Older persons’ human rights & the COVID pandemic: are they compatible?

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Of 50 articles, most salient are:

• **Article 12**: Equal recognition before the law; equal legal capacity, appropriate support, expression of will & preferences; safeguarded against undue influence & abuse;

• **Article 14**: Liberty and security of the person;

• **Article 16**: Freedom from exploitation, violence & abuse;

• **Article 19**: Living independently & being included in the community;

• **Article 22**: Respect for privacy;

• **Article 23**: Respect for home, the family & relationships;

• **Article 25**: Enjoyment of the highest attainable standard of health
The existing human rights landscape - pockmarked with craters of violations

- Invisibility of older persons in human rights systems

- Implementation gap between the articulation of human rights values principles in human rights frameworks & the actual enjoyment of such

- Debate by UN Open Ended Working Group re new UN treaty on rights of older people


Ageism

Pre-COVID: everywhere & getting worse


Results

Ageism led to significantly worse health outcomes in 95.5% of the studies and 74.0% of the 1,159 ageism-health associations examined. The studies reported ageism effects in all 45 countries, 11 health domains, and 25 years studied, with the prevalence of significant findings increasing over time ($p < .0001$). A greater prevalence of significant ageism-health findings was found in less-developed countries than more-developed countries ($p = .0002$). Older persons who were less educated were particularly likely to experience adverse health effects of ageism. Evidence of ageism was found across the age, sex, and race/ethnicity of the targeters (i.e., persons perpetrating ageism).

During COVID

COMMENTARY

There is nothing new under the sun: ageism and intergenerational tension in the age of the COVID-19 outbreak

Finally, the most vulnerable members of our society, including older adults in long-term care facilities and those with severe physical and cognitive impairments, face substantial threats to their autonomy, unrelated to the current outbreak. It is our duty to ensure that the autonomy of the most vulnerable members of society is not hampered and that their voices are heard. Older people’s rights should not be compromised, and human rights should not be differentially allocated based on chronological age (United Nations Human rights – Office of the High Commissioner, 2020; Age Platform Europe, 2020).

LIAT AYALON
The zeitgeist re the “worth” of older people

Moreover, older adults have “already lived their lives,” and now it is time for them to step down. Whereas
Exacerbating inadequacies in aged care: tales of neglect
Much of the focus has been dead or alive ........................
FILE – In this Feb. 29, 2020, file photo, a staff member blocks the view as a person is taken by a stretcher to a waiting ambulance from a nursing facility where people are sick and being tested for the COVID-19 virus in Kirkland, Wash. From Miami to Seattle, nursing homes and other facilities for the elderly are stockpiling scarce personal protective equipment, stocking up on antibiotics and Nevada’s governor is considering calling in the National Guard if COVID-19 cases jump and overwhelmed health care systems can’t keep up.

The governors of states with the most nursing home residents are moving swiftly to try to head off another round of deaths like those seen during the coronavirus pandemic that swept through nursing homes in March and April. With COVID-19 cases surging in a number of states, they’re retrofitting their systems and preparing for the worst.

In a week, California, New York and Florida each reported more than 1,000 COVID-19 deaths. Their nursing home residents have accounted for about half of the state’s deaths. Of the country’s 15,000 nursing homes, 40% are in those three states, according to the Centers for Medicare & Medicaid Services.

The officials are also trying to shore up stockpiles of PPE and medications. California has a statewide pharmacy contract to order the medications now, and nursing homes in some states are stocking up on antibiotics as cases surge in nursing homes and nearby hospital emergency rooms.

The governors are planning to call in the National Guard in some states if an overwhelming number of nursing home residents fall ill and hospitals can’t handle it. In March and April, the National Guard had temporary contracts for more than 10,000 nurses, doctors and other workers to help overwhelmed hospitals. The next wave of cases, especially in the Midwest, could be worse as the pandemic is spreading faster in states with fewer hospital beds and longer waiting lists for ventilators.
a human rights-based practice of health care based on equity of access, autonomy and dignity.

**Article 25**: Enjoyment of the highest attainable standard of health without discrimination

the same quality provided to others

respecting specific needs that arise on account of disability.

on the basis of free and informed consent
What else is at risk here...?

- **Article 14**: Liberty and security of the person;
- **Article 19**: Living independently & being included in the community;
- **Article 22**: Respect for privacy;
- **Article 23**: Respect for home, the family & relationships;
10 advocacy tips for health professionals

1. Reference human rights when planning/writing policies or guidelines for health care services;

2. Highlight importance of autonomy, free & informed consent, supported decision-making, and respect for will and preferences when delivering treatment.

3. Ensure human rights-based principles of capacity assessment (i) presumption of capacity; (ii) capacity is not diagnosis-bound

4. Rigorous and respectful pursuit of will & prefs with authentic advance care planning;

5. Understanding the human rights violations that underpin changed behaviours in dementia re unmet need, will and preferences (Articles 12 and 25).
Cont’d: Advocacy tips


7. Explicitly reference human rights when doing medicolegal assessments & reports, e.g. applications for guardianship or protection/administration;

8. Call out ageism

9. Push older people forwards. Ensure voices heard in shaping broader, macro-level health care policies regarding their rights in residential care settings;

10. Triage for emergency care based on individualised assessment not diagnosis/place of residence, consistent with the settlement reached by the US DHHS Office for Civil Rights with Pennsylvania.