

NEGLECT OF SENIORS AS A FORM OF DOMESTIC VIOLENCE

Marcela Tittlová¹

Abstract: The neglect of seniors is new and more current problem in society nowadays. Originally, Domestic violence in criminological sources was limited just on violence against women, later child victims was emerged. Quite late relating to documents adopted by European Union (Opinion of the European Economic and Social Committee on 'Elder abuse' in 2008) the problem of domestic violence has extended on seniors as another category of possible victims. The submitted report addresses the current and new phenomenon which requires consistent criminological behaviour as the basis for possible solutions in the legal order. Neglect of seniors, as new social phenomenon, requires rigorous examination in the light of the area of this term, as well as causes for which it occurs. The originators of this negative social phenomenon are considered to be not only children and grandchildren, but in some cases also subject (institutions) which are obliged to provide care for seniors on a contractual basis or ex lege. The forms of neglect are based on general knowledge about domestic violence and are not beyond the framework of this phenomenon. Otherwise it is for the causes which are ground for violent behaviour of seniors because of necessity to be found in originators of violent forms of behaviour. Such causes include economic (financial, property) reason, as well as overworking, stress, lack of time on the side of the aggressors covering the lack of interest to care of the senior. The consequences of this violent behavior are very serious in the case of seniors because of the physical, psychological and financial possibilities of seniors often do not allow them to help and care any other way. The neglect of seniors is consistently showing very high latency. Only its versatile examination (criminological, legal and in terms of victims) can lead to effective control of this kind of crime. As a new social phenomenon, it is only very rarely determined in available sources, which is the reason why there is only a minimal amount of knowledge about the neglect of seniors. This negative phenomenon is needed to be thoroughly explored, which is the basis for its solution.

UDC Classification: 343.2/.7; **DOI:** <http://dx.doi.org/10.12955/cbup.v6.1253>

Keywords: domestic, violence, forms, seniors, criminogenic, factors

Introduction

As the most essential criterion how the domestic violence can be structuralized, is the criterion of subject, being at the position of the domestic violence victim, as well as the criterion of the nature of the violence itself and its consequences.² The nature of domestic violence can vary and an estimation or summary in literature sources was not found. This is due to the fact that that domestic violence continuously evolves and there are newer, more developed and specific forms of aggressive and violent behaviour. The violent form is significantly dependent on the aggressor's subject, his nature and a number of internal and external factors. Unfortunately, the tools and the procedures used for violent attacks towards victims can be various (shoe laces, tied by handcuffs, dog leads, etc.). Violence attacks as well as the means used for this purpose can be varied depending on the situation, environment and interests of the aggressor (Sopková, 1998).

The common forms of domestic violence are mainly derived from a phenomenological division. The phenomenological division of domestic violence relies on a range of subjects which might be or become victims of domestic violence. Based on those presumptions, we differentiate domestic violence to the following (Polák, Tittlová, 2017):

- the victims of which are women,
- executed directly or indirectly on children,
- concerning men,
- the victims of which are older people (seniors),
- concerning mentally or physically challenged people.

From a frequency point of view, we can agree that the most frequent violence is executed on women (Polák, Tittlová, 2017). Woman represent the majority of domestic violence victims and due to this effort of prevention are mainly limited to this group. The second largest group of victims are children. It is interesting to note that the number of cases of either women or child victims officially recorded are assumed to be in fact underreported and that the number is significantly higher (Knápková, Tóthová, 2010). The problem lies in that the violence on women and domestic violence in general is

¹ Institute of Public Law, Faculty of Law, Pan-European University, Bratislava, Slovak Republic. Contact: marcela.tittlova@paneurouni.com

² The most frequent criterion for the classification of domestic violence is considered the subject of the victim (domestic violence against women, children, men, seniors and disabled); the second most frequent criterion for the classification of domestic violence is considered the type of violence used (physical violence, psychological violence, sexual or intimate violence, social control, economic control and persecution)

highly latent. It is very similar in the case of violence committed towards children, but proper identification is increasingly assisted by social institutions as a preventative measure. A highly latent form of domestic violence is also the ones committed on men. Relatively late we are facing with domestic violence against seniors, more specifically neglect of seniors.³ Due to the high degree of latency of neglect of seniors we may experience with Opinion of the European Economic and Social Committee on 'Elder abuse' (2008/C 44/24). Undoubtedly, the seniors have been neglected long before, but it is clear from this document how late the attention has been paid to this phenomenon at the expert level, which is a problem itself.

Seniors as a category of domestic violence victims

Seniors represent the latest category of victims of domestic violence. The term senior has been, under our conditions, attributed to the pension age of Slovakia but also younger people can be included in this category. The violence itself is primarily committed by their children or grandchildren. The victim of neglect in this sense cannot be all seniors, but only those who have children and grandchildren. It has been established that most people in this category would never admit to such violent behaviour being committed on them. There is only between 3 – 5% of explored cases of seniors admitting to being victims of domestic violence (Holcr, 2017). However, the real situation may be radically different. The behavior of their children they attribute to occupational stress, interpersonal conflicts, overworking, information society of 21st century which minimizes personal contact and replaces it with virtual contact. Even rare contact or smaller presents are by the seniors capable to compensate disinterest or violent behavior their children and grandchildren. There is a tendency for seniors to mitigate the effect of violent attacks and forgive their children soon after. Despite fact that many of these attacks against seniors are motivated financially. (Polák, Tittlová, 2017).

In cases of seniors or children, as the victims of domestic violence, we can often come across the term of *being neglected*. This is a part of supranational documents and their content describe the overall neglect of mental, physical and moral care. Neglected people are generally dirty, wear old and untreated clothing, also are malnourished, hungry and sick because of lack of food and vitamins. As a result of a refusal to communicate or due to physical abuse they are reticent, mentally retarded, in some case also physically retarded. It integrates physical and mental attacks that lead to the overall neglect of senior people. Seniors can find themselves in such positions mainly due to health problem reasons. It is similar as with children, leading to a failure in nourishing, hygiene, social contact, and moral or mental development. This can also occur for individuals with health problems, in essence those that are dependent on partial or complex help from other people, which intentionally neglect to fulfill such obligations. (Medelská, 2017).

Domestic violence on seniors and its forms

What we understand under the term of domestic violence of older people is the violence committed towards parents by their children or on grandparents by their grandchildren. Generally, old age means an age greater than 60 years, though such a criterion is disputative. It is related to a continuously shifting pension age and involves the real age of people when they retire. There is an inaccurate assumption that seniors are inert, weak and dependent on the help of the others. Despite the fact that there are such groups, not all the cases fit in this classification. There is a large group of vital, mobile and self-sufficient seniors with certain cases having a form of employment. Thus, they are not a burden for society. However, any seniors, either vital or dependent, can become a victim of domestic violence. Such a phenomenon is highly specific for this category compared to other crime forms. The senior victims can be divided according to their current life circumstances and based on this, the proper approach and tools to help such victims can be chosen. The following groups of senior domestic violence victims can be recognized (Tittlová, 2017):

- seniors physically vital and living an active life,
- seniors physically vital, but lonely (mostly widowed) or those with a bad financial situation,
- seniors immobile, having problems with physical movement, a disability or are handicapped,
- seniors mentally unstable or challenged.

³ Thus, available sources refer to domestic violence committed on seniors

Either of the above-mentioned groups, while taking the older aged people into consideration, can become the victim of domestic violence. Based on the aggressor, other types of domestic violence can be taken into consideration. Neglect, in this case, does not involve only passive, but also active forms of domestic violence. In essence, the nature of the attacks towards seniors is physical, mental, intimate, economic or social. It is similar as in case of children with neglect constituting insufficient care, hygiene, food, rest or emotions. It is, more or less, about the culmination of the attacks involving physical or mental harm or damage of the senior person. The most frequent cases are associated with mental attacks aimed at highlighting inutility or inability of senior person to complete tasks as well as taking their age and general health into consideration. Physical attacks are also frequent and increasingly apparent as the person grows older weaker. These marks of physical abuse are unapparent from the aggressor's point of view. Instances of intimate violence (sexual violence) are also rarely seen against seniors. These attacks are frequently financial and property disputes, withholding of pensions – leaving only a small portion of it at the senior's disposal, control what they buy, determine what they can or cannot to buy. Socially and human rights is unacceptable to refuse of providing care for seniors who are directly depend on this form of assistance. The nature of the attacks can vary quite a lot. Besides children and grandchildren often originators of violence are guardians, nurses, workers of retirement homes who are obliged to care for seniors. When one takes the helplessness and powerlessness into account, seniors are highly vulnerable to abuse. Growing older is generally characterized by a decrease in physical power and sturdiness. Even though many older seniors remain physically active, the body shows the features of being worn with certain illnesses beginning to appear. Frequent are mental problems, such as – forgetting, senility, gradual dementia, etc. All these signs are associated with senior age, but despite this they are difficult to react to. Children are usually unable to bear the fact that this involves their parents. They treat them as they did years ago and do not take into consideration the true reality. The gradual emergence of such situations requires not only patience but also financial cover and a significant time burden. In many cases, the variety of situations, inability to manage them or to help, represent a strong stress factor, ultimately leading to tension in the parent-child relationship. The final phase is the release of this tension by violent attacks, improper or insufficient treatment of seniors.

Syndrome of improper treatment of seniors and its identification

The syndrome of improper treatment or neglect of seniors (Elder Abuse and Neglect Syndrome, EAN syndrome) was described for the first time by the European Union⁴. It was devised from the total available and known forms of violence, including property exploitation and lack of providing basic existential needs of seniors. Actions of aggressor are not directed to physical elimination of senior. The aggressor's intent is to cause senior suffering. (Medelská, 2017). It is not excluded that this effect (fatal injury) however occurs, though it is not covered by intent of aggressor. The fatal injury can be caused by physical lability of the senior. Attacks which are not mainly directed toward life and at the same time in an individual of working age would only cause harm to health, might have fatal consequences for the senior. The above-mentioned Aspect, describing the neglect of seniors, also specified the typical forms of such violent behavior (Tittlová, 2017). They include the following:

- direct physical ill-usage (different forms of beating, using different tools),
- indirect physical ill usage (purposeful delay or skipping of the medications),
- intimate violence (intimate touching, stalking while having shower or changing clothes, different types of sexual activities),
- emotional torturing (most often verbal offence, ignoration, hiding feelings, threatening, humiliating, mockery, highlighting the inability, uselessness, telling off the collective, highlighting the burden they represent, etc.),
- misuse of seniors from a material or financial point of view (take the pension rent, stealing money, valuables or other things from the household, forcing to donate or gift the property, emphasizing the common care),

⁴ Opinion of the European Economic and Social Committee on 'Elder abuse' (2008/C 44/24, 16.02.2008)

- neglecting help, seniors inevitably need for their life (caring about hygiene routines, helping with hygiene, not providing food, drinking, proper clothes, in case of immobile people it can cause sore bed, sore spots, etc.),
- forcing seniors to leave the dwellings where they spent a part of their life,
- forcing seniors to leave into retirement homes with special care despite the fact that the senior does not suffer any health problems or have an otherwise valid reason to be there, etc.

Violence towards seniors is difficult to identify as they often attempt to hide it in different ways. Based on behavior it can be said that seniors depend on the help of others are afraid to report violent behavior. They are afraid of making the situation worse and at the same time wish for attention from their children or grandchildren. Seniors are often not able to talk about survived violence or in some case not talk about it at all. In communication they are often unclear, we can see their insecurity, instability, or fear which can tell about family problems including attacks and neglect of seniors. Discovering the violence inflicted on seniors is made even worse by their social situation in society, which is not very helpful towards this group. The financial and material security of the seniors is relatively low and, as a result, they do not report surviving violence because without the financial and materials assistance of the aggressor they would not have the opportunity to survive dignity.

Caring about seniors with different levels of activity present in older age represents a significant burden. Currently, it is very difficult to synchronize work and family life with taking care of one's parents. The larger the health problems are, the more difficult and demanding it is to take care of them. It requires many contributions from the families, often not only as to time but also material or financial aid. A similar negative impact as with the neglect of seniors is seen with insufficient or unmanaged care. The family members providing the care are mostly unqualified or uneducated in the proper handling of such difficult tasks. Stress, overworking. Fatigue and family problems are the most risky factors for aggressors.

Reasons to neglect seniors (the most common ones)

The specific category of victims of domestic violence examined are seniors, either from the above-mentioned forms of domestic violence or from the reasons of such behavior towards seniors. Seniors often tend to disregard domestic violence; hence they suffer and bear the frequent repeated attacks. Some of them are simply unable to solve such problems due to their physical and mental condition. Many of them do not talk or mention that they are victims despite the fact they have opportunities to do so. They are grateful for any kind of attention, interest from the aggressor's side or consider themselves to be a burden so they decide to accept the violence. Another contributing factor is that they are afraid of being ashamed and have the feeling of failure in upbringing the aggressor, often their sole close relative. Thus, they do not want this relationship to be interrupted, which enables the domestic violence to continue. Risk factors for seniors are the following ones, mainly: (Polák, Tittlová, 2018):

- old age,
- physical weakness,
- common illnesses for older age, more serious illnesses connected to worn body condition,
- mental disorders,
- the need to take care of seniors due to partial or full dependence on another individual,
- financially demanding treatment,
- property and financial assets.

Taking care of seniors, similarly with physically challenged people, is not an easy task as it often requires certain special knowledge, qualification, or frequent visits to doctors. The aggressor usually has his own family, his own life he has to exist in so the care requirements of a senior are highly demanding from every point of view. The senior from the aggressor's point of view becomes a tiring burden that limits the activities he/she would like to do (work, family and interests), which can develop into feeling of helplessness, anger or exhaustion. In certain cases, helplessness can arise when the aggressor cannot provide care in the proper way, resulting in the senior being unconsciously neglected. All these feelings can lead to frustration, a significant risk factor. It is often the base where domestic violence starts to occur. Generally, this includes physical attacks, mental torture or neglect of seniors. What is surprising is that the victims of violence are targeted due to property or financial reasons. For example, the aggressor can be a grandson abusing his responsibility by taking a part or

the whole pension income of the senior. Aggressors often are interested in property assets of the senior (valuable moveable or immovable assets). Thus, this violent behavior can be motivated by inheritance of property rights or forcing the senior to vacate the place of dwelling – such as a shared house or flat – and move to a retirement home for seniors.

Besides family care, recently the problem appears also in specialized care centers in set up in senior households and nursing homes. In cases of physically or mentally challenged seniors this option seems the most adequate to deal with their daily needs and offers special medical care. We meet with opinion that even these entities, although often private and therefore financed by families of seniors are not very well in the care and treatment of seniors. It is not a matter of funding but of personnel security and staffing. Subjectively, society is predominantly negative in relation to nursing facilities, including private facilities. Despite these facts, complex surveys on treatments are absent. The activities are being monitored by health care employees from insurance companies but neglection is often covered and hidden by announcing the controlling activities in advance.

Similarly, entities that are legally or contractually obliged to provide care for senior citizens often commit violent behaviour towards them or directly neglect them. This can be considered to be one of the forms of domestic violence. Within the care and providing the needs of seniors there were discovered numerous failures (not enough drinking water, food, vitamins, excessive amount of sedatives, limitations in individual freedom, disturbing the privacy, unreasonable monitoring the senior, etc.). Instead of proper care, the institutions (many of them) currently operating can be characterized as irresponsible, unqualified, uninterested or careless.

Solving the problems of senior neglect has a number of complex structural aspects. Many seniors cannot express their opinion, neither to protect themselves, nor to report the violence committed on them. Even if they have such a possibility, they are unaware of it. As a matter of fact, being raised in different social, political and legal environments that influenced the function of a family and its hierarchy used to be perceived in a different way as it is today. Seniors, in relation to nurse or pension home management, do not know the rights they are entitled to. Disturbing their privacy or unreasonable monitoring is often perceived as common operating procedure of the treatment centre or institution. The impact of new surroundings and living spaces for a senior produces feelings of helplessness when they are placed in such institutions. It is important to mention that, despite from a financial perspective, seniors are full-valued members of the society. Therefore, the state should guarantee the rights and provide them worthy periods of time to grow old as well as react by proper legal and non-legal means to each form of domestic violence committed towards seniors.

Domestic violence against seniors with respect to the financial reliance of them is typical that resigning from domestic violence is not easy for the victims, even though it may seem at first sight. At the onset of domestic violence they are gathering strength to recover then later they are trying to justify the deeds. The aggressor apologizes that the attacks will not be repeated, hence persuading the victim to believe in that. Seniors, in this phase, no matter what the behavior of the aggressor is, are unable to protect themselves against the forthcoming attacks. The violent attacks are accompanied by apologies from aggressor, with different reasons (mostly due to external factors as stress, tension, etc.). The victims are left in a helpless situation. Thus, when taking all the relations with the aggressor into consideration, only a small portion can escape or find means to resolve the abusive relationship. The longer the victims remain in this relationship and the more often the attacks occur, the lower the probability it is to find a solution. Many of the victims are ashamed and believe it was their failure and inability that resulted in their current situation. Not many children can oppose the authority of their parents and mention their behaviour at school or among friends. The high level of latency of violence against men (seniors) is partly due to the fact, that men are rarely able to resign to situation as a victim of domestic violence. As a rule, they refuse to accept this position of the victim.

Conclusion

The problem of domestic violence is its persistence in modern society. The issue of domestic violence is a constantly current problem. The problem of domestic violence needs to be seen in a comprehensive way. Originally, this phenomenon was limited to female victims, later the victim of domestic violence was extended to child victims. Very late the victims of domestic violence expanded also on a group of seniors. This has been the result of opinions drawn up at EU level (2008). This phenomenon is new and young, but in any case, it is also necessary to pay attention to the forms of

neglect of seniors and to the forms in which this violence is demonstrated. When taking the age of victims into consideration, it belongs to a highly specific and latent phenomenon, which can be attributed to either feelings of shame or helplessness of seniors. The issue of neglecting seniors is important to examine both criminologically and legally. There are still no comprehensive studies to analyse this phenomenon in terms of scope (content), forms, consequences or criminogenic factors. Scientific criminological studies are the basis for the response of the law to this phenomenon and the possibilities for its solution.

Acknowledgement

The contribution was elaborated as a part of the research project APVV: Possibilities of Criminological and Criminal Law Solutions of Domestic Violence] No. APVV-15-0644.

References

- Holc, K. (2017). Obete násilnej kriminality medzi príbuznými v policajných štatistikách. In Polák, P., Tittlová, M. (2017). Kriminologické možnosti riešenia domáceho násilia. Bratislava: Wolters Kluwer, 2017, 514-532.
- Knápková, D., Tóthová, M. (2010). Deti ako obe domáceho násilia. In Zborník príspevkov z medzinárodnej vedeckej konferencie DNY PRÁVA 2010, Brno, Právnická Fakulta MU v Brne, 2010, 1-18.
- Medelská, Z. (2017). Netrestnoprávne inštitúty riešenia domáceho násilia. In Polák, P., Tittlová, M. (2017). Kriminologické možnosti riešenia domáceho násilia. Bratislava: Wolters Kluwer, 2017, 245 – 262.
- Polák, P., Tittlová, M. (2018). Kriminologické aspekty domáceho násilia. Bratislava: Wolters Kluwer, 2018, 330
- Polák, P., Tittlová, M. (2017). Kriminologické možnosti riešenia domáceho násilia. Bratislava: Wolters Kluwer, 2017, 565.
- Tittlová, M. (2017). Pojem a znaky domáceho násilia. In Polák, P., Tittlová, M. (2017). Kriminologické možnosti riešenia domáceho násilia. Bratislava: Wolters Kluwer, 2017, 18-29.
- Opinion of the European Economic and Social Committee on 'Elder abuse' (2008/C 44/24) 16.02.2008