



**UNITED NATIONS OPEN-ENDED WORKING GROUP ON AGEING 9TH WORKING SESSION
23-26 JULY 2018 - Day 4, Item 6**

STATEMENT BY NATIONAL ASSOCIATION OF COMMUNITY LEGAL CENTRES (AUSTRALIA), CAXTON LEGAL CENTRE (AUSTRALIA) & SENIORS RIGHTS SERVICE (AUSTRALIA)

Intervention statement by Bill Mitchell (Townsville Community Legal Service, Australia)

I thank the Chair.

NACLCL are co-author of the normative content submission in both areas.

My comments are also made for Seniors Rights Service and Caxton Legal Centre, who are members of our Association and accredited to and present at this working session.

Normative content on violence, abuse and neglect needs to require effective mechanisms of response by states. I give 2 examples of hidden or lesser known areas where normative content can guide a holistic response by states. I use the context of long term care, so as to build on yesterday's session.

It must apply in public and private settings and to all actors. The sexual assault of older women in long term care is a serious gender issue just now being understood. Frail, very old women with Dementia are particularly at risk. "The lack of community awareness can be partly attributed to commonly held assumptions that older women are asexual. How, then, can they be the target of sexual assault? What is unimaginable and unacceptable becomes unsayable or invisible."¹

We know that the perpetrators of this sexual violence are diverse and include public and private institutions, including non-profit and church service, strangers, co-residents and visiting family or intimate partners. Long term care is a setting for ongoing interpersonal violence for older persons. It must not mean a diminution of any human rights. It should not aggravate existing or create additional vulnerability to violence.

Secondly, it is a well-documented finding that the older you are when you die, the less chance of a coronial or other post death investigation². Our ageist attitudes mean that many older person's deaths are assumed to be natural deaths, and even if they aren't, ageists feel there are few justifications to know more about the how and why of death.

In many cases deaths in long term care are not subject of triggers that initiate coronial investigations that might otherwise identify gaps in quality of care or clinical treatment and even deaths from institutional abuse, including from idiosyncratic and systemic circumstances. One obvious consequence of not looking into older person's deaths is that we lack awareness and insight into prevention.

We must ensure that normative content encourages the full range of important domestic processes that include rights of individual complaint, monitoring of quality of care against accreditation standards, and specialist processes such as independent advocates looking at care during older person's lives and post death processes that look at older person's deaths.

Once more we see that the human rights of older persons are interrelated, interdependent and indivisible. This why we must build normative content with a clear view of all of the interconnectedness of human rights.

Thank you.

William Mitchell (Principal Solicitor, Townsville Community Legal Service, Australia) for and behalf of National Association of Community Legal Centres (NACLCL), Australia; Caxton Legal Centre (Australia), and Seniors Rights Service (Australia).

¹ Mann R, Horsley P, Barrett C, Tinney J. 2014. *Norma's Project. A Research Study into the Sexual Assault of Older Women in Australia*, (ARCSHS Monograph Series No. 98), Australian Research Centre in Sex, Health and Society, La Trobe University, Melbourne, Australia, p.1.

² Bill Mitchell, 'Identifying Institutional Elder Abuse in Australia Through Coronial and Other Death Review Processes' (2018) 18 Macquarie Law Journal 35.