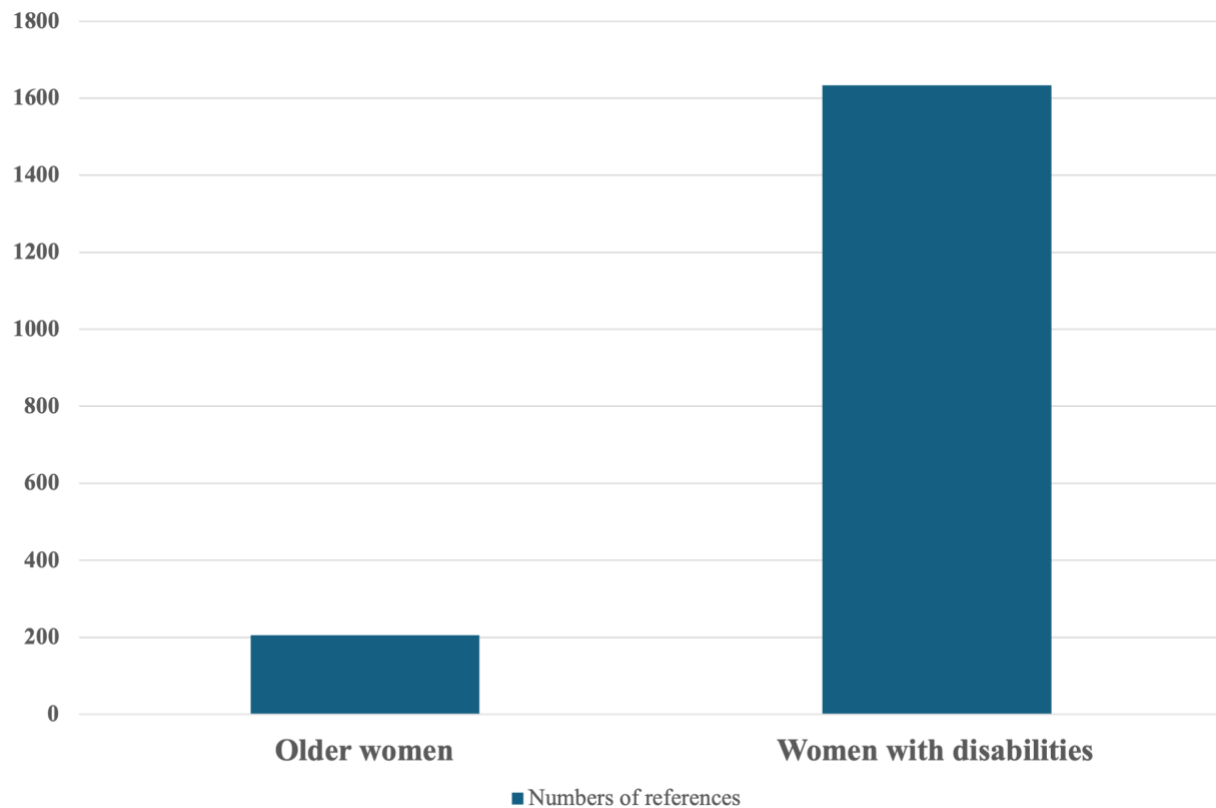


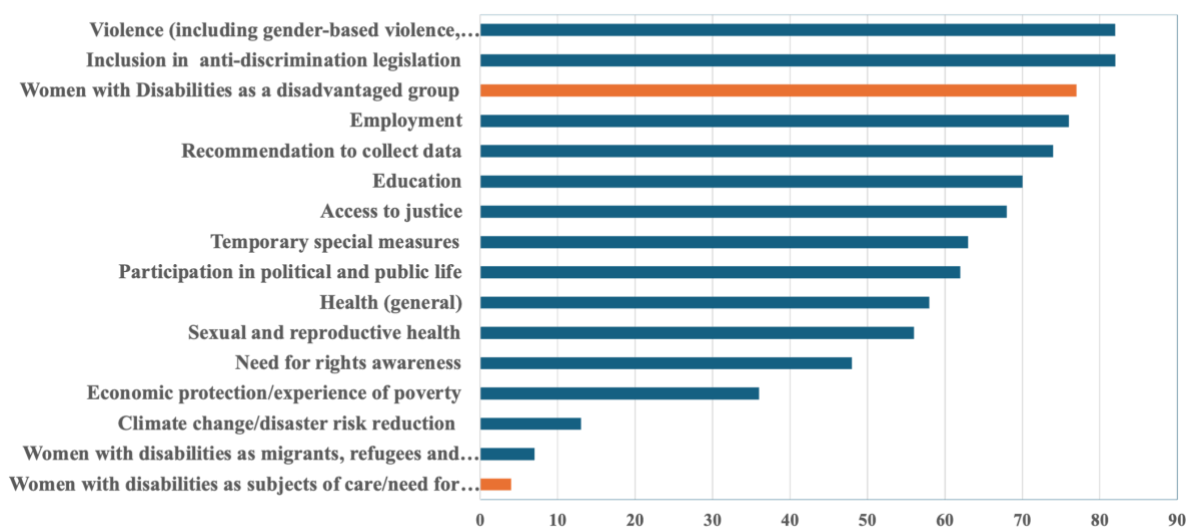
Figure 3.4: Numbers of references to older women and women with disabilities within CEDAW Concluding Observations 2019-2024



As one can see from Figure 3.4, the degree of engagement by the Committee with matters potentially affecting the rights of women with disabilities is significantly higher than its recognition of challenges facing older women. While Figure 3.4 offers a superficial view of the recognition or inclusion of both older women and women with disabilities in that it is only capturing the number of references as opposed to their depth, it nevertheless suggests—and promotes—far greater visibility of women with disabilities to the members of the Committee and States Parties to the Convention. Analysis of the issues the Committee raised as relevant to each group reinforces this conclusion.

What is immediately apparent from Figure 3.5 is the significantly broader scope of references to women with disabilities within the Concluding Observations compared with those concerning older women. Most issues are raised within most Concluding Observations (the balance does not tip until the category of “rights awareness”, fifth from the bottom).

Figure: 3.5: Issues raised by the CEDAW Committee concerning Women with Disabilities

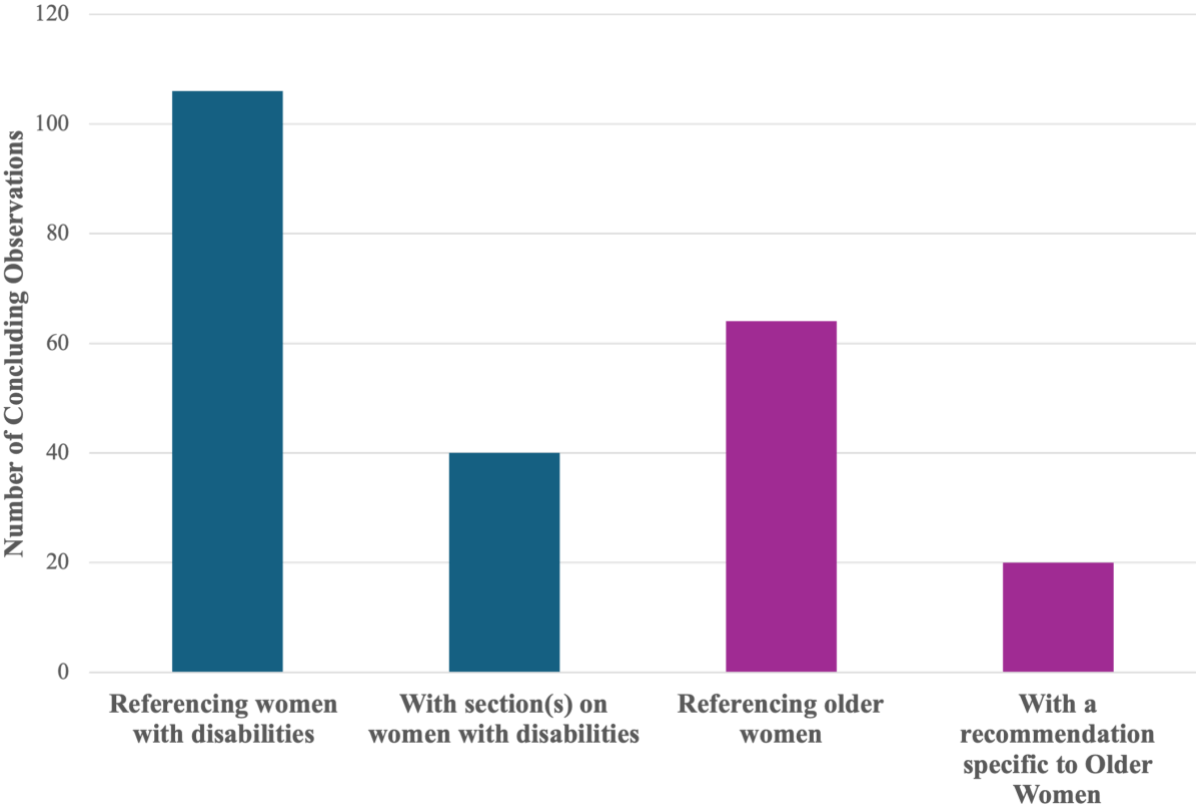


Women with disabilities are, like older women, overwhelmingly recognized as a disadvantaged group and their vulnerability to violence is called out more than any other dimension of oppression. At the same time, though, the Committee devoted substantial attention to women with disabilities’ rights to employment and education, and their rights to participate in political and public life. The Committee is also more attentive to the barriers women with disabilities are likely to face accessing justice, including as a consequence of violence, and to their needs for access to the full spectrum of health care services, including recognition of sexual and reproductive health and rights.

Despite the broad scope of engagement, the level of engagement is still somewhat superficial. As in the case of older women, the Committee most frequently recognizes women with disabilities as one among a list of disadvantaged or vulnerable groups. It also declined to offer much in the way of detail for States Parties to consider with respect to actions they should

take to ensure greater inclusion. Indeed, as Figure 3.6 illustrates, fewer than half of the Concluding Observations contained sections or paragraphs specific to women with disabilities. This was still substantially more than with respect to older women but indicates a more superficial consideration of disability than the data suggests at first glance.

Figure 3.6: Comparative depth of engagement



3. Discussion

Referring back to the spectrum of inclusion detailed by Strid, et al. and discussed in chapter 2 of this paper, references to the intersection of ageing and gender (older women) are most often at the weakest form of visibility. Older women are “named” in most but not all concluding observations, but infrequently and with respect to limited numbers of issues. In most cases when they are named, it is as one group among a list of groups of women most often identified as “disadvantaged and marginalized”. The other groups named in those lists change depending on the country under review, e.g. Roma women, ethnic minority women, migrant, asylum-seeking

and refugee women, and the like. Women with disabilities are (almost) always included in the same lists, as are rural women.

Some connections are made between older women as a named disadvantaged group and certain policy recommendations, which represents a slightly higher level of inclusion. These are infrequently connected to older women as a single group but rather they are policy recommendations made for addressing the rights of *all* of the listed groups of disadvantaged women as a whole, with general recommendations for temporary special measures the most prominent example. Others include recommendations to promote access to justice,³⁰⁵ expand social protection and benefits policies,³⁰⁶ and take measures to address violence against older women³⁰⁷.

Recommendations that focus on older women as autonomous individuals with a right to participate and be visible in all aspects of political, economic, social and civic life are few and far between. Rather than recognizing older women as experienced leaders in their communities and families and centering them as rights holders entitled to age with dignity, the pattern evident here is one of erasure of the breadth of older women's life experiences. Given that many of the members of the CEDAWee are themselves close to or over the age of 60 and thus within the group of "older women" they describe, it is difficult to understand the persistence or ubiquity of an older woman who is disempowered, vulnerable, and dependent. It leads one to suspect that there is an unconscious disjuncture between the image of the "older woman" they hold as they work and the image they hold of themselves and their peers. Probing this hypothesis further through interviews with some of those involved would be a useful supplement to the present project.

With respect to women with disabilities, while the repeated references to disability suggest important progress with respect to mainstreaming disability into the Committee's work, especially

³⁰⁵ See, e.g., *Concluding observations on the ninth periodic report of Hungary*, U.N. Doc. No. CEDAW/C/HUN/CO/9 (2023); *Concluding observations on the seventh periodic report of Tunisia*, U.N. Doc. No. CEDAW/C/TUN/CO/7 (2023); *Concluding observations on the sixth periodic report of Georgia*, U.N. Doc. No. CEDAW/C/GEO/CO/6 (2023).

³⁰⁶ See, e.g., *Concluding observations on the eighth periodic report of Jamaica*, U.N. Doc. No. CEDAW/C/JAM/CO/8 (2023); *Concluding observations on the tenth periodic report of Bhutan*, U.N. Doc. No. CEDAW/C/BTN/CO/10 (2023); *Concluding observations on the seventh periodic report of Slovenia*, U.N. Doc. No. CEDAW/C/SVN/CO/7 (2023).

³⁰⁷ The most recent examples include, *inter alia*, *Concluding observations on the sixth periodic report of Singapore*, U.N. Doc. No. CEDAW/C/SGP/CO/6 (2024); *Concluding observations on the ninth periodic report of the Philippines*, U.N. Doc. No. CEDAW/C/PHL/CO/9 (2023); *Concluding observations on the combined initial to fifth reports of Sao Tome and Principe*, U.N. Doc. No. CEDAW/C/STP/CO/1-5 (2023); *Concluding observations on the fourth period report of Timor-Leste*, U.N. Doc. No. CEDAW/C/TLS/CO/4 (2023).

in comparison with previous research,³⁰⁸ the Committee’s engagement with disability, too, remains somewhat superficial. What is notable, however, is the difference in approach to a group which is presumed to be of diverse age(s) (women and girls with disabilities) and a group which is defined as “older”, whatever the specificities of that might be. With respect to the former, the Committee consistently—and appropriately—considered the full spectrum of lived experiences and called for action across a range of fields where women and girls with disabilities could exercise voice and agency. By comparison, the range of life experiences the Committee appears to consider relevant to older women is far narrower and pointed away from public and social engagement and more toward seclusion—and exclusion.

It is very likely that the existence of the CRPD explains at least some of the different treatment. Skarstad and Stein’s analysis suggests a clear temporal correlation between the adoption of the CRPD and increased visibility—however superficial—of women and girls with disabilities in the work of the Committee. The connection between the CRPD and the work of the CEDAWee in particular is likely related to the CRPD’s Art. 6 which specifically addresses the rights of women with disabilities, placing them squarely within the CEDAWee’s mandate.³⁰⁹ It is also likely that the process of negotiating the CRPD and advocating for its implementation has bolstered mobilization by civil society organizations led by women with disabilities, some of whom have been very effective at promoting engagement with the various treaty bodies especially the CEDAWee. Organizations led by women with disabilities are increasingly visible and vocal at international conferences including annual meetings of the Commission on the Status of Women, the Generation Equality Forum hosted by UN Women, and Women Deliver, to name just a few. Email listserves and advocacy campaigns sponsored by organizations of women with disabilities frequently advocate for engagement with the treaty bodies, including the CEDAWee and provide background and training materials to help support newer organizations get involved. All this is to say that it is possible that civil society advocates could be responsible for pushing the CEDAWee toward a more consistent acknowledgment of women with disabilities in its work.

³⁰⁸ See, e.g., Skarstad and Stein, *Mainstreaming disability in the United Nations treaty bodies*, 9-14.

³⁰⁹ This correlation is less evident in Skarstad and Stein’s analysis which found that all of the treaty bodies they investigated, including the Human Rights Committee, the Committee on Economic, Social, and Cultural Rights, the Committee Against Torture, the Committee on the Elimination Against Racial Discrimination, and the Committee on the Rights of the Child, increased the number of references to disability in their respective concluding observations after adoption of the CRPD. In other words, it is quite possible that in the absence of Article 6, the CEDAWee would have acted the same.

But perhaps most significantly, the time period covered by this assessment overlaps with the election of Ana Pelaez to the CEDAW Committee (in June 2019). Pelaez, who is blind, is the first disabled woman elected to the CEDAW Committee and has served as its chair since 2024. It seems very likely that her presence on the Committee as an advocate for the rights of women with disabilities has prompted new attention to the rights of women with disabilities as constituents.

What does all of this suggest for consideration of a new convention on the rights of older persons? The Committee's inconsistent application of its own General recommendation no. 27 indeed supports arguments for new convention on the rights of older persons, ideally one which centers the rights of older women.

Conversely, increasing numbers of references to women with disabilities suggests treaty bodies *can and do* call attention to the circumstances of specific groups of women at times so a new treaty may not be necessary. This possibility is tested further with review of the work of the Committee on the Rights of Persons with Disabilities, discussed in the following sections.

Committee on the Rights of Persons with Disabilities

Unlike the CEDAW, adopted more than forty years ago, the CRPD represents a more contemporary approach to discrimination, one which explicitly recognizes the existence of multiple and intersecting forms of discrimination on the basis of gender and other factors, and insists that States take affirmative steps to counter exclusionary practices. Prior to its adoption, the rights of persons with disabilities—much like the rights of older persons—were historically overlooked within the UN human rights system. Indeed, prior to the adoption of the Convention on the Rights of Persons with Disabilities in 2006, just one of the core human rights treaties—the Convention on the Rights of the Child—contained an explicit reference to disability (Arts. 2 and 23, prohibiting discrimination on the basis of a child's disability and recognizing the right of a child with a disability to a “full and decent life” and “to special care”, respectively). Skarstad and Stein note that disability was also omitted from the Millennium Development Goals (an omission acknowledged by the UN Secretary General and General Assembly after the adoption of the

Convention on the Rights of Persons with Disabilities³¹⁰), humanitarian relief programming, and the work of the international financial institutions (Skarstad & Stein, 2018). Because the CRPD is the most recent human rights instrument organized a particular social group, namely persons with disabilities, and includes an article specifically recognized intra-categorical differences, Article 6 on the rights of women with disabilities,³¹¹ the process of its negotiation is worth discussing at some length here.

A. The road to the Convention

What efforts there were to promote the rights of persons with disabilities prior to the Convention on the Rights of Persons with Disabilities typically took a medicalized approach and focused on rehabilitation and social protection. For example, early reports from the Economic and Social Commission promoted rehabilitation programmes for persons with physical disabilities and blindness, while the Declaration on the Rights of Mentally Retarded Persons, adopted by the General Assembly in 1971, referred to persons with disabilities as dependent on welfare systems and assumed a need for separate services and institutions.³¹²

A more rights-based approach to disability began to take hold in the 1980s with the adoption of the World Programme of Action Concerning Disabled Persons.³¹³ While the WPA maintained a focus on prevention and rehabilitation, it explicitly identified the rights of persons with disabilities as human rights and called for “equalization of opportunities” to promote greater integration of persons with disabilities.³¹⁴

³¹⁰ See, e.g., 2010 *Report of the Secretary General: Realizing the Millennium Development Goals for Persons with Disabilities* (A/64/180); General Assembly Resolution 64/131: *Realizing the Millennium Development Goals for Persons with Disabilities* (A/RES/64/131); General Assembly Resolution 65/186: *Realizing the Millennium Development Goals for persons with disabilities towards 2015 and beyond* (A/RES/65/186); and 2012 *Report of the Secretary General: Realization of the Millennium Development Goals and internationally agreed development goals for persons with disabilities: a disability inclusive development agenda towards 2015 and beyond* (A/67/211).

³¹¹ Article 7 separately recognizes children with disabilities as an intra-categorical grouping.

³¹² See, e.g., UN Enable, *The United Nations and Disabled Persons: A Chronology*, available at <https://www.un.org/esa/socdev/enable/dis50y00.htm> (2003); United Nations Department of Economic and Social Affairs, *Disability and Development Report: Realizing the Sustainable Development Goals by, for and with persons with disabilities*, <https://social.un.org/publications/UN-Flagship-Report-Disability-Final.pdf> (2018), accessed 16 Mar. 2025.

³¹³ United Nations General Assembly, *World Programme of Action concerning Disabled Persons*, U.N. Doc. No. A/RES/37/52 (3 Dec. 1982).

³¹⁴ *World Programme of Action concerning Disabled Persons*, <https://www.un.org/development/desa/disabilities/resources/world-programme-of-action-concerning-disabled-persons.html-objectives> (1982), accessed 16 Mar. 2025.

In 1982 the UN launched the Decade for Disabled Persons (1982-1992) which culminated in the adoption of the Standard Rules on Equalization of Opportunities for Persons with Disabilities. As their name would suggest, the Standard Rules provided concrete rules to guide States and stakeholders to integrate persons with disabilities into the global development agenda.³¹⁵ The first Special Rapporteur on the Rights of Persons with Disabilities was tasked with monitoring implementation of the Standard Rules within Member States.³¹⁶

Subsequent world conferences notably recognized persons with disabilities as entitled to the full panoply of human rights and related protections and emphasized that sustainable development required the participation of all, including the most marginalized.³¹⁷

Conferences specific to the advancement of women's rights also took up the rights of women with disabilities and called on States to do more to support their participation in political, economic, and social life. The 1985 Nairobi Forward-looking Strategies for the Advancement of Women, for example, called on states to enable political participation by all women, "including those from the most vulnerable, least privileged and most oppressed groups" (para. 92).³¹⁸ The 1995 Beijing Declaration and Platform for Action similarly called on states to "assist women and girls, particularly those with special needs, women with disabilities, and women belonging to racial and ethnic minorities" to take part in decision-making (¶ 197).³¹⁹

Indeed, advocates for the equal rights of women were among the first to incorporate the rights of persons with disabilities—in this case, specifically women with disabilities—into official human rights institutions. The CEDAWee adopted a General Recommendation on women with disabilities in 1991 that recognized women with disabilities were vulnerable to overlapping forms of discrimination on the basis of both gender and disability and recommended that Member States include information on the specific measures they were taking to prevent such discrimination in

³¹⁵ UNDESA, *Disability and Development 2018*, 25.

³¹⁶ *Id.*

³¹⁷ World Conference on Human Rights, *Vienna Declaration and Programme of Action*, ¶¶ 63-65, <https://www.ohchr.org/sites/default/files/vienna.pdf> (25 June 1993), accessed 16 Mar. 2025; World Summit for Social Development, *Copenhagen Declaration on Social Development*, ¶ 16(h), U.N. Doc. No. A/CONF.166/9 (14 March 1995), https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.166_9_Declaration.pdf, accessed 16 Mar. 2025.

³¹⁸ World Conference to Review and Appraise the Achievements of the United Nations Decade for Women, *Nairobi Forward-Looking Strategies for the Advancement of Women*, <https://www.un.org/womenwatch/confer/nfls/> (1985), accessed 16 March 2025;

³¹⁹ Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, <https://www.un.org/womenwatch/daw/beijing/platform/> (September 1995), accessed 16 Mar. 2025.

their regular reports.³²⁰ A few years later, the Committee on Economic, Social and Cultural Rights (CESCR) similarly adopted a General Comment that noted States Parties were obligated to do much more than merely abstain from causing harm to persons with disabilities but were required to proactively remove structural impediments to the full realization of the human rights of persons with disabilities.³²¹ By contrast, in the same time period the Human Rights Committee (HRC, monitoring body for the International Convention on Civil and Political Rights (ICCPR)) largely ignored disability in its communications with Member States, mentioning the human rights of persons with disabilities in just 7 percent of all Concluding Observations published between 1993 and 2002, and making recommendations for State action on disability rights in just 3 percent.³²²

The lack of engagement demonstrated by the HRC was emblematic of the significant gap between high level policy statements promoting disability rights and the work of the UN's human rights institutions. A 2002 report commissioned by the UN High Commissioner for Human Rights found that the rights of persons with disabilities had generally been ignored within the UN's human rights system, most notably by UN treaty bodies.³²³ Of the then-six core human rights treaties, none of the treaty bodies took up the issue of disability consistently and substantively in their communications with States Parties.³²⁴ In other words, there was little evidence that generalized calls for recognition of disability rights had made inroads into the work of the very institutions tasked with enforcing those rights among Member States within the UN human rights system. The authors of the 2002 report called for the mainstreaming of disability into the work of the treaty bodies but also highlighted the need for the Office of the High Commissioner for Human Rights (OHCHR) to elevate disability within the UN system and to ensure that all UN entities were adopting and promoting a human rights perspective on disability in all their work.³²⁵

When the Convention on the Rights of Persons with Disabilities was adopted in 2006, it was recognized as filling a significant gap in the UN human rights system. In particular, the CRPD provided a mechanism through which to accelerate the push toward mainstreaming the rights of

³²⁰ CEDAWee, *General recommendation No. 18 on disabled women and girls*, A/46/38 (1991).

³²¹ Committee on Economic, Social and Cultural Rights, *General Comment No. 5: Persons with Disabilities*, ¶ 9, U.N. Doc. No. E/1995/22 (9 Dec. 1994).

³²² G. Quinn, T. Degener, & A. Bruce, C. Burke, J. Castellino, P. Kenna, U. Kilkelly, and S. Quinlivan, *Human Rights and Disability: The current use and future potential of United Nations human rights instruments in the context of disability*, 59-69 (2002).

³²³ *Id.*, 7-9, 288.

³²⁴ *Id.*, chs. 3-9.

³²⁵ *Id.*, 288-289.

persons with disabilities across UN human rights mechanisms. Not only does the CRPD provide a comprehensive articulation of what the human rights of persons with disabilities should be understood to include and the fields in which action is required, it also mandated the mainstreaming of disability at both national and international levels. Article 4(1)(c), for example, obligates States Parties to “take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes”, without exception, and Article 32 calls for both States Parties and international and regional organizations to ensure that “international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities”.

The CRPD was also the first human rights treaty to explicitly recognize the potential for multiple and intersecting forms of discrimination to harm women and girls.³²⁶ In its Preamble, the CRPD expresses concern for those impacted by “multiple or aggravated forms of discrimination” on the basis of a number of factors, including sex (recital p). The Preamble also recognizes the greater risks of violence and abuse faced by women and girls with disabilities (recital q) and calls for the integration of a gender perspective in implementation of the Convention (recital s). Article 6 is specific to women with disabilities and obligates States Parties to take measures to ensure women and girls the full enjoyment of all human rights.

1. Women with disabilities and CRPD Article 6

As was the case with older women in the Vienna and Madrid plans of action on ageing, precursors to the CRPD such as the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, adopted by the General Assembly in 1994, call on Member States to give special attention to meeting the needs of women with disabilities.³²⁷ In addition, a compilation of key topics for inclusion in the proposed treaty on disability rights, much like the OWGA’s final

³²⁶ The Commentary to the CRPD notes that prior to the CRPD’s adoption, its closest antecedent in this respect was the Beijing Declaration and Platform for Action which references “multiple or aggravated forms of discrimination” in the context of women’s rights. R. Cera, ‘Preamble’, in V. Della Fina, R. Cera, & G. Palmisano, eds., *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary*, at 85 (Cham, Switzerland: Springer International Publishing, 2017).

³²⁷ United Nations General Assembly, *Resolution Adopted by the General Assembly: 48/96. Standard Rules on the Equalization of Opportunities for Persons with Disabilities*, ¶ 15, and Rule 6(5)(c), Rule 9(3), U.N. Doc. No. A/RES/48/96 (4 March 1994). The same is true of the 1995 Beijing Declaration and Platform for Action, e.g. ¶¶ 32, 46, 80(a), and 106(0), available at <https://www.un.org/womenwatch/daw/beijing/platform/>, and the 1994 Declaration on the Elimination of Violence Against Women in the preamble, U.N. Doc. No. A/RES/48/104 (20 December 1993).

report, also referenced the importance of recognizing women with disabilities.³²⁸ But the first draft of the Convention did not include any specific consideration or recognition of women with disabilities, noting only in the proposed preamble that persons with disabilities subjected to “multiple or aggravated forms of discrimination” on the basis of sex, among other categories, could face difficult circumstances, and calling for the incorporation of a gender perspective generally with respect to the terms of the treaty.³²⁹

An article specific to women with disabilities was not proposed until the third session of drafting negotiations. The proposal, made by the Republic of Korea, called for an article solely on the rights of women with disabilities as well as a mandate for data collection disaggregated by gender, policies and programs on the sexual and reproductive rights of women with disabilities, recognition of their right to work, and protections from sexual exploitation and abuse.³³⁰ Government negotiators objected on a number of grounds, including concern that naming one “vulnerable group” would encourage opposition that some had been left out, a related concern that recognizing a sub-group of persons with disabilities would weaken the draft conventions protection of “all persons with disabilities”, and finally objection that including an article specific to the rights of women with disabilities could create legal uncertainty regarding the scope of coverage of the CEDAW.³³¹

Following a series of consultations to resolve the concerns, negotiators opted for what they referred to as a “twin-track” approach to women with disabilities in the Convention, agreeing to a stand-alone article recognizing that women and girls with disabilities are subject to “multiple discrimination” and obligating States Parties to “ensure the full and equal enjoyment by them of all human rights and fundamental freedoms” (Article 6). There are also multiple references to women with disabilities in the preamble, in Article 3 (referencing equality between men and

³²⁸ United Nations, Ad-Hoc Committee on an International Convention, *Chair’s Draft Elements of a Comprehensive and Integral International Convention on the Rights and Dignity of Persons with Disabilities*, Art. 7, <https://www.un.org/esa/socdev/enable/rights/wgcontrib-chair1.htm> (December 2003), accessed March 2025; see also V. Della Fina, R. Cera & G. Palmisano, eds., *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary*, pp. 172-194 (Cham, Switzerland: Springer International Publishing, 2017).

³²⁹ V. Della Fina, ‘Article 6: Women with Disabilities’, in V. Della Fina, R. Cera, & G. Palmisano, eds., *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary*, 175-194 (Cham, Switzerland: Springer International Publishing, 2017).

³³⁰ Id.; see also M.Y. Kim, ‘Women with Disabilities: The Convention Through the Prism of Gender’, in M. Schulze & M. Sabatello, eds., *Human Rights and Disability Advocacy*, ch. 6. (Philadelphia: University of Pennsylvania Press, 2013).

³³¹ Della Fina, *Article 6: Women with Disabilities*, 176-179; Kim, *The Convention Through the Prism of Gender*, 119-123.

women), Article 25 (highlighting the need for gender-sensitive health services), and Article 28 (ensuring access to social protection programs for women and girls with disabilities), among others.³³²

Because of its inclusion of the stand-alone article, the Convention is viewed as a success by those advocates who participated in the negotiations. Mi Yeon Kim, a member of the Korean delegation and a subsequent member of the Committee on the Rights of Persons with Disabilities, describes the outcome as a “turning point”:

The CRPD marks a turning point from the vague discussion of the issues of persons with disabilities to the point where the differential treatment between men with disabilities and women with disabilities is clearly recognized, gender equality is acknowledged as essential to human development, a gender perspective is required in all disability-related legal, systemic, and political measurements, the multiple discrimination that women with disabilities suffer is described, and a specific article to correct the mistreatment is included. In this sense, the Convention functions as a stepping stone for the establishment of dignity for women with disabilities, improvement of their human rights, and eradication of discrimination.³³³

The attention paid to the rights of women with disabilities by the CEDAWee since the CRPD came into force would suggest that the promise at least of raising their visibility within the international community has been met.

2. Ageing and the CRPD

The CRPD also contains multiple references to age as a relevant factor in discriminatory treatment of persons with disabilities (see, e.g. Arts. 8, 13, 16, 25 and 28). For example, in the preamble at (p) the Convention notes concern “about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status”. Article 8 calls on States Parties to take measures “to combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life”, and Article 13 obligates States Parties to ensure age-appropriate accommodations are available at all stages of legal proceedings of any kind. Article 16 calls for age- and gender-sensitive assistance and protection services to prevent

³³² Id.

³³³ Kim, *The Convention Through the Prism of Gender*, at 146.

and respond to instances of exploitation and abuse of persons with disabilities. Article 25 specifically refers to older persons with disabilities and calls on States Parties to provide health services necessary to prevent and detect occurrence and progress of disability among older persons, and Article 28 requires States Parties to ensure older persons with disabilities have access to social protection programmes and anti-poverty initiatives.

In short, the text of the Convention is replete with provisions which lay the groundwork for protection of the rights of older women with disabilities. In a 2019 report on realization of the rights of older persons with disabilities, the then-Special Rapporteur on the Rights of Persons with Disabilities noted the importance of the CRPD to a human rights-based approach to ageing and disability and the opportunity it presents for older persons with disabilities seeking protection.³³⁴ As will be shown below, however, the full potential of the CRPD has yet to be tapped for older women with disabilities.

B. General comments and inclusion of older women

The Committee on the Rights of Persons with Disabilities has adopted eight general comments, all since 2014. They deal with a range of issues, including equal recognition before the law and legal capacity, accessibility, the right to independent living, and the rights to education and employment, among other topics. While none are specific to older women with disabilities, they touch on issues like the right to live independently in the community which are relevant to the lived experiences of older women. General comment 3 on women and girls with disabilities briefly recognizes that older women with disabilities may face particular forms of disadvantage, such as barriers to accessing housing and social protection benefits, along with increased risks of institutionalization (see, e.g., ¶¶ 55, 59) and reiterates the Convention's mandate to combat harmful stereotypes against persons with disabilities, including those based on sex and age (para. 8).³³⁵ But the comment is otherwise far more focused on the situation of girls and young(er) women with disabilities and includes no specific recommendations for State action on behalf of older women with disabilities as a group.

³³⁴ *Report of the Special Rapporteur on the Rights of Persons with Disabilities* [Catalina Devandas-Aguilar], U.N. Doc. No. A/74/186 (17 July 2019).

³³⁵ Committee on the Rights of Persons with Disabilities, *General comment No. 3 (2016) on women and girls with disabilities*, CRPD/C/GC/3 (November 2016).

General comment 6 is notable for its clear emphasis that the Convention applies to intersectional discrimination and its equally clear statement of what States Parties should understand that to include:

‘Intersectional discrimination’ occurs when a person with a disability or associated to disability suffers discrimination of any form on the basis of disability, combined with, colour, sex, language, religion, ethnic, gender, or other status. Intersectional discrimination can appear as direct or indirect discrimination, denial of reasonable accommodation, or harassment... Intersectional discrimination refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable and thereby expose relevant individuals to unique types of disadvantage and discrimination.

(¶ 19).³³⁶ Although this definition notably leaves out age as a factor in intersectional discrimination, relegating it to “other status”, GC 3 separately highlights poverty as both a factor to and product of intersectional discrimination, and one which is particularly pernicious for older women with disabilities (¶ 68).

GC 3 also contains an admonition to States parties to include older persons and their representative organizations in consultations on implementation of the Convention, a recommendation reiterated in General comment No. 7 (GC 3, ¶ 33). General comment no. 7 discusses obligations of States parties to ensure persons with disabilities participate in implementation and monitoring of the Convention.³³⁷ The Committee noted the importance of States Parties consulting with organizations of persons with disabilities which represent all persons with disabilities, including women and older persons, among others (¶ 50). The Committee also called on States Parties to seek out those who may face additional barriers to participation, such as older persons, because of poverty, remote or rural locations, or other inequalities (¶ 87). These efforts demonstrate a clear intent to ensure that older persons have the right to be heard in matters which concern them, a consistent theme within the disability rights movement.

The general comments, like the Convention itself, thus provide a foundation for an intersectional, human rights-based approach to the rights of older women, especially those with

³³⁶ Committee on the Rights of Persons with Disabilities, *General comment No. 6 (2018) on equality and nondiscrimination*, CRPD/C/GC/6 (April 2018).

³³⁷ Committee on the Rights of Persons with Disabilities, *General comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention*, CRPD/C/GC/7 (November 2018).

disabilities, even while they propose little in the way of specifics. The same pattern holds in the Committee's jurisprudence, discussed in the following section.

C. Jurisprudence

Over the past ten years, the CRPDDee has developed a substantial body of jurisprudence concerning a range of issues. It has been presented with multiple claims where it could engage with intersectional forms of discrimination yet has generally declined to do so. Instead, the CRPDDee has pointed to insufficiency of evidence on issues unrelated to the disability of the claimant, choosing not to engage with issues of race and ethnicity in particular. Multiple cases have also involved claimants who could be considered older but in all but one the CRPDDee did not engage with the age of the claimant or otherwise discuss it as significant to either the discrimination alleged or the relief recommended. Just one of these cases presented questions relating to the overlap of gender and age stereotypes.

In all, despite its expansive recognition of intersectional forms of discrimination in General comment 6, the CRPDDee has resisted opportunities to engage with intersectionality in practice, choosing instead to ground its decision-making in a broad approach to disability and ableism. Illustrative cases are discussed in more detail below.

1. Gender and disability

Maria Simona Bellini v. Italy (January 2023)

Maria Simona Bellini is the primary caregiver for her disabled daughter and husband. At the time of the complaint she was approximately 60 years old and was not herself disabled. In addition to providing full time unpaid care for her family members, she had earned income through a work from home position which was eliminated in 2017. The only income the family received outside of Bellini's job was a small pension payable to the disabled persons in the home. Bellini herself was not entitled to any pension or social insurance for her work as a caregiver, which was the source of her complaint to the CRPDDee.

The complaint alleged discrimination on the basis of association with persons with disabilities under Art. 5 as well as denial of her family members' right to live independently and

be free from neglect and abuse. She also raised a claim under Art. 28 asserting that the denial of social protection benefits to caregivers of persons with disabilities indirectly harms disabled family members and condemns them to lives of poverty.

Notably, there is nothing in the Committee's recitation of the complaint concerning the potential impact of Art. 6 on women and girls with disabilities or otherwise raising gender stereotypes concerning women's roles within the family as issues of concern.

The Committee's discussion of the merits of the claims is equally blind to both gender and Bellini's age. Instead, the focus of the discussion is on the rights of her disabled child and spouse to live in the community and the State's obligations to facilitate "full enjoyment by persons with disabilities" of the right to choose where and with whom they live (¶ 7.3). Even where the Committee recognizes the obligation of States parties to provide some forms of support to family caregivers, it justifies this obligation on the basis that "they can in turn support their relatives to live independently in the community" rather than in their capacity as autonomous rights-holders themselves (¶¶ 7.4, 7.8).

The Committee appears concerned with Bellini as an individual only to the extent that her caregiving responsibilities have denied her access to employment and (formal) labour markets, which the Committee recognizes as discrimination by association (¶ 7.10). There is nothing in the discussion or recommendations engaging with gender norms surrounding unpaid labour in the home or otherwise calling for attention to systemic disadvantages flowing to women, including older women, as a result of caretaking imbalances. In other words, while challenging the structural dimensions of poverty with which persons with disabilities must contend the Committee is silent as to how those dimensions are entangled with gender inequalities.

[Z. v. United Republic of Tanzania \(October 2019\)](#)

By comparison, gender figured more prominently in the CRPD's decision with respect to Z, a younger woman. Z was 34 years old at the time of her complaint. She lived in a rural village in Tanzania and was a single mother working as a farmer. She is a person with albinism. In 2008, she was attacked by two men who cut off one of her arms and caused so much harm to the other arm it was later amputated. At the time of the attack she was pregnant but lost the pregnancy due to trauma.

Her complaint alleged that the State Party had failed to protect her rights as a person with albinism, and as a woman with a disability, citing to Art. 6 of the CRPD. The Committee's focus in its discussion similarly was trained on the State Party's efforts to prevent and respond to discrimination against persons with albinism. But the Committee notably recognized that the claimant's experience of discrimination was linked with her status as a single mother of a small child:

[T]he Committee notes that at the time of the attack, the author was the single mother of a small child and was pregnant. It further notes that, as a direct consequence of the attack, the author suffered a miscarriage...[T]hese elements, which are intrinsically linked to the author's status as a woman with albinism, have resulted in the isolation of the author from her community, and amount to gender- and disability-based discrimination.

(¶ 8.9). The Committee also found that the State's failure to consider gender discrimination as a core component of the attack against her, or what the Committee referred to as the "invisibilization" of the specific impacts of the attack against her as a woman, itself amounted to gender-based discrimination (¶ 8.9).

Notably, the Committee did not refer to the circumstances in this case as having been a product of intersectional discrimination or intersecting forms of discrimination. Rather, it appeared to analyze the gendered aspects of the attack—and the harm suffered—as separate from (or additive to) the experience of disability discrimination.

Given that resistance, it is perhaps not surprising that there is no reference to either intersectional or gender discrimination in the recommendations and no recommendations to the State Party that it take any steps to prevent gender-based violence, provide support or protection to pregnant women or single mothers, or otherwise recognize the specific intersectional vulnerabilities of women with albinism. There is also no consideration of how the claimant's rural location may have contributed to the persistence of harmful stereotypes about persons with albinism or her visibility and related vulnerability to others in her village.

2. Ageing and disability

Abdulrahman Ahmed al-Hawali Alghamdi v. Saudi Arabia (July 2024)

Safar bin Abdulrahman al-Hawali was 70 years old at the time his nephew lodged this complaint on his behalf. Al-Hawali is a prominent religious scholar in Saudi Arabia and a member of the Islamic Awakening movement which is critical of the Saudi government. He and others involved in the movement were arrested in 2018 and, in al-Hawali's case, were effectively "disappeared" for months. At the time of the complaint, he had been held in detention for approximately two years. Al-Hawali had previously had two strokes which affected his ability to communicate, move around, and care for himself. The complaint alleged that while he was in detention he was denied access to medical care and left unable to communicate, violating his rights to reasonable accommodation and equality before the law, among others. The complaint also raised concerns about Al-Hawali's age, noting that it made him more vulnerable to severe disease, particularly COVID-19, in detention.

While the Committee found in al-Hawali's favor and had no trouble concluding that the State's conduct in this matter was discriminatory especially with respect to his detention (which it recognized as enforced disappearance), it effectively ignored his age as a potentially relevant factor in his arrest. Noting only that effective access to justice demanded al-Hawali be provided "age-appropriate" procedural accommodations, the Committee focused instead on challenging the State's defenses regarding his access to health care. It made no reference to how his age could have led to more rapid deterioration in his health condition or in any other way considered how his age may affect the treatment he received.

Gaetan Sabadie v. France (Sept. 26, 2023)

Gaetan Sabadie was 70 years old at the time of his complaint. Sabadie had been party to a lengthy liquidation proceedings during which he lost a jointly-owned property and was evicted from his residence. During the proceedings, he became disabled and at the time of the complaint was unable to walk or express himself as a result of a series of strokes. He alleged that he had been denied access to justice in violation of Article 13 of the CRPD because of a failure to investigate alleged fraud on the part of the liquidator. Sabadie contended that the drawn-out proceedings (which lasted 22 years) were the cause of his disability, and that he was denied

appropriate accommodations during the proceedings to enable him to challenge the liquidation and recover funds owed to him.

Even though Sabadie raised his age as a factor adding to his distress over alleged delays and exacerbated his disability, the Committee said nothing about age in its decision in its favor. Instead, it focused entirely on his disability and concluded that the disability entitled Sabadie to procedural accommodations at the time of his appeal. Finding that court staff had known about Sabadie's disability but still failed to provide accommodations, the CRPDee concluded that he was entitled to compensation. There is no mention of the cause of his disability or the potential that it was age-related, or that accommodations should be expected to be age-appropriate. In other words, it was a missed opportunity for the Committee to recognize the intersectional dimension of discrimination on the basis of age and disability and its attendant harms.

While al-Hawali and Sabadie were the oldest persons to have brought an individual complaint, there have been a small handful of claims brought by older persons, all men, claiming disability discrimination in access to employment. In each case, the Committee ignored the age of the claimant in its analysis and focused instead on State denials of reasonable accommodation. Two of the cases involved municipal police officers each of whom had acquired disability due to motor vehicle accidents.³³⁸ In both cases, municipal authorities determined that the claimants qualified as permanently disabled and required them to take mandatory retirement with a pension substantially below their respective salaries. Even though the claimants were 48 and 53 years of age at the time of their respective complaints, and thus potentially subject to age-based discrimination in employment, the Committee said nothing about age in its discussion of the merits of the claims.

Similarly, in a case brought against Sweden by a law professor who was refused employment at a public university because he was deaf, the Committee ignored the possibility that his age may have been a factor in the refusal to hire him even though he was 51 years old at the time of the complaint.³³⁹ The position for which he was applying was a permanent one, whereas he had been working under short-term temporary arrangements for the same university. The

³³⁸ J.M. v. Spain (September 2020) and J.M.V.A. v. Spain (October 2023).

³³⁹ Committee on the Rights of Persons with Disabilities, *Sahlin v. Sweden*. Views adopted by the Committee under article 5 of the Optional Protocol, concerning communication No. 45/2018. U.N. Doc. No. CRPD/C/23/D/45/2018 (15 October 2020).

university declined to hire him on the stated grounds that it would cost too much to pay for a sign language interpreter for him to be able to teach. The Committee's decision focused solely on the denial of reasonable accommodations and left untouched the matter of his age.

3. Intersectionality and its discontents

In a separate group of cases involving Aboriginal plaintiffs, the Committee acknowledged the possibility of intersectional discrimination but refused to discuss it.³⁴⁰ Although the plaintiffs explicitly contended that Australia had discriminated against them in part because of their Aboriginal ethnicity, the Committee asserted that there was insufficient evidence to substantiate the claims of unequal treatment and declined to consider the issue.³⁴¹

D. Concluding observations

This section reviews if and how the CRPD Committee has recognized older women with disabilities in its communications with States Parties, particularly the degree to which it has included specific policy recommendations or other actions States Parties should be expected to take before the next reporting period to address inequalities affecting older women with disabilities as a group. Recognizing that not all older women are or identify as disabled, the intent of the assessment is to determine how effectively older age as a potential factor in intersectional disadvantage is accounted for by the CRPD. Because the text of the Convention recognizes age as relevant to disability discrimination, it would be reasonable to expect a more inclusive approach to older age or older persons than in the work of the CEDAW.

The concluding observations discussed below were identified through a search of the UN treaty bodies database (<https://tbinternet.ohchr.org>), limited to the time period between January 1, 2019 and October 15, 2024. Because gender is mainstreamed through the Convention, each CO was reviewed for its recognition of age using the following search terms: older/old, age, and intersecting/intersection. Excerpts referring to older women, older age, or old age were collected in one column. In addition, the full content of the Committee's comments with respect to State

³⁴⁰ See, e.g., *Manuway (Kerry) Doolan v. Australia* (October 2019); *Christopher Leo v. Australia* (October 2019);

³⁴¹ *Id.*

practice on Article 6 (specific to women with disabilities) was collected in a separate column. Excerpts were then coded for context which included identifying the relevant article of the Convention with which they were associated. Coding for context was focused on identifying with which issues respective terms were associated. For example, with respect to which issues older women and/or older persons with disabilities were most often referenced. The results are discussed in more detail below.

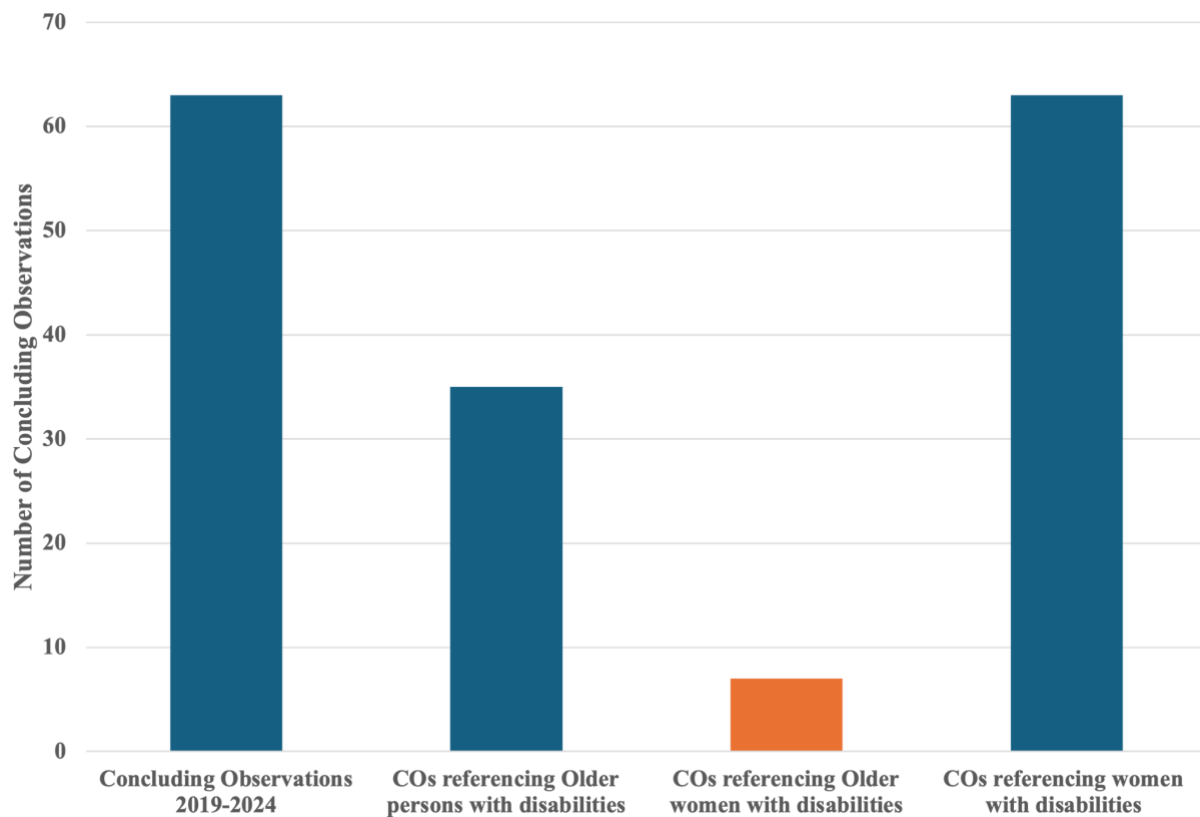
The CRPD Committee adopted a total of 63 Concluding Observations between January 1, 2019 and October 15, 2024. The States parties reviewed during this period are listed in the appendix at exhibit C.2. The Concluding Observations followed a typical pattern following the text of the Convention; separate sections were designated by article number.

As Figure 3.7 below illustrates, older persons with disabilities were referenced at least once in just over half of the Concluding Observations during the relevant period. Women with disabilities were referenced at least once in all, which is not surprising given the multiple references to women with disabilities in the text of the Convention, including especially Art. 6. What is notable, however, is that while older persons generally were referenced with some consistency, older women were recognized as a group in just 7 of the 63 Concluding Observations.³⁴² In every case except one (Estonia), the reference to older women with disabilities was incorporated into a comment or recommendation relating to victims of violence or abuse.³⁴³

³⁴² Benin, CRPD/C/BEN/CO/1; Zambia, CRPD/C/ZMB/CO/1; Togo, CRPD/C/TGO/CO/1; Bangladesh, CRPD/C/BGD/CO/1; Switzerland, CRPD/C/CHE/CO/1; Estonia, CRPD/C/EST/CO/1; and Australia, CRPD/C/AUS/CO/2-3.

³⁴³ In the case of Estonia, the Committee recommended measures to address poverty eradication for older persons with disabilities generally and specifically older women with disabilities.

Figure 3.7: CRPD Committee Concluding Observations 2019-2024



The association of older persons with disabilities to vulnerability to violence and abuse—as well as poverty—was consistent throughout the Concluding Observations. As Table 3.1 demonstrates, most references to older persons with disabilities were clustered in the sections on Article 16, concerning freedom from exploitation, violence, and abuse, and Article 28, concerning adequate standards of living and access to social protection.

Table 3.1: Connecting Older Persons to Articles of CRPD

Cluster	Article	Article Count (% of Articles)	References Per Article (%)	References to Older Women	
A	Art. 16	Freedom from exploitation, violence and abuse	2 (6%)	10 (50%)	7
	Art. 28	Adequate standard of living and social protection			
B	Arts. 1-4	General principles and obligations	5 (15%)	4 (20%)	0
	Art. 14	Liberty and security of the person			
C	Art. 19	Living independently	3 (9%)	3 (15%)	0
	Art. 25	Health			
	Art. 31	Statistics and data collection			
D	Art. 5	Equality and non-discrimination	3 (9%)	2 (10%)	0
	Art. 9	Accessibility			
	Art. 33	National implementation and monitoring			
E	Art. 8	Awareness-raising	7 (21%)	1 (5%)	0
	Art. 10	Right to life			
	Art. 11	Situations of risk			
	Art. 20	Personal mobility			
	Art. 23	Respect for home and family			
	Art. 26	Habilitation and rehabilitation			
	Art. 27	Work and employment			
F	Art. 6	Women with disabilities	13 (39%)	0 (0%)	0
	Art. 7	Children with disabilities			
	Art. 12	Equal recognition before the law			
	Art. 13	Access to justice			
	Art. 15	Freedom from torture or cruel, inhuman or degrading trmt.			
	Art. 17	Protecting the integrity of the person			
	Art. 18	Liberty of movement and nationality			
	Art. 21	Freedom of expression and opinion, access to information			
	Art. 22	Respect for privacy			
	Art. 24	Education			
	Art. 29	Participation in political and public life			
	Art. 30	Participation in cultural life, recreation and sport			
Art. 32	International cooperation				

Few Concluding Observations considered older persons with disabilities in their discussions of rights to work or even rights to health, and none at all referenced older persons with disabilities in the context of rights to participate in public and political life (Art. 29), or cultural life and recreation (Art. 30), or rights to education (Art. 24) or access to justice (Arts. 12 and 13). The Committee also never specifically referenced older women in its discussions of Article 6 (on women with disabilities) even while it called out girls with disabilities in most Concluding Observations (61 of 63 discussions of Article 6 distinguished girls with disabilities from women with disabilities).

What the Concluding Observations suggest as a whole is that the CRPD^{ee}, like the CEDAW^{ee}, is most likely to raise concerns about older persons, especially older women, in the

context of vulnerability and dependency. Even while advocating for the right of women with disabilities to be included and participate in all aspects of life, the Committee does not extend that same insistence on empowerment to older women nor does it appear to consider the full range of life experiences which could and should be available to older women with disabilities. It is possible that the Committee considers its references to women with disabilities as a group to be inclusive of older women, and its recognition of older persons to be similarly inclusive of older women with disabilities. But coupled with the Committee's resistance to considering the relevance of age, particularly *older* age, in its jurisprudence and in these Concluding Observations, it is difficult to avoid the perception of erasure.

Conclusions

What the analysis above reveals is a particular formulation of the concerns of older women, concerns which are limited to the domains of the home and the family. In both committees, the most consistent topic discussed with respect to older women is violence. It is violence in the context of the home and the family, not structural violence or its cumulative impacts, not violence as a result of conflict or climate change or migration, and not violence within healthcare systems. In this, the work of the committees replicates normative patterns common to legal institutions where what is deemed of public interest are most often those things associated with the “male world”, e.g. the work place, political, economic, and intellectual matters, while those associated with private or domestic domains, e.g. the family, carework, intimate partner violence, are those associated with the female world and are accordingly less valued or significant. There is no sense in the work of either committee that older women can or should have a role outside of the family or the home—or that their (private) concerns warrant the same degree of attention by governments as those interests held by younger, and thus more deserving, women.

One might ask why the different degrees of visibility between older women and women with disabilities, or other social categories or groups, matter. It is beyond the scope of the present paper to assess whether there is a correlation, direct or otherwise, between mentions of a social grouping or category in concluding observations and meaningful policy changes at national levels.

Scholars who have tested the impact of concluding observations have reached mixed results.³⁴⁴ Where this paper focuses instead is on the power of recognition. Harvard sociologist Michèle Lamont writes that “worth is socially determined...we decide who matters...by creating, supporting, and spreading new narratives about the worth of all groups...This is not to say that money and power do not matter. But whether groups are recognized and afforded dignity is *just as* important to their flourishing as human beings, just as vital to their drive to be all they can be.”³⁴⁵ Regardless of how one approaches the topic, the objective of intersectional scholarship has consistently been to recognize those forms of oppression and subordination that would otherwise be overlooked, to ensure that “the least vocal are nevertheless heard”.³⁴⁶

The recognition of older women at the international level is all too limited. The next chapter discusses whether much is different within national policy instruments.

³⁴⁴ See, e.g., B. Mason Meier, M. De Milliano, A. Chakrabarti & Y. Kim, ‘Accountability for the human right to health through treaty monitoring: Human rights treaty bodies and the influence of concluding observations’, *Global Public Health* 13(11), 1558-1576 (2018); I. Bantekas & L. Oette, *International Human Rights Law and Practice*, 4th edition. (Cambridge: Cambridge University Press, 2024); but see A. Yoshida, ‘Beyond Non-bindingness: States’ Implementation of UN Human Rights Treaty Bodies’ Concluding Observations’ *Nordic Journal of Human Rights* 42, 158-176 (2024).

³⁴⁵ M. Lamont, *Seeing Others: How Recognition Works and How It Can Heal a Divided World*, 3 (emphasis in original) (New York: One Signal Publishers, 2023).

³⁴⁶ Fredman, *The Right to Education and Substantive Equality*, 87; May, *Pursuing Intersectionality, Unsettling Dominant Imaginaries*, 18-34.

Chapter 4. Older women in national laws and policies

Overview

Over the past few decades, there has been significant progress in national recognition of the right to gender equality. The Global Gender Equality Constitutional Database identifies 192 countries which have a provision enshrining the right to equality and non-discrimination in their national constitutions, and 193 countries have at least some measure to address violence against women.³⁴⁷ There has also been increasing recognition of the rights of older persons at national levels, with 109 countries reporting some form of legislation that prohibits discrimination on the basis of age and 111 having adopted a national plan or policy specific to meeting the needs of older persons.³⁴⁸ But as the WHO noted in its submission to the 14th session of the Open-Ended Working Group on Ageing, there is little information on the scope of these laws, their consistency with international law, and mechanisms for monitoring and accountability.³⁴⁹ There is also little information as to how—and if—States have incorporated gender equality or intersectional approaches into policies relating to older persons, and similarly, whether ageing is taken into account in policies to advance gender equality.

Data collected by the World Bank’s Women, Business and the Law project demonstrates that gender gaps persist in legislation relating to women’s ability to own or control property including land, women’s rights to inherit property and other marital assets on an equal basis with men, and recognition in pensions of time spent on childcare.³⁵⁰ Discriminatory treatment in national laws relating to control of land and marital assets, and recognition of women’s

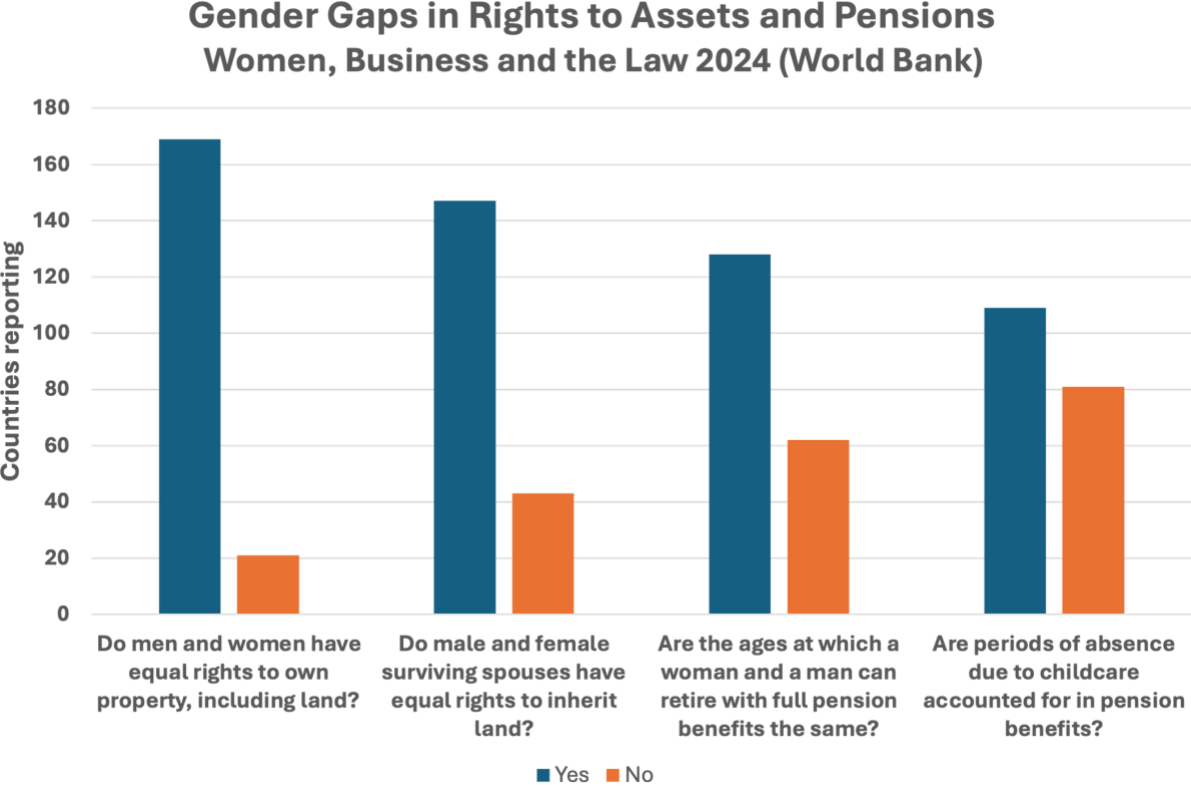
³⁴⁷ UN Women, *Global Gender Equality Constitutional Database Dashboard*, <https://constitutions.unwomen.org/en/dashboard>, last accessed Nov. 30, 2024; UN Women, *Global Database on Violence Against Women*, <https://data.unwomen.org/global-database-on-violence-against-women>, last accessed Nov. 30, 2024.

³⁴⁸ World Health Organization, *Progress Report on the United Nations Decade of Healthy Ageing, 2021-2023* (2023).

³⁴⁹ World Health Organization, [I]nput [to the fourteenth workings session of the Open-ended Working Group on Ageing], [https://social.un.org/ageing-working-group/documents/fourteenth session/INPUTS UN SYSTEM/WHO-substantive and normative.pdf](https://social.un.org/ageing-working-group/documents/fourteenth%20session/INPUTS%20UN%20SYSTEM/WHO-substantive%20and%20normative.pdf), accessed 17 March 2025.

³⁵⁰ World Bank Group, *Women, Business and the Law 2024*, <https://wbl.worldbank.org/en/wbl> (Washington, D.C.: World Bank, 2024).

disproportionate time spent in unpaid care work by national pension schemes is likely to contribute to the inability of older women to fully realize their capacity in older age.



This chapter builds on the WBL’s work and reviews a limited set of State laws and policies concerning discrimination on the basis of gender and/or age and assesses how those policies recognize—or not—older women as a group or seek to address persistent barriers to the full realization of human rights for older women. The intention is to assess the extent to which multiple inequalities in general are visible in the policies considered and more specifically whether the inequalities experienced by older women are recognized and taken into account at national levels and in what ways. The intent is not to draw a causal link between the work of the treaty bodies and the progression of national legislation but rather to illustrate the consistency of discourses which proscribe older women’s life experiences within narrow bounds most often characterized by vulnerability to violence and economic disadvantage and dependency.

What the data collected shows is that older women as a group are nearly invisible in national policies relating to gender equality and gender-based violence. When they are recognized, it is most consistently in the context of vulnerability to violence and/or poverty. Likewise, in

policies relating to older persons, gender and the unique experiences of women are also largely left out. The findings are thus consistent with those in the previous chapter in which older women did not figure significantly in the work of the CEDAWee or CRPDde. Under these circumstances, any new treaty ostensibly meant to protect the rights of older persons will need to take an affirmative gender-inclusive stance to elevate the rights of older women onto policymakers' agendas.

Methodology

Scholars studying gender equality policies have developed a comparative methodology for analysis of policy “frames”, or the “organizing principle[s] that transfor[m] fragmentary or incidental information into a structured and meaningful problem, in which a solution is implicitly or explicitly included”.³⁵¹ Verloo and Lombardo explain frames as the “socially constructed and cultural filters” through which we perceive and give meaning to social realities.³⁵² In the policy realm, frames can prompt policymakers to pay more attention to certain types of problems or see them in certain ways, to the exclusion of others, leading to policies that are biased in certain directions.³⁵³ Applying a critical frame analysis exposes how frames are operative in particular policy documents. For purposes of the present analysis, the intent is to assess how certain inequalities are given priority in gender and ageing policies, to the potential exclusion of older women.

The methodology for critical frame analysis developed by Verloo and colleagues incorporates a set of 16 questions which assess the degree to which a given policy is problem oriented, causalistic (includes an analysis of what has led to the problem or who has caused it), whether it incorporates a vision for the future or clearly stated objective(s), is practical, targeted,

³⁵¹ M. Verloo, ‘Displacement and Empowerment: Reflections on the Concept and Practice of the Council of Europe Approach to Gender Mainstreaming and Gender Equality’, *Social Politics* 12(3), 344-365 (2005); see also T. Dombos, A. Kirszan, M. Verloo, and V. Zentai, ‘Critical Frame Analysis: A Comparative Methodology for the ‘Quality in Gender+ Equality Policies’ (QUING) project’, Center for Policy Studies, Central European University (2012); M. Verloo and E. Lombardo, ‘Contested Gender Equality and Policy Variety in Europe: Introducing a Critical Frame Analysis Approach’, in M. Verloo, ed., *Multiple Meanings of Gender Equality* (Budapest: Central European University Press, 2007).

³⁵² Verloo and Lombardo, *Contested Gender Equality* at 32.

³⁵³ Id.

and incorporates a budget, among other factors.³⁵⁴ To assess whether a policy is likely to in fact lead to gender equal³⁵⁵ outcomes, the methodology also considers:

1. Whether the policy document makes reference to consultations with a wide range of stakeholders affected by the policy;
2. Whether it discusses the problem it seeks to address in explicitly gendered terms;
3. Whether it goes beyond mentioning gendered social categories and has a complex understanding of gender that includes distribution of resources, relations of power, and an understanding of gender norms;
4. Whether the policy looks at how gender and other forms of inequalities, such as age, are intertwined; and
5. Whether the policy explicitly endorses the idea of gender equality and organizes objectives and activities to achieve it.

(Dombos, et al., *Critical Frame Analysis* at 8).

The analysis of national policies that follows adopts a modified methodology intended to expose where social constructions of gender and age are likely to be influencing how and when older women are visible to policymakers. The policies were reviewed first for references to (1) older women, sex or gender, (2) references to other minoritized groups or inequalities, such as sexual orientation, gender identity, rural/urban or ethnic status, etc.; and (3) (older) women with disabilities. Adapting the methodology proposed by Dombos, et al., the review also assessed whether each policy³⁵⁶ is:

- *Problem-oriented* - contains some analysis/identification of the current situation/inequality and describes how it differs from a desired situation;
- *Causalistic* - contains an analysis of what has led to the current problem;
- *Future-oriented* - states a vision of the ideal situation;
- *Practical* - includes clear objectives or activities that will be pursued;
- *Delegative* – assigns responsibilities for specific tasks to named actors

³⁵⁴ Dombos, et al., *Critical Frame Analysis*.

³⁵⁵ The notion of what gender equality means or should mean is a contested one and not one which is taken up by this analysis. Nor does this analysis seek to assess whether the policies reviewed have resulted in real outcomes for women in general and older women in particular or indeed have made gender (in)equality more or less likely.

³⁵⁶ In most cases, consideration of all of the listed factors is limited to review of national policies, strategies, and plans of action, and not national constitutions or legislation.

- *Targeted* – describes which groups are affected by the problem and links proposed activities to target groups;
- *Budget-sensitive* – makes some mention of how activities will be funded;
- *Evidence-based* – makes some reference to supportive data;
- *Gender-explicit* – includes specific references to gender and/or the gendered-dimensions of the problem or proposed activities;
- *Intersectional* – adopts an intersectional approach³⁵⁷;
- *Takes a structural approach to gender* – makes some reference to women’s decision-making authority or political participation;
- *Consultative* – references a consultation process in the development of the policy³⁵⁸; and
- *Monitoring* – includes some monitoring or accountability strategy/

The intent is to identify where and whether older women are incorporated within the social groups addressed by the policy, and particularly whether older women are explicitly referenced as targets or beneficiaries of the policy; (2) whether the policy looks at how gender and/or age are interconnected with other inequalities; and (3) whether the policy references gender norms or otherwise reflects an understanding of gender that takes into account relations of power and distribution of resources. It is thus focused on mapping where older women are visible in policies respecting age and/or gender, and whether they are recognized as rights-holders who do or may experience different forms of stigmatization and/or inequality than that experienced by older men and/or younger women.³⁵⁹ In other words, the analysis asks whether whatever vision of gender

³⁵⁷ Policies were coded as adopting an intersectional approach if they referred to intersectionality, intersectional or intersecting forms of discrimination, or identified circumstances or social groupings at the intersection of which the type of discrimination addressed, e.g. gender-based violence, elder abuse, and the like, could take different forms or have different impacts. For the reasons discussed in chapter 2, the mere visibility of multiple inequalities or the potential for intersectional forms of discrimination would be considered a minimal step toward an intersectional approach.

³⁵⁸ Policies were coded as consultative if they made reference to a consultative process. The review did not analyse the extent of any consultations or go behind the language of the policy to confirm how the referenced consultation was conducted or when in the process of policy-development. The coding would not have captured if the policymaking process involved consultations but did not mention them in the final policy language.

³⁵⁹ Strid, et al., *Intersectionality and Multiple Inequalities* at 565; see also, K. Crenshaw, *Close Encounters of Three Kinds: On Teaching Dominance Feminism and Intersectionality*, 46 *Tulsa L. Rev.* 151, at 169 (2010); Carbado and Harris, *Intersectionality* at 30; H. Charlesworth, ‘Feminist Methods in International Law’, *The American Journal of International Law* 93(2), 379-394 (1999).

justice the policy adopts or seeks to implement is one which includes women in diverse situations in life, particularly women as they age.

The first section below reviews voluntary reports submitted by 19 UN Member States in response to a request for input from the then-Independent Expert on the enjoyment of human rights by older persons, Claudia Mahler, in 2021. The IE was in the process of preparing a report on the human rights of older women and took the voluntary inputs into consideration in her report's findings and recommendations.

The second section reviews national laws and policies for a small set of 8 UN Member States selected for geographic and income diversity³⁶⁰. Each of the States selected has in place at least one measure addressing gender equality, age discrimination and/or the rights of older persons, and the prevention of gender-based violence. The review focused on both national legislation and, where available, at least one policy measure (which could include a policy, strategy, plan of action, or programme). The data collected and reviewed does not include case law, which could affect how the legislation is interpreted as a matter of law. The intention here is not to assess whether a given law or policy is aligned with international human rights law or consistent with the broader framework of national laws within a given country. Rather, it is simply to assess whether older women are recognized within the policy, particularly as targets for specific measures or activities to address intersectional forms of discrimination based on gender and/or age.

Voluntary national reports on older women

In 2021, the Independent Expert on enjoyment of human rights by older persons published a report on the human rights of older women, focused on the intersection of ageing and gender.³⁶¹ As part of the research and consultation process to develop the report findings and recommendations, the IE invited input from interested stakeholders. The request for input posed

³⁶⁰ Additional factors relevant to selection were: (1) the language in which the policy was available; (2) personal experience of the author in the countries selected, and/or (3) availability of lawyers with local expertise within the author's network.

³⁶¹ United Nations Independent Expert on the enjoyment of all human rights by older persons, *Human rights of older women: the intersection between ageing and gender* (17 July 2021), A/76/157, ¶¶ 85-86 <https://data.unwomen.org/publications/older-women-inequality-intersection-age-and-gender>, accessed 16 Mar 2025.

a series of questions asking stakeholders to comment on: (1) existing legal tools, policies and programmes to address the challenges facing older women, including how those are implemented and monitored; (2) statistical data collected on older persons, especially as disaggregated by age, sex, and other factors; (3) how older women participate in “participatory mechanisms”³⁶²; (4) what specific challenges and concerns older women face on the basis of accumulated life experience as compared to older men; (5) what forms of discrimination and inequality older women experience across the life cycle, and their impact on older age; and (6) examples of how older women participate in and contribute to economic, social and cultural life of their communities.³⁶³ The request for input also asked stakeholders to discuss how intersectional factors can exacerbate experiences of ageism and/or sexism (Q. 9), and the forms gender-based violence and abuse against older women take, and provide any relevant statistics (Q.10).

A total of 19 Member States submitted inputs to the IE in response, along with eight national human rights institutions (NHRIs), 29 non-governmental organizations, two universities, two UN entities including the CEDAW Committee and UN Women, and one individual.³⁶⁴ The analysis that follows is based on review of inputs from 17 of the 19 Member States listed in Table 4.1.³⁶⁵ The inputs were submitted in English, Spanish, Russian and Arabic and, where possible, were translated using online translation tools. The translations are thus unofficial but they nevertheless offer insight into the topics each respective country chose to address and what forms of discrimination they emphasized.

Table 4.1: Member State inputs to IE

Austria	Bahrain (AR)
Bolivia (ESP)	Cambodia
Chile (ESP)	Croatia
Czech Republic	Dominican Republic (ESP)

³⁶² States responding included descriptions of public activities in which older women participated, such as events around the International Day of the Elderly. See, e.g., Kingdom of Cambodia, Ministry of Social Affairs., Veterans, and Youth Rehabilitation, *The intersection between ageing and gender and the specific human rights concerns*, ¶ 3.

³⁶³ Id. at ¶ 7.

³⁶⁴ The full list of inputs received can be found at <https://www.ohchr.org/en/calls-for-input/call-input-human-rights-older-women-intersection-between-ageing-and-gender>, last accessed Nov. 30, 2024.

³⁶⁵ The inputs submitted by Qatar and Saudi Arabia were both written in Arabic and transmitted as scanned documents. The scans were of insufficient quality to make the inputs readable by online translation tools, and they were not considered in the present analysis.

Germany	Guatemala (ESP)
Honduras (ESP)	Israel
Italy	Kyrgyzstan (RU)
Mexico (ESP)	Panama (ESP)
Slovenia	
** <i>Qatar (AR)</i>	** <i>Saudi Arabia (AR)</i>

The issues most consistently raised in the State inputs are illustrated in Figure 4.1 below. Nearly all (15 of 17) of the inputs reviewed responded to the questions concerning gender-based violence, most noting some limited data regarding older women’s vulnerability to or reporting of violence.³⁶⁶ States also consistently raised older women’s exposure to poverty, frequently connected with references to women bearing the burden of unpaid work within the family, gender pay gaps, and women being clustered in lower-paid or informal employment. Where States discussed women’s participation, they emphasized older women’s role in cultural activities and transmission of traditional crafts and religious observance³⁶⁷, as well as their engagement as volunteers providing care services in their communities.³⁶⁸ Five discussed mechanisms through which older women could participate in political activities, including giving input on policies specific to older persons.³⁶⁹

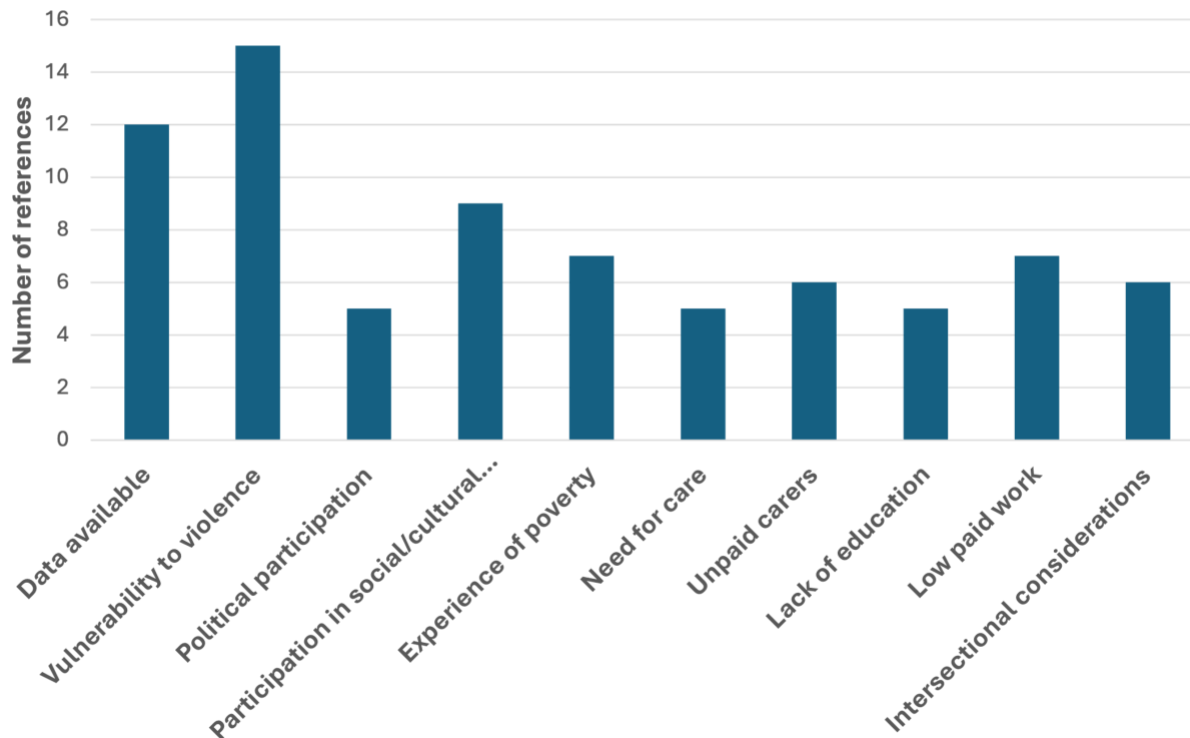
³⁶⁶ Austria, Bolivia, Cambodia, Chile, Czech Republic, Dominican Republic, Germany, Guatemala, Honduras, Israel, Kyrgyzstan, Mexico, Panama, and Slovenia. Bahrain responded to the question by declaring that violence against older women has no place in Bahraini society and that neither it nor gender inequality exist.

³⁶⁷ Cambodia, Chile, Dominican Republic, Guatemala and Honduras.

³⁶⁸ Chile, Germany, Kyrgyzstan, and Slovenia.

³⁶⁹ Chile, Czech Republic, Guatemala, Mexico, and Slovenia.

Issues raised in State Inputs on Older Women



Six of the inputs explicitly recognized diversity among older women, with Cambodia recognizing multiple forms of discrimination against older women (LGBTQI+, migrant women, indigenous women, and women with disabilities), the Czech Republic and Germany raising concerns over discrimination against older members of the LGBTQI+ community, the Czech Republic and Chile noting intersectional discrimination against older women migrants, Croatia and Cambodia raising concerns relating to women with disabilities, and Guatemala and Chile highlighting indigenous older women.

Interestingly, few of the inputs discussed older women's health care needs even while several raised concerns about mechanisms to meet older women's needs for long term care services. Just two States (Cambodia and Dominican Republic) noted differences between the health needs of older women and older men and Cambodia was the only State to raise the importance of ensuring screening for reproductive cancers in older women. No State noted the

potential that older women might need other forms of sexual or reproductive health care, including education on prevention and treatment of HIV/AIDs or other sexually transmitted infections.³⁷⁰

Croatia was the only State to make any reference to adult education programs, reporting that its then-operative Strategic Plan included an objective to improve adult education and that adult education was also a priority in its national development strategy. No other country discussed the importance of life-long learning opportunities for older women or policy measures to address (or redress) lack of literacy among older women. No inputs discussed the importance of access to technology for older women, or measures to address digital or financial literacy or tackle gendered digital divides.

Cambodia was the only State to touch on climate action and the inclusion of older women, which it did in reference to existing monitoring mechanisms. No other State raised the need for inclusion of older women in disaster risk prevention or response planning, or ensuring humanitarian responses were both gender- and age-sensitive.

There were also surprisingly few references to ensuring justice mechanisms are accessible to older women. The absence is surprising in part because such a high percentage of the inputs raised concerns about older women's exposure to different forms of violence, and in part because of the consistency with which the CEDAW Committee in particular raised the importance of age-appropriate access to justice mechanisms in its review of State reports.

In sum, while the sample is small, it illustrates the grip women's vulnerability to violence has on the perceptions of policymakers. While input on violence was specifically requested by the IE, the consistency with which States responded to her prompt even while limiting or excluding responses to other direct questions suggests that acknowledging—or indeed emphasizing—women's vulnerability, particularly but not exclusively to violence, fits the frames through which policymakers already view the rights and needs of older women, and the policy responses they believe are most essential.

At the same time, the absence of discussions of the gender inequalities and structural conditions in which gender-based violence is deeply rooted, including the lack of agency afforded to women, their persistent and consistent exclusion from political decision-making, denial of access to resources and opportunities in employment, education, and healthcare, among others, is

³⁷⁰ Chile identified the lack of spaces for educational and informative sexual health care as a key challenge, which may be an exception.

suggestive of the limited nature of the policy responses States chose to highlight. The following sections take a closer look at national policies in three areas: (1) gender equality and/or women's empowerment; (2) protection against age discrimination; and (3) prohibition of gender-based violence.

Older women in national anti-discrimination frameworks

As a way to assess how national anti-discrimination policies recognize—or not—older women as a group or seek to address persistent barriers to the full realization of human rights for older women, the following section reviews a limited set of policies on gender equality, gender-based violence, and aging. The intention is to assess the extent to which multiple inequalities in general are visible in the policies considered and more specifically whether the inequalities experienced by older women are recognized and taken into account at national levels and in what ways. The intent is not to draw a causal link between the work of the treaty bodies and the progression of national legislation but rather to illustrate the consistency of discourses which proscribe older women's life experiences within narrow bounds most often characterized by vulnerability to violence and economic disadvantage and dependency.

This section reviews national laws and policies collected from 8 countries for comparative analysis. The countries included are Australia, Viet Nam, Colombia, Jamaica, Malawi, Uganda, South Africa, and Ireland. They were selected for geographic diversity and diversity of economic status. Each has submitted at least one report to the CEDAW since adoption of General recommendation No. 27 (2010), each is a signatory of the Madrid International Plan of Action on Ageing (MIPAA) and each is a State Party to the CRPD. Each also published an update in 2024 on actions taken to implement the Beijing Declaration and Platform for Action for the thirty-year review of progress. Resources were collected through review of online sources including collections of foreign laws such as the Brill Foreign Law Guide, the International Labour Organization NATLEX Legislation finder, the Food & Agriculture Organization Gender-LEX database, the African Law Index maintained by Open Law Africa, and the Global Gender Equality Constitutional Database and Global Database on Violence against Women maintained by UN

Women.³⁷¹ Although best efforts were made to ensure that the laws collected reflected the texts as amended and currently in force, it is possible that online resources may not be consistently updated. Where relevant, the dates of the latest amendment(s) captured are identified in the tables below.

The analysis below also relied on unofficial translations in certain instances, which are noted in the tables and in the text. The policy responses countries have adopted to address issues of gender equality and topics related to ageing are diverse and some are more comprehensive than others. For example, Uganda has integrated programmes relating to older persons in its Local Governments Act CAP 243 (sections 10(f) and 23(6)), the Equal Opportunities Commission Act (2007), the National Council for Older Persons Act (2013), and multiple programs within its national development planning frameworks.³⁷² The same is particularly true for policy efforts to address gender equality which cuts across multiple policy domains.³⁷³ For comparative purposes, the analysis below is limited to policies identified as a gender policy or strategy or policy specific to women, which in some cases provides a narrower view of a particular country’s policy approaches.

Table 4.2: Countries included in comparative analysis

Australia (HI)	Viet Nam (LMI)
Colombia (UMI)	Jamaica (UMI)
Malawi (LI)	South Africa (UMI)
Uganda (LI)	Ireland (HI)

³⁷¹ Additional databases consulted include the FAOLex Database kept by the Food and Agriculture Organization of the United Nations, the World Health Organization MiNDbank (More Inclusiveness Needed in Disability and Development), the Gender Equality Observatory for Latin America and the Caribbean, as well as national government resources and the U.N. treaty body database.

³⁷² Uganda Report on the Review and Appraisal of the Implementation of the Madrid International Plan of Action on Ageing (n.d.).

³⁷³ As just one example, Uganda’s normative framework concerning gender equality extends from the 1995 Constitution to the 2007 Gender Policy, the National Action Plan for Women, Peace and Security (UNSCR 1325), the Succession Amendment Act (2022), a Gender Strategy for Land and Housing, the judiciary’s Gender Policy and Strategy, the Equal Opportunities Policy (2006), and more.

A. Inclusion of older women in gender equality policies

As the table below demonstrates, countries have incorporated prohibitions on sex and gender discrimination in a variety of legal instruments, ranging from national constitutions to national development plans and sector specific strategies like Jamaica’s Gender and Climate Change Strategy and Action Plan and Uganda’s Judiciary Gender Policy.

Table 4.3: State policies on gender equality

Country	Title
Australia	Sex Discrimination Act 1984 (as amended through 14 October 2024) Working for Women: A Strategy for Gender Equality (2024)
Viet Nam	Law on Gender Equality (2006) National Strategy on Gender Equality for the 2021-2030 period
Colombia ³⁷⁴	Constitución Política de Colombia Ley 823/Law 823 of 2003 on equal opportunities for women CONPES 4080: Política Pública de Equidad de Género Para Las Mujeres/Public Policy on Gender Equality for Women
Jamaica	National Policy for Gender Equality 2011 (currently being revised) Gender and Climate Change Strategy and Action Plan (2022) Vision 2030 National Development Plan (2009)
Malawi ³⁷⁵	The Malawi Constitution 1994 (as revised through 2017) Gender Equality Act 2014 National Gender Policy 2015 (revisions being made in 2024)

³⁷⁴ Policies were reviewed using unofficial translations.

³⁷⁵ Not included here are the Public Service Workplace Anti-Sexual Harassment Policy (2023), the Political Empowerment of Women Strategy (2024), which has been reported by media but is not published on government websites, the Revised National HIV and AIDS Strategic Plan (2023-2027), or the draft Revised National Gender and HIV Implementation Plan 2023-2027 (included in Malawi’s update on progress on the Beijing Declaration and Platform for Action but not published to government websites).

	<p>National Action Plan on the United Nations Security Council Resolution (UNSCR) 1325: Women, Peace and Security (2021-2025)</p> <p>National Male Engagement Strategy on Gender Equality, Gender-based Violence, Sexual and Reproductive Health, and HIV and AIDS (2023-2030)</p>
South Africa	<p>Constitution (1996)</p> <p>Strategy for Economic Empowerment of Women, Youth, and Persons with Disabilities (2024)</p> <p>National Action Plan on Women, Peace and Security – 2020-2025</p>
Uganda ³⁷⁶	<p>The Constitution of Uganda 1995 (as of 2018)</p> <p>The Uganda Gender Policy (2007)</p> <p>National Action Plan III on Women, Peace and Security 2021-2025</p>
Ireland	<p>Constitution (as amended through November 2019)</p> <p>Equal Status Acts 2000-2018</p> <p>Employment Equality Acts 1998-2015</p> <p>National Strategy for Women and Girls 2017-2020</p>

However, of the 25 laws, policies and strategies reviewed, just two contain explicit recognition of older women as targets of the policies and/or substantive measures specific to older women. Australia’s Working for Women gender equality strategy includes (1) priority measures to provide housing for older women at risk of homelessness, (2) a commitment to updating the national plan to address abuse of older women, and (3) an intent to address vulnerability of older women to extreme temperatures, especially in inadequate housing.³⁷⁷ The Strategy is the only one of the 25 to separately acknowledge the particular interests of menopausal and post-menopausal women,

³⁷⁶ Not included on this list are a number of additional policies relating to gender equality including the Gender Strategy for National Land Policy Implementation (n.d.), the Judiciary of the Republic of Uganda Gender Policy: Attaining Gender Equality in Access and Treatment by the Judiciary (2012), the Succession (Amendment) Act (2022), the National Climate Change Act (2021), the Local Governments Act (2000) and the Local Governments (Amendments) Act (2015), and the Social Development Sector Plan 2015/16-2019/20, among others.

³⁷⁷ Commonwealth of Australia, *Working for Women: A Strategy for Gender Equality*, <https://genderequality.gov.au/sites/default/files/2024-03/working-for-women-a-strategy-for-gender-equality.pdf> (2024), accessed 1 Feb. 2025.

including the economic costs of menopause and treatment for menopausal symptoms for low income women.³⁷⁸ It also states an intent to invest in research on women’s reproductive health that explicitly includes research into menopause and perimenopause.³⁷⁹

Ireland’s National Strategy for Women and Girls also references older women but in limited ways, noting the importance of ensuring adequate health care over the lifecourse for all women and girls (41), and recognizing older women as the majority of those who experience dementia and thus as the targets of the national Dementia and Carers Strategies (43).³⁸⁰ In other instances, such as in Malawi’s National Gender Policy and Jamaica’s Vision 2030 (the 2009 National Development Plan), policymakers reference “the elderly” as vulnerable populations but offer no sex-disaggregated data or targeted measures to address that vulnerability for older women.

In short, while each country had adopted at least one and in some cases multiple laws or policies to address sex/gender discrimination and promote gender equality, and/or had mainstreamed the promotion of gender equality into national development or other policies, Australia was nearly alone in including measures specifically to meet the needs of women as they aged. This does not mean that the policies as written do not offer potential protections to older women but rather it highlights the degree to which older women and issues at the intersection of gender and age, such as menopause, the (economic) consequences of gendered ageism, unequal burdens of care and reliance on women’s unpaid labour, and exclusion of older women from public life are largely invisible within at least policymakers’ conceptions of what gender equality requires.

B. Gender in policies relating to ageing and the rights of older persons

Older women are modestly more visible in policies to address age discrimination and/or promote the rights of older persons, which is a promising step. All of the sampled countries had at least one policy in place which included some recognition of the different circumstances often faced by women as they age and most included one or more targeted actions to address gendered

³⁷⁸ Id. at 19, 70-73.

³⁷⁹ Id. at 70.

³⁸⁰ Republic of Ireland, Department of Justice and Equality. (April 2017). National Strategy for Women and Girls 2017-2020: creating a better society for all, <https://assets.gov.ie/6427/88cc57e206a34e94aeff2310f2b100d5.pdf>, accessed 1 Feb. 2025.

forms of age discrimination. Some of the policies also evidence a participatory focus, with three countries reserving seats for older women in community councils or organizations, and at least one other highlighting the structural nature of discrimination against women.

As in the work of the CEDAWee and CRPDee committees, however, the most frequently targeted issue across all countries was violence against older women.

Table 4.4: State policies on age discrimination

Country	Title
Australia	Age Discrimination Act 2004 (as amended through October 2024) National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019-2023
Viet Nam ³⁸¹	Law on the Elderly 2009 Decision No. 1533/QD-TTg 2016 Approving the Project on the Replication of the Intergenerational Self-Help Club Model [National Action Programme for the Elderly 2021-2030 (Decision No. 2156/QD-TTg) ³⁸²
Colombia ³⁸³	Ley 1251/Law 125 of 2008 on protection, promotion and defense of rights of older adults Decreto No. 681, Política Pública Nacional de Envejecimiento y Vejez/National Public Policy on Aging and Older Age 2022-2031
Jamaica	National Policy for Senior Citizens (2021) Green Paper on the National Policy for Senior Citizens (2018)
Malawi	Older Persons Act (published in May 2024, not in force as of Nov. 1, 2024) National Policy for Older Persons (2016)
South Africa	Older Persons Amendment Bill (Section 76, Bill No. B11B of 2022, not in force as of November 30, 2024) Older Persons Act (2006)

³⁸¹ Policies were reviewed using unofficial translations.

³⁸² The National Action Programme for the Elderly 2021-2030 is referenced on the website of the Ministry of Labour, Invalids and Social Affairs (MOLISA) but a published version has not been located.

³⁸³ Both policies were reviewed using unofficial translations.

Uganda	National Plan of Action for Older Persons (2012-2017) National Council for Older Persons Act (2013) Equal Opportunities Commission Act (2007)
Ireland	National Positive Ageing Strategy (2013) National Adult Safeguarding Policy (2019)

Colombia’s National Public Policy on Ageing and Old Age 2022-2031 is the only national policy to address the concept of “ageism” explicitly, noting its importance to an intersectional and differential approach to eliminating inequalities (12).³⁸⁴ The Policy details data specific to the circumstances of older women in terms of population, prevalence of disability and health conditions, experiences of violence, labour force participation rates, and access to retirement pensions, among others. It also identifies policy measures the government is taking to be more inclusive of older women such as incorporating a gender approach in national policies on disability, conducting research and adopting responsive policy to close the gender gap in retirement pensions, and otherwise expand access to social protection benefits for older women including those in rural areas and belonging to ethnic minorities.³⁸⁵ Colombia’s policy is also unique in expressly defining discrimination to recognize its structural dimensions and the multiple venues in which women experience inequality.³⁸⁶ In its discussion of the Ten-Year Public Health Plan and related policies, the Public Policy on Ageing describes taking a gender approach as a way of making inequalities and the social norms attached to gender visible, including those factors which disadvantage women in the family, at work, and in politics, among other things.³⁸⁷

Malawi, Uganda, and Viet Nam all include some measures to promote older women’s participation in public life or some decision-making or leadership role. Malawi’s National Policy for Older Persons (2016), for example, sets an intent to adopt “gender sensitive and inclusive

³⁸⁴ Government of Colombia, Departamento Nacional de Planeación. (2022). Política Publica Nacional de Envejecimiento y Vejez 2022-2031, Decreto No. 681. Accessed at: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=186407>.

³⁸⁵ Id. at pp. 30-35.

³⁸⁶ Id. at 30. The policy is also unique for its recognition of women in all their diversity including diversity on the basis of sexual orientation and gender identity (12).

³⁸⁷ Id. at 30.

representation” in Community Elderly Committees³⁸⁸. Malawi’s Older Persons Act also recognizes a broad scope of rights for older persons generally, including again the right to participate in community life and related associations and the right to be part of a National Steering Committee on Older Persons, to which appointments must be made consistent with the Gender Equality Act.³⁸⁹ The Older Persons Act also notably commits to ensuring access for older persons to age- and gender-sensitive health care services, including sexual and reproductive health care services, to the same extent as others.³⁹⁰

Uganda’s National Council for Older Persons Act (2013) reserves two seats on the National Council for Older Persons for unaffiliated older persons, reserving one of those seats for an older woman, and requires the total composition of the Council to be at least one-third women.³⁹¹ In its report on progress under the Beijing Declaration and Platform for Action, Uganda also noted that its Parliamentary Election Amendment Act (2020) reserves five seats for older persons as a special interest group and as of August 2024 older women held three of those five seats.³⁹² Uganda’s National Plan of Action for Older Persons (2012-2017), like Malawi’s Older Persons Act, takes a broad approach to gender inequalities noting the “historical and social cultural domination of women” which continues to have an impact, and inequality in household power relations, particularly impacting older widows.³⁹³

Viet Nam reserves seats for older women in its Intergenerational Self-help Clubs, which are part of a national strategy to encourage social and community engagement for older persons and provide opportunities for micro-lending and other economic supports for micro-businesses.³⁹⁴

³⁸⁸ The Republic of Malawi. (October 2016). National Policy for Older Persons. Accessed at:

<https://www.gender.gov.mw/>.

³⁸⁹ The Republic of Malawi. (19 May 2024). Older Persons Act, 2024 (No. 21 of 2024). The Malawi Gazette Supplement, dated 31st May 2024.

³⁹⁰ Id., Art. 6(5).

³⁹¹ The Republic of Uganda. (8 February 2013). The National Council for Older Persons Act, 2013. Acts Supplement No. 2 to The Uganda Gazette No. 7 Volume CVI. Accessed at:

<https://natlex.ilo.org/dyn/natlex2/natlex2/files/download/96866/UGA96866.pdf>

³⁹² The Republic of Uganda, Ministry of Gender, Labour, and Social Development. (August 2024). National Progress Report on Implementation of the Beijing Declaration and Platform for Action (Beijing +30) in Uganda (2020-2025).

³⁹³ The Republic of Uganda. (July 2012). National Plan of Action for Older Persons 2012/2013-2016/2017, at ¶¶ 3.9 and 4.11.

³⁹⁴ The Socialist Republic of Viet Nam. (2 August 2016). Decision Approving the Project on the Replication of the Intergenerational Self-help Club Model in the 2016-2020 period. N. 1533/QD-TTg. Accessed at:

<http://ageingasia.org/wp-content/uploads/2016/09/Decision1533.pdf>.

What these strategies illustrate is that at least some of the sampled countries have adopted strategies to promote gender equality within their ageing policies, suggesting that while they may not see older women as a subset within the group of “women” to whom gender equality policies are addressed, they do see women as a subset among “older persons” to which anti-ageing policies are addressed. By emphasizing older women’s rights to participation in local and national mechanisms, Malawi and Uganda in particular highlighted a key distinction between their approaches to gender and ageing and that of the human rights mechanisms, where rights to political participation were infrequently raised.

At the same time nearly all of the countries sampled had at least one national policy in place referencing older women as vulnerable to violence and calling for some targeted measures in response.³⁹⁵ These policies bring much-needed attention to the plight of older women who are subjected to violence and are under-served by response mechanisms. But in the absence of more empowered approaches to gendered forms of ageism, they run the risk of reinforcing a view of older women seen through a vulnerability lens. More interesting still is that despite the recognition of older women’s vulnerability to violence, there are few age- and gender-sensitive measures in national policies on gender-based violence. These are discussed in the next section.

C. Older women in policies relating to domestic or gender-based violence

Within the sampled countries, there were differences in legislative approach with most targeting violence against women and/or gender-based violence (Australia, Colombia, Ireland, Malawi, Uganda, and South Africa)³⁹⁶, while two (Viet Nam and Jamaica) focused on domestic

³⁹⁵ See, e.g., Government of Australia. (8 July 2019). National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019-2023; Congress of the Republic, Colombia. (27 November 2008). Ley 1251. [Law 1251 of 2008 on protection, promotion and defense of rights of older adults]; The Republic of Malawi. (October 2016). National Policy for Older Persons. Accessed at: <https://www.gender.gov.mw/>; The Republic of Uganda. (July 2012). National Plan of Action for Older Persons 2012/2013-2016/2017; South African Government. (1 April 2010). Older Persons Act of 2006. Gazette 33075 of 1 April 2010; Republic of Ireland. (30 April 2013). National Positive Ageing Strategy [referencing the National Strategy on Domestic, Sexual and Gender-based Violence as a relevant policy to safety and security for older persons (66)].

³⁹⁶ In some cases, there was both a law or policy specific to domestic violence and another applying to gender-based violence, e.g. Colombia (Ley 1257 (2008) on violence against women and Ley 2126 (2021) on domestic violence), Jamaica (Domestic Violence Act 1996/Domestic Violence Amendment Act 2023 and National Strategic Plan to Eliminate Gender-based Violence in Jamaica (2017-2027)), Malawi (The Prevention of Domestic Violence Act (2006) and National Plan of Action to Combat Gender-based Violence in Malawi 2014-2020), Uganda (The

violence. Although the policies with the most expansive consideration of the needs of older women survivors of violence tended to be those framed as targeting violence against women generally, rather than violence exclusively in the home, the correlation is fairly weak.

Table 4.5: State policies on gender-based violence

Country	Title
Australia	National Plan to End Violence Against Women and Children 2022-2032
Viet Nam	National Law on Domestic Violence and Control 2007 (as amended in 2022) National Strategy on Gender Equality for the 2021-2030 period [National Program on Gender-Based Violence Prevention and Response 2021-2025 ³⁹⁷]
Colombia	Ley 1257/Law 1257: Comprehensive Law on Violence Against Women (2008) Ley 2126/Law 2126: Domestic Violence Law (2021) CONPES 4080: Política Pública de Equidad de Género Para Las Mujeres/Public Policy on Gender Equality for Women
Jamaica	The Domestic Violence Act 1996/Domestic Violence Amendment Act 2023 [National Strategic Action Plan to Eliminate Gender-based Violence in Jamaica (2017-2027)] ³⁹⁸
Malawi	The Prevention of Domestic Violence Act (2006, as revised through 2014) National Plan of Action to Combat Gender-Based Violence in Malawi 2014-2020
South Africa	Domestic Violence Act 1998/Domestic Violence Amendments Act 2013

Domestic Violence Act 2010 and the National Policy on Elimination of Gender-based Violence in Uganda 2016), and South Africa (Domestic Violence Act 1998/Domestic Violence Act Amendments (2021) and National Strategic Plan on Gender-based Violence and Femicide 2020).

³⁹⁷ Multiple UN sources refer to this program but it is not currently published on the website of the potentially relevant ministries, including the Ministry of Labor, Invalids, and Social Affairs and the Ministry of Culture, Sports and Tourism.

³⁹⁸ The National Strategic Action Plan to Eliminate Gender-based Violence in Jamaica 2017-2027 is referenced in multiple Ministry of Culture, Gender, Entertainment and Sport and UN sources but the strategy has not been located.

	National Strategic Plan on Gender-based Violence and Femicide 2020
Uganda	The Domestic Violence Act 2010 The National Policy on Elimination of Gender-based Violence in Uganda 2016
Ireland	Domestic Violence Act 2018 Zero Tolerance: Third National Strategy on Domestic, Sexual and Gender-Based Violence (2022) Domestic, Sexual and Gender-Based Violence Agency Act (2024)

Australia’s National Plan to End Violence Against Women and Children 2022-2032 is by far the most expansive in its approach to violence against older women. It includes a section highlighting the many forms of violence older women can experience, including not only elder abuse but also intimate partner violence, violence perpetrated by an adult child, financial abuse and exploitation, and violence at the hands of carers in home or institutional settings.³⁹⁹ Although the Plan does not specify any actions currently being taken, it commits the government to developing targeted prevention activities to and for older women, exploring the need to target actions against financial abuse, design recovery services tailored to meet the needs of older women, and increase the availability of crisis housing for older women.⁴⁰⁰ The Plan also recognizes that access to justice is likely to be more challenging for older women, especially those in care settings, but does not identify any specific steps to meet their needs.⁴⁰¹

Colombia’s Domestic Violence Law (2021) also recognizes the potential for older women to face barriers accessing justice and calls for “differentiated and intersectional care” at Family Police Stations.⁴⁰² The law also links its provisions with those of Ley 1850 of 2017 concerning protection of the elderly, thus explicitly integrating older women (and men) within its scope.

³⁹⁹ Government of Australia, Department of Social Services. (October 2022). National Plan to End Violence Against Women and Children 2022-2032. Accessed at: <https://www.dss.gov.au/national-plan-end-gender-based-violence>

⁴⁰⁰ Id. at pp. 105, 113-120.

⁴⁰¹ Id. at p. 63.

⁴⁰² Congress of Colombia. (4 August 2021). Ley 2126 de 2021 [Domestic Violence Law]. Accessed at: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=168066>.

South Africa amended its Domestic Violence Act in 2021 to recognize elder abuse and incorporate protections for older persons within the Act.⁴⁰³ The Act mandates responding services to develop protocols for responding when a victim is an older person, and provides for free legal aid to support older persons in seeking justice for abuse.⁴⁰⁴ The National Strategic Plan on Gender-based Violence and Femicide 2020 identifies older women as one of the target groups for the policy and commits the government to develop a multi-sectoral strategy to protect older persons against all forms of violence.⁴⁰⁵ The Plan notes its intent to take a “lifecycle” approach that recognizes the risk of various forms of violence affecting women and girls of all ages, and sets its aim as the elimination of all forms of gender-based violence against all women, explicitly including older women.⁴⁰⁶

While these three states thus reflect a fairly inclusive approach to prevention of gender-based violence, the remaining five offer limited measures to address violence against older persons generally and none specific to older women. Viet Nam incorporates protection for the rights of the elderly in its National Law on Domestic Violence and Control (amended in 2022), and Malawi does the same, noting in its National Plan of Action to Combat Gender-Based Violence in general terms that “the elderly” will be targeted for capacity-building support.⁴⁰⁷ The domestic and gender-based violence legislation in both Uganda and Jamaica are silent with respect to older persons, while Ireland’s Domestic Violence Act (2018) *excludes* older persons from some of its protections, including those relating to the issuance of a protection order.⁴⁰⁸

⁴⁰³ The Republic of South Africa. (25 January 2022). Domestic Violence Amendment Act, 2021. Act No. 14 of 2021. Government Gazette, 28 January 2022. Accessed at: <https://www.justice.gov.za/legislation/acts/2021-014.pdf>.

⁴⁰⁴ Id. at Art. 18(B)(2)(a-b) and Art. 19(2)(c).

⁴⁰⁵ Republic of South Africa. (2020). National Strategic Plan on Gender-Based Violence & Femicide: Human Dignity and Healing, Safety, Freedom & Equality in Our Lifetime. Accessed at: <https://www.justice.gov.za/vg/gbv/nsp-gbvfinal-doc-04-05.pdf>.

⁴⁰⁶ Id. at pp. 12, 36 n. 125.

⁴⁰⁷ Socialist Republic of Viet Nam. (14 November 2022). Prevention and Combat Against Domestic Violence. Law No. 13/2022/QH15; Government of Malawi. (July 2014). National Plan of Action to Combat Gender-Based Violence in Malawi 2014-2020. Accessed at: <https://policyvault.africa/policy/national-plan-of-action-to-combat-gender-based-violence-in-malawi-2014-2020/> - :-:text=This policy is designed to.mechanism for survivors%3B and research..

⁴⁰⁸ Government of Jamaica. The Domestic Violence Act 1996/Domestic Violence Amendment Act 2023; Government of Uganda. The Domestic Violence Act 2010; Government of Uganda. The National Policy on Elimination of Gender-Based Violence in Uganda 2016. Jamaica has adopted a National Strategic Action Plan to Eliminate Gender-Based Violence in Jamaica (2017-2027) which was referenced in multiple government and INGO sources but the text of the Plan could not be located online.

In sum, while all of the sampled countries recognize the vulnerability of older women to different forms of violence, few have taken affirmative steps to establish targeted prevention or response mechanisms or ensure older women's effective access to justice.

Conclusions

Reviewing national policies relating to gender equality, gender-based violence, and age discrimination side by side illustrates on the one hand that older women are most visible to policymakers in the context of age discrimination and elder abuse. Among these three sets of policies, those specifically relating to ageing were most likely to include some targeted measures addressing ageing's gendered dimensions. On the other hand, however, the most consistent measures related to recognition of violence – not *prevention or response* to violence. In other words, where policymakers were focused on prevention and responses to gendered forms of violence, they were *unlikely* to call for targeted actions protecting the rights of older women.

Similarly, where policymakers were focused on preventing or addressing gender inequality(ies), they inconsistently recognized older women as a (representative) sub-group within the larger group of women. It is possible this is because the presumption is older women as women are already included in any strategies meant to advance gender inequality. But given the findings highlighted in chapter 1 of this paper noting inequalities particularly impacting older women and/or women at the intersection of age and gender, such a presumption is not warranted.

Chapter 5: A Way Forward

Human rights violations are not accidents; they are not random in distribution or effect. Rights violations are, rather, symptoms of deeper pathologies of power and are linked intimately to the social conditions that so often determine who will suffer abuse and who will be shielded from harm.

Paul Farmer, 2003⁴⁰⁹

Silence itself—the things one declines to say or is forbidden to name...is less the absolute limit of discourse...than..an integral part of the strategies that underlie and permeate discourse.

Michel Foucault, 1984⁴¹⁰

As the previous chapters illustrate, the path to a new treaty that centers the rights of women as they age is not a simple one, even as their relative invisibility in human rights mechanisms arguably makes it imperative. The analysis in chapter 3 demonstrates that even those human rights bodies most likely to address violations of the rights of women as they age, including women experiencing age-related disability, have been slow to recognize unique forms of discrimination affecting older women or gendered forms of ageism impacting women of all ages. Neither the CEDAW Committee nor the Committee on the Rights of Persons with Disabilities have fully taken up (older) age as a factor contributing to intersectional forms of discrimination nor has either committee consistently challenged prevailing constructions of the older woman as vulnerable, dependent, and a subject of care. Instead, both committees have tended to proscribe a limited range of possibilities for older women, especially in contrast to their respective approaches to women with disabilities.

Chapter 4 demonstrated a similar pattern at the national level, where policymakers have largely left older women and gendered ageism out of strategies to promote gender equality and prevent gender-based violence. At the national level, policymakers were more likely to address

⁴⁰⁹ P. Farmer, *Pathologies of Power: Health, Human Rights, and the New War on the Poor*, 7 (Oakland, CA: University of California Press, 2003); see also H. Meekosha & K. Soldatic, 'Human Rights and the Global South: the case of disability', *Third World Quarterly* 32(8), 1383-1397 (2011).

⁴¹⁰ M. Foucault, *The Repressive Hypothesis*, reprinted in P. Rabinow, ed., *The Foucault Reader*, 309 (New York: Vintage Books, 1984).

gender in ageing policies than to address ageing in gender-specific policies. Like the committees, they primarily recognized older women as a social group in the context of violence, nearly universally seeing older women as vulnerable. Even then, however, few states had adopted or recognized the importance of targeted actions specifically designed to prevent and/or respond to violence against older women and ensure access to justice for victims.

The invisibility of (older) age-related concerns for women across both fora supports the argument for a new convention to recognize and call out violations of the human rights of older persons and provide a framework for state action to address them. So does the demonstrated increase in attention to women with disabilities among the treaty bodies following the adoption of the CRPD. During the period covered by the present study, women with disabilities were far more visible in the work of the CEDAWee than they were before the CRPD entered into force. The Committee also notably called for a broader range of measures to promote and advance the rights of women with disabilities than they did for older women, and showed a much deeper level of engagement on disability-related discrimination than on (older) age-related issues. Given Skarstad and Stein's findings on the Committee's attention to women and girls with disabilities before the CRPD, this too suggests a strong correlation between the CRPD's adoption and the CEDAWee's interest in women and girls with disabilities.⁴¹¹

But for a treaty to be effective, the drafters have to understand the dimensions of the problem they are trying to solve. The findings in chapters three and four suggest that neither international human rights mechanisms nor state-level policymakers fully appreciate the complexities of women's lives as they age or how those complexities intersect to generate "different potentials and possibilities" for women in older age.⁴¹² The present chapter discusses some of the possible factors contributing to the invisibility of older women and offers proposals for a new way forward.

⁴¹¹ K. Skarstad & M.A. Stein, 'Mainstreaming disability in the United Nations treaty bodies', *Journal of Human Rights* 17(1), 1-24 (2018).

⁴¹² S. Hopf, F. Previtali & N. Georgantzi, 'New Forms of Ageism as a Challenge for a UN Convention on the Rights of Older Persons', *University of Toronto Quarterly* 90(2), 242-261 (2021).

What's missing?

Well over a decade ago, Hilary Charlesworth described a residual tension in international law between feminist messages and feminist methods, arguing that while the former, including commitments to the equality of women, had been rhetorically influential in international law, feminist methods had been ignored.⁴¹³ More recently, Gina Heathcote echoed her concern noting a tension between so-called “feminist successes” and the persistence of an essentialized woman subject of international law.⁴¹⁴ While the successes in forcing greater attention to issues impacting women have been substantial, they have not fully engaged with the complexities of women’s every day lives—or with their diversity.⁴¹⁵ It is that diversity and the social structures through which facets such as age, gender, race, sexual orientation, gender identity, class, and location take on meaning to which intersectionality theory draws attention, with the aim, ultimately, of leading to a more socially just way of recognizing disadvantage and exclusion. The work of the human rights mechanisms and of national policymakers shows some promise for consistent recognition of group disadvantage but has yet to move into a deeper engagement with what it will take to redress it. The following suggests a few potential explanations for why.

Writing older women one way

One of the most consistent patterns across both international and national mechanisms was their respective construction of older women as vulnerable. While there were a few notable exceptions, such as in the ageing strategies adopted in Malawi and Uganda, older women were most frequently described as disadvantaged, marginalized, or vulnerable. One of the things that follows from an emphasis on older women as victims of or vulnerable to violence is the discursive positioning of older women as the *subjects* of human rights violations, not as *agents* of human rights claims.⁴¹⁶

⁴¹³ H. Charlesworth, ‘Talking to Ourselves? Feminist Scholarship in International Law’, in S. Kouvo & Z. Pearson, eds., *Feminist Perspectives on Contemporary International Law*, ch. 3, 32 (Oxford: Hart Publishing, 2011).

⁴¹⁴ G. Heathcote, *Feminist Dialogues on International Law: successes, tensions, futures*, 14-21 (Oxford: Oxford University Press, 2019).

⁴¹⁵ Id.

⁴¹⁶ M.D. Hindman, ‘Rethinking Intersectionality: Towards an Understanding of Discursive Marginalization’, *New Political Science* 33(2), 189-210 (2011).

This is evident in the work of the CEDAWee where references to older women as vulnerable, marginalized, or disadvantaged far outstrip the number of references to older women as the appropriate targets for programs on rights awareness, for example. Similarly, at the national level policymakers were far more likely to see violence as a likely violation of the rights of older women than to ensure that they could easily raise complaints of abuse. What this leads to (or reflects) is a persistent unwillingness or inability to see women, especially women who are or have aged, as agents capable of—and interested in—having a say in matters that affect them. Matthew Hindman argues that by insisting on describing a social group for what we perceive it to *be*, we necessarily cloud or suppress what its members can *do*, thereby limiting their possibilities and potentialities.⁴¹⁷

It also flattens the richness and diversity of life experiences among women, especially in the international arena. Not all women are vulnerable, nor are they vulnerable all the time to the same types of risks. The rhetoric of vulnerability and disadvantage applied universally avoids engagement with social context and positionings and prevents intersectional forms of disadvantage from being seen.

It also obscures how to address vulnerabilities. An advisor once noted of global discourses constructing persons with disabilities as vulnerable that it is essential to query “vulnerable to what, when?”. In the absence of any form of context, a purported recognition of vulnerability is minimally descriptive and offers little in the way of guidance toward how to resolve or redress risk.

Attention to violence against older women is clearly warranted but discourses that overwhelmingly focus on the need for protection of older women from violence moreover reinforce norms of femininity, passivity and dependence which disempower women generally and older women particularly.⁴¹⁸ As early as 1995, the Committee on Economic, Social and Cultural Rights called on governments and other stakeholders to take action to “overcome negative stereotyped images of older persons as suffering from physical and psychological disabilities, incapable of functioning independently and having neither role nor status in society”⁴¹⁹. The

⁴¹⁷ Id. at 208.

⁴¹⁸ See generally M. Schaaf, ‘Negotiating Sexuality in the Convention on the Rights of Persons with Disabilities’, *SUR International Journal on Human Rights* 8(14), 113-131 (2011).

⁴¹⁹ Committee on Economic, Social and Cultural Rights, *General Comment No. 5: Persons with Disabilities*, ¶ 41, U.N. Doc. No. E/1995/22 (9 Dec. 1994).

persistence of these same stereotypes in the work of the committees demonstrates how challenging it is to resist them.

It was also notable that while human rights mechanisms and state policymakers perceived older women largely through the lenses of vulnerability and disadvantage, there was little attention paid to the opposite experience of ageing or gender, namely privilege. One of the most persistent critiques of the way in which intersectional approaches have been rhetorically adopted at the global level has been the degree to which they focus almost exclusively on oppression and ignore that part of the theory which calls attention to its counterpart, namely privilege. Privilege and subordination have been referred to as a “double-headed hydra”, meaning that it is not possible to eliminate subordination without also eliminating privilege.⁴²⁰

In practice, what this means is that a nominally gender-neutral framing of the human rights of older persons ignores the social realities of older men’s lives. For example, older men are more likely than older women to have a spouse or family members caring for them in old age. They are likely to have retained rights to property, including land, and to have the benefit of higher pensions as a result of increased time in the work force. Older men are also likely to benefit from social capital that recognizes men as community leaders. Indeed, the average age of Fortune 500 CEOs (the vast majority of whom are men⁴²¹) is over 59, barely outside the UN’s demographic for older persons, and close to 1 in 5 are at least 65.⁴²²

It was notable that none of the national policies relating to ageing discussed advantages adhering to older men, nor did the committees call for attention to imbalances in access to household resources for older women, or a reconfiguration of unpaid carework within the home.

⁴²⁰ T. Grillo, ‘Anti-Essentialism and Intersectionality: Tools to Dismantle the Master’s House’, *Berkeley Women’s Law Journal*, 16-30, at 19 (1995) (quoting A. D. Davis, *Toward a Post-Essentialist Methodology or a Call to Countercategorical Practices* (unpublished manuscript (Sept. 1994))).

⁴²¹ R. Zweigenhaft, *Diversity Among Fortune 500 CEOs from 2000 to 2020: White Women, Hi-Tech South Asians, and Economically Privileged Multilingual Immigrants from Around the World*. https://whorulesamerica.ucsc.edu/diversity/diversity_update_2020.html (January 2021), accessed January 2025; E. Peck, ‘At the CEO level, women finally outnumber men named John’, *Axios* (27 Apr. 23), <https://www.axios.com/2023/04/27/women-men-ceo-sp500>, accessed March 2025.

⁴²² Madison Trust Company, *Which Fortune 500 Companies have the Oldest (and Youngest) CEOs?*. <https://www.madisontrust.com/information-center/> (n.d.), accessed January 2025.

Ageing by the numbers

It is also decidedly unclear from the work of the treaty bodies particularly that they have a shared understanding of whom they speak when they refer to older women. If one assumes the intention is to refer to those aged 60 and over, the limited engagement with the breadth of issues relevant to the group is disheartening. Neither committee raised significant concerns with peri- or post-menopausal healthcare or screening for reproductive cancers or women's inclusion in scientific research. Neither called for meaningful attention to or targeted measures to address the status of widowhood, require support for grandparents providing care or older women caring for ageing spouses, or ensuring access to lifelong learning opportunities or rights-awareness training, or opportunities for input into public policies. Neither committee called for attention to media depictions of ageing, especially ageing women, or the devaluation of women on the grounds of age in the workplace. In other words, the committee members neglected to recognize 60 year old women as they actually are.

The consequence of the reduction of older women into a singular, ill-defined category is to erase what is individual and unique about their life experiences.⁴²³ It is, as Hopf et al. put it, a denial of human dignity which stands in contrast to the aims of intersectionality theory and leaves in place the very inequalities human rights law is meant to dismantle.

Speaking what, not why

The same emphasis on vulnerability, especially to violence, is also indicative of a larger pattern described by Susan Marks who noted the tendency of human rights mechanisms to focus on violations of rights rather than the social conditions which allow them to occur:

Attention is directed at abuses, but not at the vulnerabilities that expose people to those abuses. Or there is discussion of vulnerabilities, but not the conditions that engender and sustain those vulnerabilities. Or the focus is turned to the conditions that engender and sustain vulnerabilities, but not to the larger framework within which those conditions are systematically reproduced.⁴²⁴

⁴²³ See Hopf, et al., *New Forms of Ageism*, 247.

⁴²⁴ S. Marks, 'Human Rights and Root Causes', *The Modern Law Review* 74(1), 57-78, 71 (2011); see also S. Atrey, 'Beyond Universality: An Intersectional Justification of Human Rights', in S. Atrey and P. Dunne, eds., *Intersectionality and Human Rights*, ch. 1, p. 36 (Oxford: Hart Publishing Company, 2020); J.T. Theilen, 'Intersectionality's Travels to International Human Rights Law', *Michigan Journal of International Law* 45, 233-274 (2024).

In her view, human rights mechanisms were inconsistent and incomplete in the way they considered *why* human rights abuses happened, *how* vulnerabilities came about or were produced, and what it would really take to bring about change.⁴²⁵ Marks did not view this pattern as a failing on the part of human rights institutions but rather a by-product of the way in which they were organized and constrained to operate.⁴²⁶ Because of the nature of the work of the treaty monitoring bodies which, as previously noted here, is meant to translate the treaty terms into “specific, practical, and persuasive” detail,⁴²⁷ there is little opportunity for the treaty bodies to fully embrace and elucidate the structural dimensions of discrimination.⁴²⁸

The findings in chapters three and four suggest that Marks’ critique is valid at both international and national levels. The overwhelming emphasis in the work of the treaty bodies was on violations of the rights of older women, particularly with respect to violence and abuse. But there was substantially less consideration of *why* that may be the case or what factors contributed to that vulnerability or the structural conditions that permitted and reinforced it. Calls for expansion of social protections for older women were not consistently coupled with calls for equal pay for women in the workforce, or social compensation for women’s unpaid labor as family caregivers, or greater equality within families and households. It would have been interesting to see the committees consider tax policies or corporate accountability mechanisms as strategies to prompt state action to address where and how women’s labour, low- or unpaid, is exploited by private enterprise, and the near and long term consequences of that exploitation for older women.

Instead, in more than three in four Concluding Observations, the CEDAWee called for the State Party to take steps to recognize the intersecting forms of discrimination faced by women with disabilities in anti-discrimination legislation, policies or strategies.⁴²⁹ The suggestion is that if only the policy were correctly written the discrimination women with disabilities face would come to an end, notwithstanding other factors.⁴³⁰ It is important to note here that the recommendations for policy changes were not made in isolation. Rather, as noted in chapter 3 the CEDAWee covered a broad scope of issues in most COs with respect to women with disabilities, calling for actions in

⁴²⁵ Marks, *Human Rights and Root Causes* at 70.

⁴²⁶ Id.; see also Theilen, *Intersectionality’s Travels* at 249-250.

⁴²⁷ I. Bantekas & L. Oette, *International Human Rights Law and Practice*, 4th edition, at 207 (Cambridge: Cambridge University Press, 2024).

⁴²⁸ Marks, *Human Rights and Root Causes*, 57-78

⁴²⁹ Notably, it did not do the same for older women calling for similar steps in just 7 of 106 COs.

⁴³⁰ Marks, *Human Rights and Root Causes*, 71.

employment, education, health, access to justice, and a range of other areas. Nevertheless, Marks' point that the institutional constraints within which treaty bodies operate interfere with a more structural approach to human rights abuses is well taken.

The same was true at the state level where those policies which recognized inequalities older women face failed to call for measures investigating *how* those inequalities were supported and who they benefited. By not engaging at a deeper level with the structural dimensions of inequality, many of the policy recommendations read a bit flat as paper promises with little to back them up.

What is particularly notable is that the treaty bodies have tools through which to require attention to structural conditions sustaining inequality. The CEDAW Committee's General recommendation No. 25 on temporary special measures recognizes "equality of results" as the objective of the Convention, which demands attention to the underlying causes of discrimination.⁴³¹ In the recommendation the Committee states that "[T]he purpose of article 4, paragraph 1 [of the Convention], is to accelerate the improvement of the position of women to achieve their de facto or substantive equality with men, **and to effect the structural, social and cultural changes necessary** to correct past and current forms and effects of discrimination against women[.]"⁴³² But although the recommendation notes that age is a basis for temporary special measures and that such measures are a tool to address multiple forms of discrimination, the CEDAW Committee called for older women's inclusion in temporary special measures in fewer than 1 in 4 of its Concluding Observations. In other words, the Committee failed to use the tools it had to prompt at least some broader social changes.

Taken together, these challenges support the argument for a new treaty that can more fully raise the legal profile of older women at international levels and among state policymakers. The following sections offer suggestions for drafting a treaty that takes the intersection of gender and ageing seriously.

⁴³¹ Committee on the Elimination of Discrimination Against Women, *General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination Against Women, on temporary special measures*, (18 August 2004).

⁴³² *Id.* at ¶ 15.

A convention that centers women and ageing

The purpose of a new treaty is to ensure older persons too have the power and opportunity to fully exercise and enjoy all human rights on an equal basis with others. To meet the demands of equality, Sandra Fredman has argued for a model of substantive equality that adopts a “four-dimensional approach” and focuses attention on: (1) redressing disadvantage (the redistributive dimension); (2) preventing prejudice, stereotyping, stigmatizing, and violence (the recognition dimension); (3) facilitating voice and participation (the participative dimension); and (4) celebrating difference and pursuing structural change (the transformative dimension).⁴³³

The redistributive dimension targets disadvantage and works to reduce or redress it.⁴³⁴ Examples might include measures to increase women’s representation in the formal workforce, eliminate gender pay and pension gaps, or target customary practices that interfere with women’s rights to inherit or retain land and other resources. The recognition dimension challenges the stigmatization and stereotyping of age and gender, among other factors. Fredman sees recognition as the “inter-personal affirmation [of] our sense of who we are”.⁴³⁵ In her substantive equality framework, recognition is meant to address the harmful impacts of stereotyping, such as ageist discrimination against women in the workplace, exclusion of women and women’s health concerns in medical research, and unequal care responsibilities in the home.

The participative dimension is meant to both compensate for historical exclusion from public and political spaces and to open new avenues for participation by voices which are not otherwise heard.⁴³⁶ This includes measures to foster social and community inclusion, which Fredman and others argue is paramount to a complete understanding of what it means to be human.⁴³⁷

Finally, the transformational dimension calls for the re-structuring of social norms to accommodate difference, rather than singling it out or insisting on conformity to a dominant standard. Each element is meant to be addressed at the same time without any one dimension given priority. The multi-dimensional approach thus offers a framework through which one can

⁴³³ S. Fredman, ‘Substantive equality revisited’, *International Journal of Constitutional Law* 14(3), 712-738 (2016); S. Fredman, The Right to Education and Substantive Equality: An Intersectional Reading, in S. Atrey and P. Dunne, eds. *Intersectionality and Human Rights Law* (Oxford: Hart Publishing, 2020).

⁴³⁴ Fredman, *Substantive equality revisited*, at 729.

⁴³⁵ Id. at 730-31.

⁴³⁶ Id. at 731.

⁴³⁷ Id. at 732

assess and address different facets of inequality as well as their interaction.⁴³⁸ In other words, it offers a practical mechanism through which to implement an intersectional approach and target intersectional forms of discrimination.

The recommendations below adapt Fredman's framework and propose ways of utilizing it to build a more inclusive and transformational human rights instrument that is capable of seeing women as they are.

Redressing disadvantage

Much of the existing focus on older women is concerned with their experience(s) of disadvantage. In her 2021 report on the human rights of older women, the Independent Expert on the enjoyment of all human rights by older persons emphasized that older women were more likely to live in poverty than older men, more likely to face insecure housing, and more likely to report poverty-related illnesses, among other things.⁴³⁹ As already noted, concern regarding older women's disadvantage animated much of the work of the CEDAW Committee, which made repeated recommendations to States Parties to take measures to address economic and/or social protections to older women and reduce their exposure to poverty. In national policies relating to ageing, policymakers described efforts to reduce gender pension gaps (Colombia) and expand access to social protection, including social pensions (Colombia) and housing (Australia).

Recognizing poverty as a source of disadvantage and freedom from poverty as a human right

Meghan Campbell has argued persuasively for the recognition of a norm prohibiting gender-based poverty and identifying the right of women to be free from gender-based poverty as a human right.⁴⁴⁰ While her focus has been on using CEDAW as a tool through which to recognize an obligation on the part of States to eliminate gendered forms of poverty, a new treaty on women and ageing offers an important opportunity to develop the norm. One of the key concerns Campbell raises is the need to recognize poverty as multi-dimensional and not limited to

⁴³⁸ Id. at 728.

⁴³⁹ Report of the Independent Expert, *Human rights of older women*, U.N. Doc. No. A/76/157; see also R. Morgan, A. Kalbarczyk, D. Mohan, C. Jacobs, M. Mishra, P. Tyagi, C. Cox-Roman & C. Williamson, 'Counting older women: Measuring the health and wellbeing of older women in LMICs', *Cell Reports Medicine* 5 (2024).

⁴⁴⁰ M. Campbell, *Women, Poverty, Equality: The Role of CEDAW* (Oxford: Hart Publishing, 2018).

insufficient income. In addition, she calls for recognition of the role gender plays in *causing* and perpetuating poverty, defining gender-based poverty as: “the redistribution wrongs of not having access to economic resources coupled with the recognition and participation harms that devalue women and exclude them from public and private life.”⁴⁴¹ She notes “[I]t is the combination both of material disadvantage and gendered sociocultural norms that routinely limit the ability of women in poverty to create a meaningful life.”⁴⁴² If one sees gender-based poverty as both a violation of the rights of women standing alone as well as a barrier to women’s ability to exercise their human rights, then steps to redress it become essential. Because the CEDAW does not currently contain any substantive provisions addressing women’s poverty, situating the recognition of gender-based poverty and specifying steps to address it in a new treaty would fill a significant gap in international human rights law.⁴⁴³

In a new convention, there are a number of measures which could target disadvantages faced by older women. These include, but are not limited to:

- Protection against age-related forms of discrimination in the workplace. Such protections should explicitly recognize that age can be one factor which, alone or in combination with gender, race, ethnicity, class, and other factors, can lead to discrimination in employment, advancement, and retention in the workplace for women *of any age*. Because age-based discrimination impacts women at every age and at every stage of their careers, States should explicitly prohibit all forms of age discrimination, not only discrimination on the basis of older age.
- Expanded access to publicly funded early childhood education and/or childcare programs, family care supports, and other forms of supports and incentives to redistribute unpaid carework being done by women. Private and public corporations which benefit from their employees’ ability to source childcare should be required to pay their fair share toward schools or other childcare programs and reduce reliance on and exploitation of women’s unpaid labour.
- Elimination of gender pay and pension gaps and guarantees of equal pay for women as well as retirement pensions that include public contributions for both women’s and men’s time

⁴⁴¹ Id. at 14.

⁴⁴² Id. at 14.

⁴⁴³ Id. at 20.

away from the workforce to meet family care responsibilities. States could also promote financial incentives for parents and/or grandparents to provide home-based childcare, offering fair pay, health and pension benefits, and, where appropriate, access to subsidized nutrition and food programs to carers regardless of sex or age.

- Legal regulation of informal labour markets, export processing zones, and other zones and modes of production disproportionately employing women to ensure fair pay, safety, and reasonable work hours;
- Protection against abuses by private actors including corporations and extractive industries, including dispossession of land, and unsafe and exploitative working conditions;
- Promotion of the right to lifelong learning, including vocational training, access to free digital and financial literacy programs, and skills development.
- Explicit recognition of women’s rights to safe housing, adequate food, and a minimum basic income, including requirements that some proportion of accessible housing be reserved for low-income women; and
- Protection of women’s rights to inherit, to own and retain fixed assets, including land, and a requirement that States require law enforcement officials to be trained on anti-discrimination laws and hold them accountable for their implementation.

Some of these measures are likely to overlap with the substantive provisions of the CEDAW – or be presumed to do so. However, framing them as strategies explicitly to address disadvantage facing women in older age and thus an effort to strengthen international law overall may encourage both a re-thinking of the CEDAW’s own inclusion of older women and a recognition of the complementary benefits such measures would bring to women across the life course, while making poverty and insecurity in older age less likely.

Recognizing women of all ages

The recognition dimension of Fredman’s framework is intended to counter the harms caused by status-based prejudices and stereotyping.⁴⁴⁴ Nancy Fraser described misrecognition, or

⁴⁴⁴ Fredman, *Substantive equality revisited* at 730.

status-based harms, as institutionalized patterns that “constitute some actors as inferior, excluded, wholly other, or simply invisible”, leading to social subordination.⁴⁴⁵ She notes, “To be misrecognized...is not simply to be thought ill of, looked down upon or devalued in others’ attitudes, beliefs or representations. It is rather to be denied the status of full partner in social interaction as a consequence of institutionalized patterns of cultural value that constitute one as comparatively unworthy of respect or esteem.”⁴⁴⁶ Circumstances like the devaluation of women’s work or the disregard of older women are examples of misrecognition which have significant consequences for women as they age. Strategies for a new treaty to redress these harms follow.

Gendering ageism

Many advocates have argued for recognition of the concept of ageism in the new treaty. As discussed in chapter one, ageism refers to in part to prejudicial attitudes toward older persons, discriminatory practices targeting them, and institutional practices that perpetuate negative stereotypes about older adults.⁴⁴⁷ Ageism also impacts younger people, and is gendered, affecting women at all ages.⁴⁴⁸ For women, ageism manifests in a variety of ways, and can include discrimination in labor markets and career advancement on the basis of their age, sex, and appearance, stereotyping by healthcare providers, and women’s cultural devaluation especially as their appearances change.⁴⁴⁹ As noted in chapter one, researchers have found that women—more than men—report feeling invisible to others and stigmatized socially for not looking young and acting youthful, especially as it becomes more difficult to hide physical signs of ageing.⁴⁵⁰

⁴⁴⁵ N. Fraser, ‘Rethinking Recognition’, *New Left Review* 3, 107-120, 113 (2000).

⁴⁴⁶ Id. at 113-114.

⁴⁴⁷ See, e.g., M. De Pauw, B. Sleaf & N. Georgantzi, ‘Ageism and age discrimination in international human rights law’, in I. Doron & N. Georgantzi, eds., *Ageing, Ageism and the Law: European Perspectives on the Rights of Older Persons*, ch. 8 (Cheltenham, UK: Edward Elgar Publishing, 2018); C. Krekula, P. Nikander & M. Wilinska, ‘Multiple Marginalizations Based on Age: Gendered Ageism and Beyond’, in L. Ayalon & C. Tesch-Romer, eds., *Contemporary Perspectives on Ageism*, ch. 3 (Cham, Switzerland: Springer, 2018).

⁴⁴⁸ Krekula, et al., *Multiple Marginalizations*, 34.

⁴⁴⁹ Id. at 42; S. Westwood, “‘It’s the not being seen that is most tiresome’”: Older women, invisibility, and social (in)justice’, *Journal of Women & Aging* 35(6), 557-572 (2023); P. Rochon, S. Kalia & P. Higgs, ‘Gendered ageism: addressing discrimination based on age and sex’, *The Lancet* 398, 648-649 (2021); J. Chrisler, A. Barney & B. Palatino, ‘Ageism can be Hazardous to Women’s Health: Ageism, Sexism, and Stereotypes of Older Women in the Healthcare System’, *Journal of Social Issues* 72(1), 86-104 (2016); V. Cecil, L.F. Pendry, J. Salvatore, H. Mycroft & T. Kurz, ‘Gendered ageism and gray hair: must older women choose between feeling authentic and looking competent?’, *Journal of Women & Aging* 34(2), 210-225 (2021); Ageism, menopause, and health disparities in Latin America. *The Lancet Regional Health – The Americas* 27.

⁴⁵⁰ See, e.g., Cecil, et al., *Gendered ageism and gray hair*, 210-225; Westwood, ‘It’s the not being seen that is most tiresome’, 557-572.

Recognition and elimination of the gendered dimensions of ageist stigmatization and the related cultural devaluation of women as they age should accordingly be among the core principles of the new convention. Gendered ageism is a distinct form of social subordination that deems older women unworthy of respect and effectively denies them recognition as full partners in social interactions in ways not denied to older men. As such, a recognition and/or condemnation of ageism standing alone, without explicit recognition of gendered ageism as an equally relevant status-based harm, runs the risk of reinforcing the implicit devaluation of women's experiences and women's social and cultural value.

Resisting the add-on

One of the simplest strategies to ensure visibility of older women in a new treaty would be to follow the model set by the CRPD. That would mean adopting a stand-alone article specific to older women as well as mainstreaming issues of gender or of particular interest to women through the text of the Convention. The evidence discussed in chapter three suggests that the addition of a stand-alone article on women with disabilities in the CRPD did raise their visibility at least within the treaty bodies. But the extent to which that visibility has translated to meaningful change in the lives of women with disabilities is a separate question, and its impact within international NGOs and other stakeholders has so far been fairly modest. Leadership of disability rights related organizations has remained solidly in men's hands and some of the largest organizations of persons with disabilities have been slow to engage in international fora focused on women or to address topics of particular interest to women with disabilities.

Leaving that impact aside, however, in my view reliance on a comparable stand-alone article on older women would be a mistake because it would solidify the perception that older persons is not meant to be gender neutral but rather is a stand in for a male norm. During the negotiations of the CRPD, women with disabilities were an under-represented group among the participants and held few leadership roles. While women make up a majority among disabled persons, the majority is slim and largely due to women's longer life expectancy and prevalence of disability in older age.

By comparison, women over the age of 50 outnumber their male peers and by the time they reach 80, women outnumber men by almost 3 to 2. In other words, whether one starts counting at 50 years of age, or 60, or 80, women *are* the majority of older persons and thus should be centered

within the text of the treaty, not seen as an add-on. Moreover, if the objective of the treaty is to redress disadvantages attaching to age and ageing, those disadvantages are not shared equally between women and men. To the contrary, as noted above men tend to enjoy social privileges well into late life in ways that women decidedly do not. Even if gender is mainstreamed through the new text, adding a single article to specifically recognize older women as holder of human rights is in a sense to add insult to injury, diminishing their status and devaluing their lived experience all while purporting to promote a skewed view of equality.

Dependency and the relevance of care

As already noted, international law privileges autonomy and the exercise of reason, indeed these are often given as the basis for the recognition of human rights and human dignity. But the effect of setting autonomy as the foundation is to code or inscribe a certain understanding of the human subject of international law, a “right way” of being human.⁴⁵¹ Because gender codes different ways of being for women, associating them with (excess) emotion, dependency, and care (both as givers and receivers), women are implicitly coded as lesser legal subjects.⁴⁵² This proposition is not new to critical disability scholars who have challenged the emphasis on autonomy and reason as exclusionary of those who are socially categorized or coded as less capable (or incapable) of independence whether of movement or thought.⁴⁵³ Critiques of the CRPD have raised the emphasis (some might say “over-emphasis) on individual autonomy and the right to live independently as one of the CRPD’s most significant flaws. Advocates from the Global South in particular argued that the emphasis on autonomy ignored social practices and norms that valued community and prioritized families as loci of care.⁴⁵⁴

Feminist scholars too have challenged the emphasis on autonomy on the grounds that it operates on a false premise and ignores the structural circumstances that “open possibilities” to

⁴⁵¹ D. Celermajer & A. Lefebvre, ‘Bringing the Subject of Human Rights Into Focus’, in D. Celermajer & A. Lefebvre eds., *The Subject of Human Rights*, 1-25 (Palo Alto, CA: Stanford University Press, 2020); see also Charlton & Chinkin, *Boundaries of International Law*; Heathcote, *Feminist Dialogues on International Law*; Hindman, *Rethinking Intersectionality*, 189-210.

⁴⁵² Id.

⁴⁵³ See, e.g., A. Kafer, *Feminist Queer Crip*, 47-68 (Bloomington: Indiana University Press, 2013).

⁴⁵⁴ H. Meekosha & K. Soldatic, ‘Human Rights and the Global South: the case of disability’, *Third World Quarterly* 32(8), 1383-1389 (2011); M. Berghs, ‘Practices and discourses of ubuntu: Implications for an African model of disability?’, *African Journal of Disability* 2017, Jan. 31:6:292, <https://doi.org/10.4102/ajod.v6.292>; S. Grech, *Disability and Poverty in the Global South: Renegotiating Development in Guatemala*, 171-205 (London: Palgrave Macmillan UK, 2015).

some to exercise autonomy in ways denied to others.⁴⁵⁵ As Eva Kittay puts it, “The ideology of equality relies on a vision of autonomous individuals who stand outside relations of dependency.”⁴⁵⁶

Challenging the privilege afforded autonomy opens space for the elevation of care and dependency relations as concepts of equal or greater value and in doing so challenges the devaluation of carework coded female. There is new authority for this recognition in the Human Rights Council’s 2023 resolution on the centrality of care.⁴⁵⁷ The Resolution calls on States to adopt measures recognizing and valuing care work in all its forms and reducing gendered stereotypes that devalue care and disproportionately assign care responsibilities to women. But it doesn’t recognize the centrality of care relationships to the exercise of human rights, or, more importantly, to the everyday experiences through which those rights take on meaning

Here, it will be essential that the new treaty recognize the centrality of care. Women are far more likely than older men to be providing care as they age, whether to spouses, grandchildren, friends, neighbors, or others, and are also likely to be recipients of care as they enter frail older ages. They are not atomised individuals such that improving their lives is only about them. They exist in networks of care whose other members are impacted by and have an interest in the protection and expression of rights for older women.

Including research (and inclusion in research) within the scheme of the convention

As noted in chapter one, one of the most significant erasures and devaluations of women’s experience is their invisibility in scientific research, particularly research into the biological impacts of aging. Far too often the health care needs of older people are treated as uniform without specific attention to sex and gender differences, with profound consequences for older women. Persistent failures to address gendered ageism and gender data gaps, and otherwise recognize that health needs for women as they age are not the same as those for men have the effect of denying

⁴⁵⁵ See, e.g., M.A. Fineman, ‘Vulnerability and Inevitable Inequality’, *Oslo Law Review* 4(3), 133-149 (2017); Celermajer & Lefebvre, *Bringing the Subject of Human Rights Into Focus*, 1-25.

⁴⁵⁶ E. Kittay, *Love’s Labor: Essays on Women, Equality and Dependency*, 50 (New York and London: Routledge, 2020).

⁴⁵⁷ United Nations Human Rights Council, *Resolution 54/6. Centrality of care and support from a human rights perspective*, U.N. Doc. No. A/HRC/RES/54/6 (12 October 2023).

peri- and post-menopausal women access to informed health care solely because they are female.⁴⁵⁸

That medical research has not historically taken female patients into account has been recognized for some time,⁴⁵⁹ but its consequences for older women are significant. It too represents a status-based harm demanding recognition. In this instance, that requires more than simply an admonition that older women should have access to health care on an equal basis with all others. Rather, a new convention should mandate investment in research into health care issues impacting women as they age and prioritize information sharing and collaboration to expedite the creation of more informed and more equitable health care services and related research agenda.

Facilitating voice and participation

While there is robust disagreement among feminist scholars across a range of issues, there is one issue on which all agree: the insistence that “the least vocal are nevertheless heard”.⁴⁶⁰ Returning to Strid, et al.’s approach to intersectionality as a continuum of inclusion, the strongest recognition of intersectionality is when those disadvantaged or culturally devalued have a voice in policy processes.⁴⁶¹ In Fredman’s conception of participation, inclusion is necessary both to compensate for past processes which closed off certain voices, and to open new opportunities to experience and expand social and community engagement.⁴⁶²

For the drafters of a new convention, participation can and should occur across a range of avenues. On the one hand, it will be essential to have a robust, inclusive, and participatory process for the development of the treaty and discussion and debate over its terms. Participatory processes led by diverse women, especially women from minoritized backgrounds, with different abilities, in both rural and urban settings, and in diverse age groups will be an important component, as will follow-up discussions in which outcomes are debated and findings shared.

⁴⁵⁸ World Health Organization. *Global Report on Ageism*, <https://iris.who.int/bitstream/handle/10665/340208/9789240016866-eng.pdf?sequence=1> (2021), accessed March 2025.

⁴⁵⁹ See, e.g., AAMC, *Why we know so little about women’s health*, <https://www.aamc.org/news/why-we-know-so-little-about-women-s-health> (26 Mar 2024). The timeline referenced notes that it was not until 1993 that the U.S. FDA officially mandated the inclusion of women in clinical research.

⁴⁶⁰ Fredman, *The Right to Education and Substantive Equality*, at 87.

⁴⁶¹ Strid, et al., *Intersectionality and Multiple Inequalities* at 565.

⁴⁶² Fredman, *Substantive Equality Revisited* at 731.

At the same time, however, the new convention should incorporate elements to facilitate participatory approaches, including obligating States to remove legal barriers to the creation or maintenance of civil society organizations, and to provide material support to small, women-led associations.

Such associations not only offer opportunities for collaboration and community-building, but they will be essential to the efficacy and impact of any new treaty. As Finnemore and Sikkink note: “Norms do not appear out of thin air; they are actively built by agents having strong notions about appropriate or desirable behavior in their community”.⁴⁶³ Mala Htun and Laurel Weldon, among others, demonstrated that the impact of global norms on domestic policy-making is at least partially conditional on the presence of feminist movements in local contexts.⁴⁶⁴ Autonomous feminist movements, or those movements which are not associated with governments or political parties, and who have the status of women as their primary concern, are most successful at influencing policy.⁴⁶⁵ Recognizing that older women as a group may be among those least able to access community-based organizations, building measures into the treaty to facilitate that access could go a long way toward its impact.

A Transformational approach

Finally, to fully embrace substantive equality it is important to recognize and integrate the need for structural changes that challenge the assumptions underlying socially dominant norms. In practice, this could mean the adoption of policies that promote parental child- or family-care leave, rather than maternity leave, or policies that otherwise challenge gender norms. A gender transformative approach to policy is one that considers how policy can seek to transform gender relations and promote equality by:

1. Fostering critical examination of inequalities and gender roles, norms, and dynamics;
2. Recognizing and strengthening positive norms that support equality and an enabling environment;

⁴⁶³ M. Finnemore & K. Sikkink, ‘International Norm Dynamics and Political Change’, *International Organization* 52(4), 887-918, 896 (1998).

⁴⁶⁴ M. Htun & L. Weldon, *The Logics of Gender Justice: State Action on Women’s Rights Around the World*, 29-30 (Cambridge: Cambridge University Press, 2018).

⁴⁶⁵ Id.; S. Forester, K. Kelly-Thompson, A. Lusvardi & S. L. Weldon, ‘New Dimensions of Global Feminist Influence: Tracking Feminist Mobilization Worldwide, 1975-2015’, *International Studies Quarterly* 66(1), sqab093, at 3 (2022).

3. Promoting the relative position of women and marginalized groups, and transforming the underlying social structures, policies, and broadly held social norms that perpetuate gender inequalities.⁴⁶⁶

In practice, this demands attention to intra-household relations, unequal distributions of care work, and differences in bargaining power based on gender for women and men of all ages.

Many of the proposals offered above are examples of a gender-transformative approach. The key consideration here is to ensure that the text of any new treaty explicitly addresses the “why” of older women’s disadvantages and does not limit itself to superficially treating only the evidence of “what” those are.

Conclusions

As stakeholders move forward to reform the international human rights framework and add a new convention on the rights of older persons, there is an opportunity to learn from feminist critiques of international law. If the intent is to fully take up and eliminate unequal treatment on the basis of age for *all*, then gender must be given more than a nod. Intersectionality theory offers a lens through which to recognize not only that we are all so much more than any one thing at any one time, but also that it is all too easy to erase the complexity of human experience.

The argument being made here is not that ageism does not exist but rather that standing alone it is conceptually inadequate to explain the multi-dimensional, complex, and layered experiences of older women. Accepting that ageism and attitudes toward ageing are embedded in diverse social contexts and hold multiple cultural meanings requires also recognizing that pre-existing social inequalities are likely to exacerbate their negative effects. It is long past time to reconsider legal tools to center the concerns of women in all their diversity.⁴⁶⁷ A new convention on the rights of older persons, the majority of whom are women, offers an opportunity to do just that.

⁴⁶⁶ Interagency Gender Working Group [IGWG], *The Gender Integration Continuum*, <https://www.igwg.org/> (2017); UNFPA, *Gender Transformative Approaches to Achieve Gender Equality and Sexual and Reproductive Health and Rights*, <https://www.unfpa.org/publications/gender-transformative-approaches-achieve-gender-equality-and-sexual-and-reproductive> (8 March 2023), accessed March 2025.

⁴⁶⁷ S. Fredman, *Women and the Law* (Oxford: Oxford University Press, 2007).

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APPENDICES

Appendix A

Coding Rulebook

Chapter 3: Assessing inclusion of older women in the work of the UN treaty bodies

For the purpose of assessing how and when UN human rights mechanisms recognized older women in their work, I conducted searches of four sets of documents:

- (1) decisions on the merits issued by the Committee on the Elimination of Discrimination Against Women concerning individual complaints under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, between January 1, 2014 and October 31, 2024;
- (2) decisions on the merits issued by the Committee on the Rights of Persons with Disabilities concerning individual complaints under the Optional Protocol to the Convention on the Rights of Persons with Disabilities;
- (3) concluding observations published by the CEDAW Committee between January 1, 2019 and October 31, 2024; and
- (4) concluding observations published by the CRPD Committee between January 1, 2019 and October 31, 2024.

The decisions on the merits were accessed using the JURIS database, which is the central repository of the jurisprudence of the United Nations Treaty Bodies. Concluding observations were accessed using the United Nations Treaty Body Database, which contains all public documents adopted or received by the treaty bodies.

Jurisprudence

When reviewing the decisions on the merits of both committees, I recorded the age of the claimant(s) where birth year was provided, a summary of the claims made, name of claimant(s)' counsel, if any, and a summary of the respective committee's decision, including the bases for the

decision. I also searched for references to age, ageing, gender, older, intersectionality, and related terms within the decisions regardless of the claims made.

Concluding observations

In the concluding observations of the respective committees, I conducted multiple searches using some or all of the following terms: old, older, elderly, age, widow, intersecti*, and disabilities for the concluding observations of the CEDAW Committee, and “older persons”, “older women”, age, elderly, widow, and intersecti* for the concluding observations of the CRPD Committee. In the latter group, I also collected excerpts of the CRPD Committee’s comments with respect to Article 6 on women and girls with disabilities specifically.

In all cases, I collected excerpts of references to the search terms and coded the references to older or elderly women and women with disabilities for the contexts in which the search terms were used, i.e. which issues were they associated with.

The codes used included the following:

- Number of uses of the term “older”
- Number of times those uses were references to older women or older persons as subjects of care and/or as in need of care services⁴⁶⁸
- Whether older women/older persons were referred to as disadvantaged, marginalized or vulnerable, or were included in lists of disadvantaged groups⁴⁶⁹
- Whether the committee called for temporary special measures with respect to older women or included older women in list of disadvantaged groups who should be included in temporary special measures;⁴⁷⁰

⁴⁶⁸ This also captured recommendations by the CEDAW Committee for the State Party to establish care services specifically for older women.

⁴⁶⁹ This was coded as a yes/no question rather than a count of the number of references to older women as disadvantaged within a given CO.

⁴⁷⁰ Temporary special measures are referred to in Article 4 of the Convention and have been elaborated on by the Committee in its General recommendation no. 25 (1999). GR 25 explains that the intent of temporary special measures is to “accelerate the equal participation of women in the political, economic, social, cultural, [and] civil” life of their communities. Temporary special measures may be used to remedy past discrimination or to otherwise improve the position of women to one of substantive equality with men. For purposes of the present assessment,

- Whether the committee included a recommendation re: visibility of the Convention or steps to address lack of awareness of their rights among older women;
- Whether the committee recommended steps to reform, adopt, or change anti-discrimination legislation to include older women;⁴⁷¹
- Whether the committee included a recommendation to improve access to justice for older women;
- Whether the committee included a recommendation to improve equal participation in political or public life for older women;
- Whether the committee included a recommendation to improve or address gender-based violence or other forms of violence against older women;⁴⁷²
- Whether the committee included a recommendation to improve access to health care generally;
- Whether the committee included a recommendation to improve access to sexual and/or reproductive health care specifically;⁴⁷³
- Whether the committee included a recommendation to improve access to education, literacy, or lifelong learning opportunities;
- Whether the committee included a recommendation to improve access to employment;
- Whether the committee included a recommendation to improve access to social protection benefits and/or address poverty among older women;
- Whether the committee included a recommendation to include older women in climate change prevention or response and/or disaster risk response measures or planning;

coding captured whether the Committee recommended temporary special measures specifically for older women or included older women in a list of others for whom temporary special measures were recommended. Generally these lists were identified either as “disadvantaged groups” or those experiencing “intersecting forms of discrimination”. Temporary special measures were also recommended for instances where certain groups of women” are under-represented or disadvantaged”. In these instances, the present analysis considers the reference to older women to be a reference to them as disadvantaged and coded the reference accordingly.

⁴⁷¹ Where the Committee recommended measures to address gender stereotypes harmful to older women, those were coded as references to anti-discrimination measures.

⁴⁷² Other forms of violence referenced at times included stereotyping as witches and/or violence against women as witches

⁴⁷³ Where a recommendation for temporary special measures called for such measures to improve access to sexual and reproductive health care, that reference was included here even if it applied to a list of disadvantaged groups of which older women were just one group listed.

- Whether the committee included a recommendation to improve data collection with respect to situation of older women;⁴⁷⁴ and
- other recommendations coded as “one-offs”

In my review of the CEDAW Committee’s concluding observations, I used the same strategy to code references to women with disabilities.

On occasion, the CEDAW Committee would highlight a concern relating to older women such as limited access to justice but not include older women in its recommendations. This was most common when the Committee identified a list of disadvantaged groups which experienced the type of discrimination about which it was concerned but did not include (all of) the same groups in the list in its recommendations. For purposes of this analysis, I have treated any recognition of discrimination against older women as significant whether or not that recognition was translated into a recommendation.

⁴⁷⁴ This includes all recommendations for the collection of age-disaggregated data.

Appendix B.1

Table B.1: Committee on the Elimination of Discrimination Against Women, Decisions on the Merits between January 2014 and October 2024

No.	Parties	Country	U.N. Doc. No.	Date of Decision	Date of Complaint
1	A.	Denmark	CEDAW/C/62/D/53/2013	19-Nov-15	11-Apr-13
2	A.F.	Italy	CEDAW/C/82/D/148/2019	20-Jun-22	16-Aug-18
3	A.L.P., A.M.E. and F.F.B.	Republic of Korea	CEDAW/C/86/D/139/2018	24-Oct-23	28-Nov-18
4	A.M.	Denmark	CEDAW/C/67/D/77/2014	21-Jul-17	21-Feb-14
5	Alonzo et al.	Philippines	CEDAW/C/84/D/155/2020	17-Feb-23	25-Nov-19
6	Angela González Carreño	Spain	CEDAW/C/58/D/47/2012	16-Jul-14	19-Sep-12
7	Anna Belousova	Kazakhstan	CEDAW/C/61/D/45/2012	13-Jul-15	12-Sep-12
8	D.S.	Slovakia	CEDAW/C/65/D/66/2014	7-Nov-16	8-Feb-13
9	E.D. and M.D.	Belarus	CEDAW/C/87/D/157/2020	12-Feb-24	10-Apr-20

10	E.S. and S.C.	United Republic of Tanzania	CEDAW/C/60/D/48/2013	2-Mar-15	12-Nov-12
11	Elisabeth de Blok et al	Netherlands	CEDAW/C/57/D/36/2012	17-Feb-14	24-Nov-11
12	F.F.M.	Denmark	CEDAW/C/67/D/70/2014	21-Jul-17	4-Jul-14
13	Flamer-Caldera	Sri Lanka	CEDAW/C/81/D/134/2018	21-Feb-22	23-Aug-18
14	H.H., I.H., and Y.H.	Georgia	CEDAW/C/80/D/140/2019	25-Oct-21	19-Sep-18
15	J.I.	Finland	CEDAW/C/69/D/103/2016	5-Mar-18	2-May-16
16	K.K.	Russian Federation	CEDAW/C/72/D/98/2016	25-Feb-19	7-Dec-15
17	L.A. et al.	North Macedonia	CEDAW/C/75/D/110/2016	24-Feb-20	21-Dec-16
18	L.R.	Republic of Moldova	CEDAW/C/66/D/58/2013	28-Feb-17	01-Sep-11
19	M.D.C.P.	Spain	CEDAW/C/84/D/154/2020	24-Feb-23	10-Nov-18
20	M.W.	Denmark	CEDAW/C/63/D/46/2012	22-Feb-16	21-Aug-12
21	Matson	Canada	CEDAW/C/81/D/68/2014	14-Feb-22	18-Oct-13
22	Medvedeva	Russian Federation	CEDAW/C/63/D/60/2013	25-Feb-16	5-May-13

23	N.A.E.	Spain	CEDAW/C/82/D/149/2019	27-Jun-22	10-Nov-18
24	N.M.	Denmark	CEDAW/C/67/D/78/2014	21-Jul-17	28-Nov-14
25	N.Q.	United Kingdom of Great Britain and Northern Ireland	CEDAW/C/63/D/62/2013	25-Feb-16	24-Sep-13
26	Natalia Ciobanu	Republic of Moldova	CEDAW/C/74/D/104/2016	4-Nov-19	3-May-16
27	O.G.	Russian Federation	CEDAW/C/68/D/91/2015	6-Nov-17	1-Mar-15
28	O.M.	Ukraine	CEDAW/C/73/D/87/2015	19-Jul-19	01-Sep-14
29	R.G.	Kyrgyzstan	CEDAW/C/77/D/133/2018	3-Nov-20	10-May-18
30	R.P.B.	Philippines	CEDAW/C/57/D/34/2011	21-Feb-14	23-May-11
31	Rahma Abdi-Osman	Switzerland	CEDAW/C/76/D/122/2017	6-Jul-20	28-Nov-17
32	Reyna Trujillo Reyes and Pedro Arguello Morales	Mexico	CEDAW/C/67/D/75/2014	21-Jul-17	1-Aug-14
33	Román Jaimes	Mexico	CEDAW/C/83/D/153/2020	24-Oct-22	18-Oct-19

34	S.B. and M.B.	North Macedonia	CEDAW/C/77/D/143/2019	2-Nov-20	16-May-19
35	S.F.M.	Spain	CEDAW/C/75/D/138/2018	28-Feb-20	30-Oct-18
36	S.H.	Bosnia and Herzegovina	CEDAW/C/76/D/116/2017	9-Jul-20	27-Jan-17
37	S.L.	Bulgaria	CEDAW/C/73/D/99/2016	19-Jul-19	23-Feb-16
38	S.N., E.R.	North Macedonia	CEDAW/C/75/D/107/2016	24-Feb-20	27-Oct-16
39	S.T.	Russian Federation	CEDAW/C/72/D/65/2014	25-Feb-19	8-Nov-13
40	Shpagina (deceased)	Russian Federation	CEDAW/C/84/D/129/2018	23-Feb-23	25-Mar-18
41	Taherah Mohammadi Bandboni et al	Switzerland	CEDAW/C/85/D/173/2021	15-May-23	8-Jun-21
42	V.C. (deceased)	Republic of Moldova	CEDAW/C/76/D/105/2016	9-Jul-20	20-Jul-16
43	V.P.	Belarus	CEDAW/C/79/D/131/2018	28-Jun-21	20-Nov-17
44	X and Y	Georgia	CEDAW/C/61/D/24/2009	13-Jul-15	24-Jun-09
45	X.	Cambodia	CEDAW/C/85/D/146/2019	19-May-23	17-Oct-18
46	X.	Timor-Leste	CEDAW/C/69/D/88/2015	26-Feb-18	16-Feb-15

47	X. and Y.	Russian Federation	CEDAW/C/73/D/100/2016	16-Jul-19	29-Dec-15
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Appendix B.2

Table B.2: Committee on the Rights of Persons with Disabilities, Decisions on Merits between January 2014 and October 2024

No.	Party(ies)	Country	U.N. Doc. No.	Date of Decision	Date of complaint
1	A.F.	Italy	CRPD/C/13/D/9/2012	19-May-15	4-Jun-11
2	Abdulrahman Ahmed al-Hawali Alghamdi	Saudi Arabia	CRPD/C/30/D/84/2020	29-Jul-24	12-Oct-20
3	Arturo Medina Vela	Mexico	CRPD/C/22/D/32/2015	15-Oct-19	19-Aug-15
4	Boris Makarov, on behalf of Glafira Makarova (deceased)	Lithuania	CRPD/C/18/D/30/2015	5-Oct-17	2-Mar-15
5	Christopher Leo	Australia	CRPD/C/22/D/17/2013	18-Oct-19	19-Sep-13
6	D.R.	Australia	CRPD/C/17/D/14/2013	19-May-17	14-Aug-13
7	F.	Austria	CRPD/C/14/D/21/2014	21-Sep-15	24-Mar-14
8	F.I.J.	Sweden	CRPD/C/31/D/104/2023	8-Oct-24	17-Oct-22
9	Fiona Given	Australia	CRPD/C/19/D/19/2014	29-Mar-18	27-Nov-13
10	Gaetan Sabadie	France	CRPD/C/29/D/52/2018	26-Sep-23	12-Jan-18

11	Gemma Beasley	Australia	CRPD/C/15/D/11/2013	25-May-16	29-Apr-13
12	Grainne Sherlock	Australia	CRPD/C/24/D/20/2014	30-Apr-21	24-Feb-14
13	Iuliia Domina and Max Bendtsen	Denmark	CRPD/C/20/D/39/2017	21-Dec-18	6-Jan-17
14	J.H.	Australia	CRPD/C/20/D/35/2016	20-Dec-18	12-Feb-16
15	J.M.	Spain	CRPD/C/23/D/37/2016	29-Sep-20	18-Mar-16
16	J.M.V.A.	Spain	CRPD/C/29/D/47/2018	5-Oct-23	20-Apr-17
17	Lauren Henley	Australia	CRPD/C/27/D/56/2018	15-Feb-23	3-Oct-18
18	Liliane Groninger	Germany	CRPD/C/D/2/2010	7-Jul-14	1-Feb-10
19	M. Kock	Austria	CRPD/C/26/D/50/2018	18-May-22	7-Jul-17
20	M.R. i.V.	Spain	CRPD/C/26/D/48/2018	20-May-22	17-Nov-15
21	Magdolna Rékasi	Hungary	CRPD/C/25/D/44/2017	11-Oct-21	27-Jul-17
22	Manuway (Kerry) Doolan	Australia	CRPD/C/22/D/18/2013	17-Oct-19	19-Sep-13
23	Maria Simona Bellini	Italy	CRPD/C/27/D/51/2018	27-Jan-23	28-Mar-17
24	Marie-Louise Jungelin	Sweden	CRPD/C/12/D/5/2011	14-Nov-14	1-May-11
25	Marlon James Noble	Australia	CRPD/C/16/D/7/2012	10-Oct-16	12-Apr-12
26	Michael Lockrey	Australia	CRPD/C/15/D/13/2013	30-May-16	8-Apr-13

27	Munir al Adam	Saudi Arabia	CRPD/C/20/D/38/2016	24-Oct-18	5-May-16
28	N.L.	Sweden	CRPD/C/23/D/60/2019	22-Oct-20	10-May-19
29	Richard Sahlin	Sweden	CRPD/C/23/D/45/2018	15-Oct-20	23-Jan-18
30	Rubén Calleja Loma and Alejandro Calleja Lucas	Spain	CRPD/C/23/D/41/2017	30-Sep-20	2-May-17
31	S.K.	Finland	CRPD/C/26/D/46/2018	20-May-22	7-Feb-18
32	S.M.	Denmark	CRPD/C/29/D/61/2019	4-Oct-23	12-Sep-17
33	Selena Militza Garcia Vara	Mexico	CRPD/C/28/D/70/2019	8-May-23	22-Jul-16
34	Shaaban al-Sayed and Gashao Mangisto	State of Palestine	CRPD/C/28/D/67/2019 CRPD/C/28/D/68/2019	22-May-23	12-Sep-19
35	Simon Bacher	Austria	CRPD/C/19/D/26/2014	6-Apr-18	8-Feb-14
36	V.F.C.	Spain	CRPD/C/21/D/34/2015	29-Apr-19	16-Oct-15
37	X.	Argentina	CRPD/C/11/D/8/2012	18-Jun-14	1-Aug-12
38	X.	Tanzania	CRPD/C/18/D/22/2014	5-Oct-17	23-Jun-14
39	Y.	United Republic of Tanzania	CRPD/C/20/D/23/2014	30-Oct-18	23-Jun-14
40	Z.	Tanzania	CRPD/C/22/D/24/2014	15-Oct-19	12-Jun-14

41	Z.H.	Sweden	CRPD/C/25/D/58/2019	11-Oct-21	15-Apr-19
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Appendix C.1

Table C.1: Committee on the Elimination of Discrimination Against Women, Concluding Observations issued between January 2019 and October 2024

No.	Title	Country	U.N. Doc. No.	Submitted Date
1	Concluding observations on the combined eighth and ninth periodic reports of Brazil	Brazil	CEDAW/C/BRA/CO/8-9	6-Jun-24
2	Concluding observations on the ninth periodic report of the Republic of Korea	Republic of Korea	CEDAW/C/KOR/CO/9	6-Jun-24
3	Concluding observations on the seventh periodic report of Estonia	Estonia	CEDAW/C/EST/CO/7	6-Jun-24
4	Concluding observations on the sixth periodic report of Kuwait	Kuwait	CEDAW/C/KWT/CO/6	6-Jun-24
5	Concluding observations on the sixth periodic report of Malaysia	Malaysia	CEDAW/C/MYS/CO/6	6-Jun-24
6	Concluding observations on the sixth periodic report of Singapore	Singapore	CEDAW/C/SGP/CO/6	6-Jun-24
7	Concluding observations on the tenth periodic report of Rwanda	Rwanda	CEDAW/C/RWA/CO/10	6-Jun-24

8	Concluding observations on the third periodic report of Montenegro	Montenegro	CEDAW/C/MNE/CO/3	6-Jun-24
9	Concluding observations on the combined eighth and ninth periodic reports of Greece	Greece	CEDAW/C/GRC/CO/8-9	14-Feb-24
10	Concluding observations on the combined fourth and fifth periodic reports of Djibouti	Djibouti	CEDAW/C/DJI/CO/4-5	26-Feb-24
11	Concluding observations on the eighth periodic report of Italy	Italy	CEDAW/C/ITA/CO/8	27-Feb-24
12	Concluding observations on the fifth periodic report of the Niger	Niger	CEDAW/C/NER/CO/5	20-Feb-24
13	Concluding observations on the fourth periodic report of Oman	Oman	CEDAW/C/OMN/CO/4	26-Feb-24
14	Concluding observations on the seventh periodic report of Tajikistan	Tajikistan	CEDAW/C/TJK/CO/7	20-Feb-24
15	Concluding observations on the sixth periodic report of the Central African Republic	Central African Republic	CEDAW/C/CAF/CO/6	20-Feb-24
16	Concluding observations on the sixth periodic report of Turkmenistan	Turkmenistan	CEDAW/C/TKM/CO/6	20-Feb-24

17	Concluding observations on the combined seventh to tenth periodic reports of Nicaragua	Nicaragua	CEDAW/C/NIC/CO/7-10	14-Feb-24
18	Concluding observations on the eighth periodic report of Jamaica	Jamaica	CEDAW/C/JAM/CO/8	15-Nov-23
19	Concluding observations on the eighth periodic report of Malawi	Malawi	CEDAW/C/MWI/CO/8	14-Nov-23
20	Concluding observations on the fifth periodic report of Albania	Albania	CEDAW/C/ALB/CO/5	14-Nov-23
21	Concluding observations on the ninth periodic report of France	France	CEDAW/C/FRA/CO/9	25-Oct-23
22	Concluding observations on the ninth periodic report of the Philippines	Philippines	CEDAW/C/PHL/CO/9	14-Nov-23
23	Concluding observations on the tenth periodic report of Bhutan	Bhutan	CEDAW/C/BTN/CO/10	14-Nov-23
24	Concluding observations on the tenth periodic report of Guatemala	Guatemala	CEDAW/C/GTM/CO/10	14-Nov-23
25	Concluding observations on the tenth periodic report of Uruguay	Uruguay	CEDAW/C/URY/CO/10	14-Nov-23
26	Concluding observations on the combined initial to fifth reports of Sao Tome and Principe	Sao Tome and Principe	CEDAW/C/STP/CO/1-5	31-May-23

27	Concluding observations on the fourth periodic report of Timor-Leste	Timor-Leste	CEDAW/C/TLS/CO/4	31-May-23
28	Concluding observations on the seventh periodic report of Slovakia	Slovakia	CEDAW/C/SVK/CO/7	31-May-23
29	Concluding observations on the ninth periodic report of China	China	CEDAW/C/CHN/CO/9	31-May-23
30	Concluding observations on the ninth periodic report of Germany	Germany	CEDAW/C/DEU/CO/9	31-May-23
31	Concluding observations on the ninth periodic report of Iceland	Iceland	CEDAW/C/ISL/CO/9	31-May-23
32	Concluding observations on the ninth periodic report of Spain	Spain	CEDAW/C/ESP/CO/9	31-May-23
33	Concluding observations on the ninth periodic report of Venezuela (Bolivarian Republic of)	Venezuela (Bolivarian Republic of)	CEDAW/C/VEN/CO/9	31-May-23
34	Concluding observations on the fourth periodic report of Mauritania	Mauritania	CEDAW/C/MRT/CO/4	2-Mar-23
35	Concluding observations on the eighth periodic report of Costa Rica	Costa Rica	CEDAW/C/CRI/CO/8	2-Mar-23

36	Concluding observations on the seventh periodic report of Slovenia	Slovenia	CEDAW/C/SVN/CO/7	2-Mar-23
37	Concluding observations on the fourth periodic report of Bahrain	Bahrain	CEDAW/C/BHR/CO/4	2-Mar-23
38	Concluding observations on the ninth periodic report of Hungary	Hungary	CEDAW/C/HUN/CO/9	2-Mar-23
39	Concluding observations on the seventh periodic report of Tunisia	Tunisia	CEDAW/C/TUN/CO/7	2-Mar-23
40	Concluding observations on the sixth periodic report of Georgia	Georgia	CEDAW/C/GEO/CO/6	2-Mar-23
41	Concluding observations on the tenth periodic report of Norway	Norway	CEDAW/C/NOR/CO/10	2-Mar-23
42	Concluding observations on the combined fifth to ninth periodic reports of Saint Kitts and Nevis	Saint Kitts and Nevis	CEDAW/C/KNA/CO/5-9	5-Nov-22
43	Concluding observations on the eighth periodic report of Belgium	Belgium	CEDAW/C/BEL/CO/8	1-Nov-22
44	Concluding observations on the eighth periodic report of Finland	Finland	CEDAW/C/FIN/CO/8	1-Nov-22
45	Concluding observations on the ninth periodic report of Honduras	Honduras	CEDAW/C/HND/CO/9	1-Nov-22
46	Concluding observations on the ninth periodic report of Ukraine	Ukraine	CEDAW/C/UKR/CO/9	1-Nov-22

47	Concluding observations on the seventh periodic report of Armenia	Armenia	CEDAW/C/ARM/CO/7	1-Nov-22
48	Concluding observations on the sixth periodic report of Switzerland	Switzerland	CEDAW/C/CHE/CO/6	1-Nov-22
49	Concluding observations on the sixth periodic report of The Gambia	Gambia	CEDAW/C/GMB/CO/6	1-Nov-22
50	Concluding observations on the combined fifth and sixth periodic reports of Morocco	Morocco	CEDAW/C/MAR/CO/5-6	12-Jul-22
51	Concluding observations on the eighth periodic report of the Republic of Türkiye	Türkiye	CEDAW/C/TUR/CO/8	12-Jul-22
52	Concluding observations on the fourth periodic report of the United Arab Emirates	United Arab Emirates	CEDAW/C/ARE/CO/4	12-Jul-22
53	Concluding observations on the seventh periodic report of the Plurinational State of Bolivia	Bolivia (Plurinational State of)	CEDAW/C/BOL/CO/7	12-Jul-22
54	Concluding observations on the sixth periodic report of Azerbaijan	Azerbaijan	CEDAW/C/AZE/CO/6	12-Jul-22

55	Concluding observations on the sixth periodic report of Namibia	Namibia	CEDAW/C/NAM/CO/6	12-Jul-22
56	Concluding observations on the tenth periodic report of Mongolia	Mongolia	CEDAW/C/MNG/CO/10	12-Jul-22
57	Concluding observations on the tenth periodic report of Portugal	Portugal	CEDAW/C/PRT/CO/10	12-Jul-22
58	Concluding observations on the combined eighth and ninth periodic reports of Uganda	Uganda	CEDAW/C/UGA/CO/8-9	1-Mar-22
59	Concluding observations on the eighth periodic report of Panama	Panama	CEDAW/C/PAN/CO/8	1-Mar-22
60	Concluding observations on the eighth periodic report of Senegal	Senegal	CEDAW/C/SEN/CO/8	1-Mar-22
61	Concluding observations on the eighth periodic report of the Dominican Republic	Dominican Republic	CEDAW/C/DOM/CO/8	1-Mar-22
62	Concluding observations on the ninth periodic report of Peru	Peru	CEDAW/C/PER/CO/9	1-Mar-22
63	Concluding observations on the seventh periodic report of Gabon	Gabon	CEDAW/C/GAB/CO/7	1-Mar-22
64	Concluding observations on the sixth periodic report of Lebanon	Lebanon	CEDAW/C/LBN/CO/6	1-Mar-22

65	Concluding observations on the sixth periodic report of Uzbekistan	Uzbekistan	CEDAW/C/UZB/CO/6	1-Mar-22
66	Concluding observations on the combined eighth to tenth periodic reports of Egypt	Egypt	CEDAW/C/EGY/CO/8-10	26-Nov-21
67	Concluding observations on the combined seventh and eighth periodic reports of Yemen	Yemen	CEDAW/C/YEM/CO/7-8	24-Nov-21
68	Concluding observations on the eighth periodic report of Indonesia	Indonesia	CEDAW/C/IDN/CO/8	24-Nov-21
69	Concluding observations on the tenth periodic report of Ecuador	Ecuador	CEDAW/C/ECU/CO/10	24-Nov-21
70	Concluding observations on the tenth periodic report of Sweden	Sweden	CEDAW/C/SWE/CO/10	24-Nov-21
71	Concluding observations on the fifth periodic report of Kyrgyzstan	Kyrgyzstan	CEDAW/C/KGZ/CO/5	29-Nov-21
72	Concluding observations on the fifth periodic report of South Africa	South Africa	CEDAW/C/ZAF/CO/5	23-Nov-21
73	Concluding observations on the initial report of South Sudan	South Sudan	CEDAW/C/SSD/CO/1	23-Nov-21

74	Concluding observations on the ninth periodic report of the Russian Federation	Russian Federation	CEDAW/C/RUS/CO/9	30-Nov-21
75	Concluding observations on the sixth periodic report of Maldives	Maldives	CEDAW/C/MDV/CO/6	23-Nov-21
76	Concluding observations on the ninth periodic report of Denmark	Denmark	CEDAW/C/DNK/CO/9	9-Mar-21
77	Concluding observations on the combined initial to third periodic reports of Kiribati	Kiribati	CEDAW/C/KIR/CO/1-3	11-Mar-20
78	Concluding observations on the combined fourth to seventh periodic reports of Latvia	Latvia	CEDAW/C/LVA/CO/4-7	10-Mar-20
79	Concluding observations on the eighth periodic report of Bulgaria	Bulgaria	CEDAW/C/BGR/CO/8	10-Mar-20
80	Concluding observations on the fifth periodic report of Pakistan	Pakistan	CEDAW/C/PAK/CO/5	10-Mar-20
81	Concluding observations on the sixth periodic report of the Republic of Moldova	Republic of Moldova	CEDAW/C/MDA/CO/6	10-Mar-20
82	Concluding observations on the sixth periodic report of Zimbabwe	Zimbabwe	CEDAW/C/ZWE/CO/6	10-Mar-20

83	Concluding observations on the third periodic report of Afghanistan	Afghanistan	CEDAW/C/AFG/CO/3	10-Mar-20
84	Concluding observations on the third periodic report of Eritrea	Eritrea	CEDAW/C/ERI/CO/6	10-Mar-20
85	Concluding observations on the fourth periodic report of Andorra	Andorra	CEDAW/C/AND/CO/4	13-Nov-19
86	Concluding observations on the fifth periodic report of Kazakhstan	Kazakhstan	CEDAW/C/KAZ/CO/5	12-Nov-19
87	Concluding observations on the seventh periodic report of Iraq	Iraq	CEDAW/C/IRQ/CO/7	12-Nov-19
88	Concluding observations on the sixth periodic report of Bosnia and Herzegovina	Bosnia and Herzegovina	CEDAW/C/BIH/CO/6	12-Nov-19
89	Concluding observations on the sixth periodic report of Cambodia	Cambodia	CEDAW/C/KHM/CO/6	12-Nov-19
90	Concluding observations on the sixth periodic report of Lithuania	Lithuania	CEDAW/C/LTU/CO/6	12-Nov-19
91	Concluding observations on the sixth periodic report of Seychelles	Seychelles	CEDAW/C/SYC/CO/6	12-Nov-19
92	Concluding observations on the combined third to fifth periodic reports of Mozambique	Mozambique	CEDAW/C/MOZ/CO/3-5	30-Jul-19

93	Concluding observations on the eighth periodic report of the Democratic Republic of the Congo	Democratic Republic of the Congo	CEDAW/C/COD/CO/8	6-Aug-19
94	Concluding observations on the fourth periodic report of Côte d'Ivoire	Côte d'Ivoire	CEDAW/C/CIV/CO/4	30-Jul-19
95	Concluding observations on the ninth periodic report of Austria	Austria	CEDAW/C/AUT/CO/9	30-Jul-19
96	Concluding observations on the ninth periodic report of Cabo Verde	Cabo Verde	CEDAW/C/CPV/CO/9	30-Jul-19
97	Concluding observations on the ninth periodic report of Guyana	Guyana	CEDAW/C/GUY/CO/9	30-Jul-19
98	Concluding observations on the second periodic report of Qatar	Qatar	CEDAW/C/QAT/CO/2	30-Jul-19
99	Concluding observations	Myanmar	CEDAW/C/MMR/CO/EP/1	18-Mar-10
100	Advance unedited version	Serbia	CEDAW/C/SRB/CO/4	14-Mar-19
101	Concluding observations on the combined fourth to seventh periodic reports of Antigua and Barbuda	Antigua and Barbuda	CEDAW/C/ATG/CO/4-7	14-Mar-19
102	Concluding observations on the eighth periodic report of Ethiopia	Ethiopia	CEDAW/C/ETH/CO/8	14-Mar-19

103	Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland - Advance unedited version	United Kingdom of Great Britain and Northern Ireland	CEDAW/C/GBR/CO/8	14-Mar-19
104	Concluding observations on the fourth periodic report of Botswana	Botswana	CEDAW/C/BWA/CO/4	14-Mar-19
105	Concluding observations on the ninth periodic report of Colombia	Colombia	CEDAW/C/COL/CO/9	14-Mar-19
106	Concluding observations on the seventh periodic report of Angola	Angola	CEDAW/C/AGO/CO/7	14-Mar-19

Appendix C.2

Table C.2: Committee on the Rights of Persons with Disabilities, Concluding Observations published between January 2019 and October 2024

No.	Title	Country	U.N. Doc. No.	Submitted Date
1	Concluding observations on the combined second and third periodic reports of Denmark	Denmark	CRPD/C/DNK/CO/2-3	8-Oct-24
2	Concluding observations on the combined second and third periodic reports of Mauritius	Mauritius	CRPD/C/MUS/CO/2-3	7-Oct-24
3	Concluding observations on the combined, second and third periodic reports of Ukraine	Ukraine	CRPD/C/UKR/CO/2-3	2-Oct-24
4	Concluding observations on the initial report of the Ghana	Ghana	CRPD/C/GHA/CO/1	2-Oct-24
5	Concluding observations on the initial report of the Netherlands	Netherlands	CRPD/C/NLD/CO/1	27-Sep-24
6	Concluding observations on the combined second and third periodic reports of Belgium	Belgium	CRPD/C/BEL/CO/2-3	30-Sep-24
7	Concluding observations on the initial report of Belarus	Belarus	CRPD/C/BLR/CO/1	26-Sep-24

8	Concluding observations on the initial report of Benin	Benin	CRPD/C/BEN/CO/1	23-Sep-24
9	Concluding observations on the initial report of Burkina Faso	Burkina Faso	CRPD/C/BFA/CO/1	30-Sep-24
10	Concluding observations on the combined first and second periodic reports of Bahrain	Bahrain	CRPD/C/BHR/CO/1-2	28-May-24
11	Concluding observations on the combined second and third periodic reports of Sweden	Sweden	CRPD/C/SWE/CO/2-3	29-Apr-24
12	Concluding observations on the initial report of Zambia-Advance Unedited Version	Zambia	CRPD/C/ZMB/CO/1	29-Apr-24
13	Concluding observations on the combined second and third periodic reports of Azerbaijan-Advance Unedited Version	Azerbaijan	CRPD/C/AZE/CO/2-3	22-Apr-24
14	Concluding observations on the initial report of Kazakhstan-Advance Unedited Version	Kazakhstan	CRPD/C/KAZ/CO/1	19-Apr-24
15	Observaciones finales sobre los informes periódicos segundo y tercero combinados de Costa Rica-Version Avanzada No Editada	Costa Rica	CRPD/C/CRI/CO/2-3	23-Apr-24

16	Concluding observations on the combined initial and second reports of Malawi-Advance Unedited Version	Malawi	CRPD/C/MWI/CO/1-2	5-Oct-23
17	Concluding observations on the combined second and third periodic reports of Germany-Advance Unedited Version	Germany	CRPD/C/DEU/CO/2-3	3-Oct-23
18	Concluding observations on the combined second and third reports of Austria	Austria	CRPD/C/AUT/CO/2-3	28-Sep-23
19	Concluding observations on the combined second and third reports of Mongolia-Advance Unedited Version	Mongolia	CRPD/C/MNG/CO/2-3	5-Oct-23
20	Concluding observations on the initial report of Andorra-Advance Unedited Version	Andorra	CRPD/C/AND/CO/1	9-Oct-23
21	Concluding observations on the initial report of Israel-Advance Unedited Version	Israel	CRPD/C/ISR/CO/1	9-Oct-23
22	Concluding observations on the initial report of Mauritania-Advance Unedited Version	Mauritania	CRPD/C/MRT/CO/1	4-Oct-23
23	Observaciones finales sobre los informes periódicos segundo y	Paraguay	CRPD/C/PRY/CO/2-3	17-Oct-23

	tercero combinados de Paraguay- Version Avanzada No Editada			
24	Concluding observations on the initial report of Georgia-Advance Unedited Version	Georgia	CRPD/C/GEO/CO/1	18-Apr-23
25	Concluding observations on e combined second and third periodic reports of Tunisia- Advance Unedited Version	Tunisia	CRPD/C/TUN/CO/2- 3	17-Apr-23
26	Concluding observations on the initial report of Angola	Angola	CRPD/C/AGO/CO/1	12-Apr-23
27	Concluding observations on the initial report of Togo-Advance Unedited Version	Togo	CRPD/C/TGO/CO/1	11-Apr-23
28	Observaciones finales sobre los informes periódicos segundo y tercero combinados de Argentina-Versión Avanzada No Editada	Argentina	CRPD/C/ARG/CO/2- 3	7-Dec-23
29	Observaciones finales sobre los informes periódicos segundo y tercero combinados de Perú- Versión Avanzada No Editada	Peru	CRPD/C/PER/CO/2-3	29-Nov-23
30	Concluding observations on the initial report of Indonesia- Advance Unedited Version	Indonesia	CRPD/C/IDN/CO/1	12-Oct-22

31	Concluding observations on the initial report of Bangladesh-Advance Unedited Version	Bangladesh	CRPD/C/BGD/CO/1	11-Oct-22
32	Concluding observations on the combined second and third periodic reports of China-Advance Unedited Version	China (Hong Kong)	CRPD/C/CHN/CO/2-3	10-Oct-22
33	Concluding observations on the initial report of Japan-Advance Unedited Version	Japan	CRPD/C/JPN/CO/1	7-Oct-22
34	Concluding observations on the combined second and third reports of the Republic of Korea-Advance Unedited Version	Republic of Korea	CRPD/C/KOR/CO/2-3	6-Oct-22
35	Concluding observations on the initial report of Singapore-Advance Unedited Version	Singapore	CRPD/C/SGP/CO/1	5-Oct-22
36	Concluding observations on the initial report of the Lao People's Democratic Republic-Advance Unedited Version	Lao People's Democratic Republic	CRPD/C/LAO/CO/1	30-Sep-22
37	Concluding observations on the combined second and third periodic reports of New Zealand-Advance Unedited Version	New Zealand	CRPD/C/NZL/CO/2-3	26-Sep-22

38	Concluding observations on the combined second and third periodic report of Hungary-Advance Unedited Version	Hungary	CRPD/C/HUN/CO/2-3	20-May-22
39	Concluding observations on the initial report of Jamaica-Advance Unedited Version	Jamaica	CRPD/C/JAM/CO/1	20-May-22
40	Observaciones finales sobre el informe inicial de la República Bolivariana de Venezuela-Version Avanzada No Editada	Venezuela (Bolivarian Republic of)	CRPD/C/VEN/CO/1	20-May-22
41	Concluding observations on the combined second and third periodic report of Mexico-Advance Unedited Version	Mexico	CRPD/C/MEX/CO/2-3	20-Apr-22
42	Concluding observations on the initial report of Switzerland-Advance Unedited Version	Switzerland	CRPD/C/CHE/CO/1	13-Apr-22
43	Concluding observations on the initial report of France	France	CRPD/C/FRA/CO/1	4-Oct-21
44	Concluding observations on the initial report of Estonia-Advance Unedited Version	Estonia	CRPD/C/EST/CO/1	5-May-21
45	Concluding observations on the initial report of Greece (Advance Unedited Version)	Greece	CRPD/C/GRC/CO/1	29-Oct-19

46	Concluding observations on the initial report of India (Advance Unedited Version)	India	CRPD/C/IND/CO/1	29-Oct-19
47	Concluding observations on the initial report of Iraq (Advance Unedited Version)	Iraq	CRPD/C/IRQ/CO/1	23-Oct-19
48	Concluding observations on the initial report of Myanmar (Advance Unedited Version)	Myanmar	CRPD/C/MMR/CO/1	22-Oct-19
49	Observaciones finales sobre los informes periódicos segundo y tercero combinados del Ecuador (Versión anticipada sin editar)	Ecuador	CRPD/C/ECU/CO/2-3	21-Oct-19
50	Concluding observations on the initial report of Kuwait (Advance Unedited Version)	Kuwait	CRPD/C/KWT/CO/1	18-Oct-19
51	Concluding observations on the combined second and third reports of Australia (Advance Unedited Version)	Australia	CRPD/C/AUS/CO/2-3	15-Oct-19
52	Concluding observations on the initial report of Albania	Albania	CRPD/C/ALB/CO/1	14-Oct-19
53	Concluding observations on the combined second and third reports of El Salvador (Versión anticipada sin editar)	El Salvador	CRPD/C/SLV/CO/2-3	1-Oct-19

54	Concluding observations on the initial report of Turkey	Türkiye	CRPD/C/TUR/CO/1	1-Oct-19
55	Concluding observations on the initial report of Algeria	Algeria	CRPD/C/DZA/CO/1	27-Jun-19
56	Concluding observations on the combined second and third periodic reports of Spain	Spain	CRPD/C/ESP/CO/2-3	13-May-19
57	Concluding observations on the initial report of Saudi Arabia	Saudi Arabia	CRPD/C/SAU/CO/1	13-May-19
58	Concluding observations on the initial report of Vanuatu	Vanuatu	CRPD/C/VUT/CO/1	13-May-19
59	Concluding observations on the initial report of Cuba	Cuba	CRPD/C/CUB/CO/1	10-May-19
60	Concluding observations on the initial report of Senegal	Senegal	CRPD/C/SEN/CO/1	13-May-19
61	Concluding observations on the initial report of Norway	Norway	CRPD/C/NOR/CO/1	7-May-19
62	Concluding observations on the initial report of Rwanda	Rwanda	CRPD/C/RWA/CO/1	3-May-19
63	Concluding observations on the initial report of Niger	Niger	CRPD/C/NER/CO/1	1-May-19