Excellencies, distinguished delegates and experts, dear colleagues,

I would like to thank the bureau for inviting me and to have the chance to give you an overview on the German situation in regard of elder abuse. I will tackle the issues of elder abuse and neglect in Germany but I have to admit that I can only present you small pieces of the complex situation.

(I am a senior researcher at the German Institute for Human Rights, which is the independent national human rights institution. The Institute was established in March 2001 on the recommendation of the German Federal Parliament (Deutscher Bundestag). It is based on the "Paris Principles" for National Human Rights Institutions adopted by the United Nations in 1993 and holds A-Status. ¹)

**Situation in Germany:**

The German population has 80,3 mio people. It is estimated that in 2060 every third person will be over 65. In 50 years every 7th person will be over 80. They are the fastest growing part of the German population. And four out of five persons over 85 are in need of care and the

¹ The Institute provides information on the human rights situation within and outside of Germany and it aims to promote and protect human rights. The German Institute for Human Rights is part of the International Coordinating Committee of National Human Rights Institution and part of the European Group of National Human Rights Institutions, and both networks are following the discussions on the promotion of older persons rights very closely and promote the goal of furthering the human rights of older persons at the national and international level.
The number of persons in this age with dementia is increasing. The major parts of the older persons in need of care are women.

In Germany as in many other European countries the abuse of older persons, especially elder women, is not a new phenomenon. The maltreatment of older persons is a major societal problem which goes often undetected. The ageing population has given rise to fears that elder abuse might increase. Stigma and stereotypes may further abuse, and the taboo attached to abuse and neglect prevents reporting of the issues. The thematic discussions on how we treat our older population and discussions on elder abuse are vivid. But there is not enough data available on the prevalence and complexity of elder abuse in Germany. Some studies and surveys have been conducted in different regions, in different settings in the last decade, but no central data collection has been established. Many of the studies had a narrow focus on care institutions and restraints. Scientists conducted interviews with care givers, and persons in need of care. But especially persons with dementia in the need of care have not been reached with these concepts. It has been shown that older persons are vulnerable to abuse and suffer severe consequences of violence.

Elder abuse has become a growing concern over the last decades in Germany; this increased attention is not only linked to the transformation of the age pyramid, but also the change of family structures, the makeover of the care system, and recurring press coverage reporting inhumane conditions in the care sector. However, there are also very good examples which can be found how to treat older persons in family settings and in care homes.

**Definition of elder abuse:**

There have been long-standing discussions about the elements of elder abuse and what kind of preventive measures are in need to be adopted. The main focus in these discussions is on physical abuse especially restraints in nursing homes. Diverse definitions are used, because the definition should not be to narrow or too broad, and has to serve as a basis for different settings.

Coming back to one central question: What is elder abuse? To date no internationally accepted definition exists. Different stakeholders in the field refer to domestic violence in cases of elder abuse, or human rights violations and others refer to neglect and maltreatment through medical practice or unsufficient nursing. Scientists mostly mention the definition in the Toronto declaration by the WHO and the International Network for the Prevention of Elder Abuse. The WHO (2008) describes Elder Abuse as "a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person."

Even though there is no agreed definition of elder abuse yet, most experts agree on five dimensions of elder abuse. These involve: **physical**, sexual and psychological abuse,²³⁴

² **Physical abuse** can be defined in general as causing physical harm to an older person. E.g.: Hitting, Kicking
³ **Sexual abuse** can be described as the forced contact of any kind with an older person. E.g.: forcing an older person to take part in any sexual activity without his or her consent, including suggestive talk.
⁴ **Psychological/emotional abuse** is causing mental anguish to an older person. E.g.: threatening or assaulting the older person.
financial exploitation, and neglect. Another often described form of physical abuse is the practice of inadequate type and dose of medication, for example the inadequate usage of psychotropic drugs on people with a diagnosis of dementia.

Therefore a definition in an international human rights treaty on the rights of older persons would provide guidance which aspects are seen as elder abuse and can help to clarify and cover the different dimensions of abuse. An agreed definition would make elder abuse more visible and would help to challenge the taboo of elder abuse.

**Forms of abuse and areas where abuse occurs:**

Violence against older persons occurs in different settings it can take place at home or in a health or care setting. Abuse and neglect arise in the domestic setting or in the institutional settings. Abuse is seen as an active violation and neglect is described as an absence of action. Intentional and unintentional abuse and neglect have been distinguished depending on the motivation of the perpetrator. Also self-neglect occurs. Different forms of abuse are found such as physical abuse, psychological, sexual and financial abuse. Physical and psychological and neglect are the most reported forms. But as I said before we are lacking data on the prevalence of the diverse forms of elder abuse in Germany especially on sexual and financial abuse.

Many older persons are not aware that they can make advance choices on how to handle their finances even if they might need care. Financial abuse is very often not visible, because it is hard to know if the use of goods or money is with or without consent. But the outcome of an abusive action is a disadvantage of the older person. Forms can be the theft of money and goods, fraud or use of pressure in connection with wills or the abusive utilization of power of attorney. In the domestic family environment trick theft and fraud occur as well, a newer phenomenon is scam or fraud via internet. To tackle these issues under the elder abuse there has to be an expectation on trust, persons should have a special relationship.

Violations of human rights of persons in the care system can be violence, abuse or neglect. Different human rights are on stake like the rights to food, water, sanitation, adequate standard of living, autonomy, independence and the right to life. Many of the care takers are not aware that they violate the older person’s rights esp. when for example the older person is under physical restraint because of safety reasons. (Even though no scientific research could prove that physical restraints have any positive effect to prevent falls – the findings prove the other way round.) Restrictions of freedom in nursing homes also have to be considered as a form of elder abuse. For instance, older persons have no chance to leave the house because of closed doors. I have heard of doors with pin codes, which prevent especially older persons with dementia to use the door. Structural conditions may influence the possibility that elder abuse occurs.

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5 Financial abuse can be defined as illegal or inadequate usage of funds, money or resources of older people.
E.g.: Forcing an older person to transfer his/her property to other person, theft of money or other resources.

6 Neglect can be described as active or passive withholding of relevant action necessary to secure an older person’s well-being. Active neglect can be defined as intended withholding of relevant actions, whereby passive neglect can be defined as unintended failure. Acts like failure to provide adequate food or medical care can be described as neglect.

Structural problems in the area: care homes very often have a time table which does not meet the different live styles of the older persons living in the home. The staff has to obey a time schedule which leaves no time for the personal engagement and show that elder abuse is often interlinked with the quality of care and adequate resources. Even though some scientists came up with the explanation that not the stressful circumstances exacerbate the risk to abuse, more likely the power structure is the main risk factor. Many hospitals have eg. no special ward or system for persons with dementia and have no staff to take care of the special needs of this group of persons.

Many care workers have to work under inhumane conditions eg. in the informal sector, in families. In this connection the labor conditions of nurses and the help for family members as care takers are also high priorities in public debates.

**Recommendations of human rights monitoring bodies:**

Germany received recommendation of UN Human rights bodies to take action to combat structural problems which lead to elder abuse in care homes. Violations of the right to health, self-determination and autonomy, rights to food, shelter, water, sanitation, the right to privacy and family life, degrading treatment had been reported by civil society in parallel reports.

The first human rights body of the UN which addressed these issues was the Committee on economic, social and cultural rights. The Committees conclusion was because of reports on malnutrition and undersupply of drinks, missing privacy in the care homes and violence eg. unjustified restraints and wrong medication. In its Concluding Observations of 2001, it expressed its great concern about inhumane conditions in nursing homes owing to structural deficiencies in nursing, as confirmed by the Medical Service of the national associations of health insurances (MDS). The Committee urged Germany to adopt urgent measures to improve the situation of patients in nursing homes.  

Similar recommendations were released by the Human Rights Committee in its Concluding Observations to Germany in 2004. In this state reporting cycle alternative reports of unjustified restraints, wrong medication and verbal and physical abuse which had occurred in care homes have been reported. The Committee came to the conclusion, that the vulnerable situation of older persons in long term care homes, which in some instances has resulted in degrading treatment and violated their rights to human dignity (Art. 7) is a matter of concern.” The Committee recommended that the State party should pursue its efforts to improve the situation of elderly persons in nursing homes.  

After these recommendations had been released a human rights based discussion started and dealt with human rights of older persons in care homes. In this period our institute released a study on social rights of older persons in care.

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9 Concluding Observations of the Committee on civil and Political Rights: Germany. CCPR/CO/80/DEU 4 May 2004
Protection and prevention at the national level:

Many older persons are not aware of their rights, and do not know where they can report abuse or complain. Very often physicians, care professionals, social workers and police officials fail to recognize elder abuse. The existing complaints mechanisms in the care system are not sufficient in this regard. Some older persons cannot defend themselves. They fear that they become isolated after a complaint against the family or care taker or that their situation would get even worse because of the inherent dependency on the care giver. This seems also to be true for relatives who want to complain for their family member; many of them said in surveys, that they fear a deterioration of the situation after complaining.

But it is also true that care givers themselves very seldom get a chance to talk about their concerns; especially professional care takers may lose their job when they speak about elder abuse caused by structural problems. Therefore there is still a need for awareness raising programs for nurses, physicians or police officials.

On a very local level there are some useful tools already working like phone-hotlines or visitor services. There are monitoring mechanisms which deal with the quality of care, the German health insurance medical service - MDK (Medizinischer Dienst der Krankenkassen) monitors the care homes every year and also the care services, which is the caring structure for persons who prefer to stay in their homes.

Germany has also developed a National preventive mechanism which should monitor the implementation of the UN Convention against Torture on the national level but to a lack of staff and resources this mechanism is not engaging in preventing elder abuse in care homes.

Through a new post a “new secretary for patients in the care system” at the ministry of health, the ministry seeks to raise awareness to the needs of older persons and prevent abusive environments.

Conclusion and recommendation:

Although abuse of older persons by family members, care givers and others is better understood today than a few decades ago, an agreed definition in an international treaty could be a catalyst for human rights based policy-making and planning. A binding treaty for older persons would be the benchmark for governments to measure good quality of care, which would mean in a perfect world, a violent free care setting. Another aspect which can be an added value to combat elder abuse could be strong preventive effect of an international instrument, which has a specific language to tackle the needed issues. Elder abuse is still a taboo. Because the paradigm shift from the cared person to the rights holder has not been completed, many older persons and related professionals or family members are still not aware of abusive activities. This could be changed through an international binding treaty which addresses the vulnerability and the specific aspects of older persons.

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