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RESEARCH

LEGAL AWARENESS OF ELDERLY ABOUT ABUSE AND NEGLECT

ABSTRACT

Introduction: The weakness and dependence of elders may expose them to abuse and neglect more than other age groups. This research aimed to evaluate legal awareness of elderly about which behaviors of abuse and neglect could be considered as criminal.

Materials and Method: A questionnaire was administered during face-to-face interviews to 74 elderly people (>65 years of age) in a nursing home in Izmir. The statistical analysis of data was evaluated by SPSS 21.

Results: Majority of the participants demonstrated legal awareness regarding physical and psychological behaviors that could be considered criminal, whereas many were unaware that these behaviors could be considered criminal even when the perpetrator acts unintentionally. Most of the participants were aware of increased penalties in cases where abuse or neglect is committed against those unable to defend themselves because of age; and for cases of torment. However it is also seen that many of them did not apply to legal ways when they experienced that type of behaviors.

Conclusion: It is important to increase awareness regarding the criminal nature of abuse and neglect against elderly and to establish effective and easily accessible legal assistance.

Key Words: Aged; Elder Abuse; Criminal Law.



ARAŞTIRMA

YAŞLILARIN İHMAL VE SUIİSTİMAL KONUSUNDA HUKUKSAL FARKINDALIKLARI

Öz

Giriş: Yaşlılar, güçsüzlükleri ve bağımlılıkları nedeniyle, diğer yaş gruplarına göre daha fazla ihmal ve suiistimale karşılaşılabirler. Bu araştırmada yaşlıların fiziksel ve psikolojik ihmal ve suiistimal kabul edilebilecek davranışların suç olup olmadığı konusunda hukuksal farkındalıklarının değerlendirilmesi amaçlanmıştır.

Gereç ve Yöntem: Araştırma, İzmir’de bir huzurevinde kalan 65 yaş üzerindeki 74 yaşlıya yüz yüze anket yöntemiyle yapılmıştır. Verilerin istatistiksel değerlendirmesinde SPSS 21 programı kullanılmıştır.

Bulgular: Araştırma sonucunda, katılımcıların fiziksel ve psikolojik ihmal ve suiistimal niteliğindeki davranışların suç oluşturabileceğinin çoğunlukla farkında oldukları, ancak kasıtlı yapıldığında suç olabileceği konusunda farkındalıklarının yeterli olmadığı görülmüştür. Katılımcıların çoğunluğu yaşlılık sebebiyle kendisini savunamayacak kişiye ihmal veya suiistimal davranışında bulunulduğunda veya işkence gibi sistematik uygulama halinde cezanın artırılabilceğinin bilincindedir. Buna rağmen çoğunun bu tarz davranışlarla karşılaştıklarında yasal yollara başvurmamaları görülmüştür.

Sonuç: Yaşlılara karşı ihmal ve suiistimalin suç oluşturabileceği konusunda farkındalığın artırılması ve etkili kolay ulaşılabilir hukuksal destek sağlanmasının yararlı olacağı düşünülmüştür.

Anahtar Sözcükler: Yaşlılık; Suiistimal; İhmal, Yasal Farkındalık; Ceza Hukuku.

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Received: 21/03/2016

Accepted: 26/08/2016

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INTRODUCTION

In Turkey, elderly people comprised 8.2% of the total population in 2015 (1). Aging is associated with increasing physical and mental weakness, rendering the elderly vulnerable and dependent on others. Accordingly, the elderly are at a risk of poor treatment by other people and often face abuse and negligence.

Elderly abuse is defined by the World Health Organization as a solitary or repeated inappropriate behavior within a fiduciary relationship that causes harm or inconvenience to older people. An older person might receive abuse from her/his own family or someone within the home; abuse of the elderly may arise in institutions intended for the elderly, such as nursing or rehabilitation centers. Finally, self-negligence occurs when an older person insists on living alone despite serious threats to her/his health and safety (2).

Abuse and negligence of the elderly is an apparent worldwide problem and was first described as “granny battering” by G.R. Burston in 1975, and has been an important area of research since 1978 (3). Abuse of the elderly increased by 150% between 1986 and 1996, the average rate of elderly abuse and neglect is 4%–10%, and the most common type is physical abuse according to the USA National Adult Protection Services Report. It is stated that to raise the awareness of professionals and the public, to diagnose and report cases, multidisciplinary studies by medical and law professionals are needed, to prevent abuse and neglect and to ensure a reasonable life for the elderly, despite the existence of many regulations intended to protect the elderly in different states of USA (3–6).

In Turkey, little public awareness exists about abuse and neglect of the elderly. It is therefore unknown whether the elderly are personally aware of criminal nature of abuse and negligence to protect themselves against these types of behaviors. Abuse or negligence can affect, at minimum, the psychological health of the exposed person, even if they are unaware of the illegal nature. The aim of this study involving elderly people living in a nursing home was to determine whether old people could identify behaviors that would be considered abusive or negligent and that could also be subject to legal punishment and whether they applied to legal ways as a result of legal awareness.

MATERIALS AND METHOD

This study was made in İzmir Gürçeşme Nursing Home which totally had 300 residents in 2014. The criteria for

acceptance to research were determined as being older than 65 years old and able to care for her/himself. Of 88 voluntary residents, who met the criteria, 14 renounced afterwards. A questionnaire containing thirty questions about sociodemographic characteristics and seven questions about legal awareness of abuse and negligence of the elderly was administered during face-to-face interviews to 74 participants.

Survey questions were prepared by researchers. Cronbach's alfa measures were used for reliability analysis of questions about abuse and negligence. Coefficient of internal consistence was found as .824. Ethical committee approval has been taken before administration of the research.

Survey questions related with abuse and negligence considered the legal definitions of acts that are harmful to the physical and mental health of a person. Participants were asked whether they understood that these behaviors could be punished under the articles of the Turkish Criminal Code (TCK). The first four questions investigated the participant's awareness of: whether these behaviors even without the intent to do harm could be punished; whether systematic implementation and suffering qualified as torment and were therefore subject to greater penalties; and whether any of these acts committed against a person with age-related vulnerability incurred a higher penalty. The last three questions addressed the participant's previous experience with acts considered to constitute abuse and negligence. Survey questions aimed to examine the participants' legal awareness through their ability to classify acts criminal and to determine whether they had undertaken legal action when they had faced any physical and psychological abuse or negligence.

Dependent variables of the study were the legal awareness of abuse and neglect, exposure to physical and psychological abuse and neglect. Independent variables were age, gender, marital status, education, occupation, social security and income level. The results were evaluated using the SPSS 21 software package. Frequency analyses was made for evaluation of sociodemographic data; chi-square test and correlation were used to analyze the relation between dependant and independent variables, and analysis of variance (ANOVA) and chi-square test were used to analyze the relation between sociodemographic data and abuse ($p < 0.05$ = significance, $R^* : > \pm 0.50$).

The main limitation of the research was participants' not replying all questions. We did not insist to get the answers if they did not reply. Some of them didn't remember the age they were exposed to abuse and negligence definitely, they replied as “many years ago” etc.

**Table 1—** Socio-demographic Features.

Socio-demographic Features of the Participants		Number of the Participants n (%)
Age	65-74	21 (28.4)
	75-84	47 (63.5)
	85 and older	6 (8.1)
Gender	Male	33 (44.6)
	Female	41 (55.4)
Education	Illiterate	20 (27.0)
	Literate	10 (13.5)
	Primary school	34 (45.9)
	High school	8 (10.8)
	College/university	2 (2.7)
Occupation	Worker	9 (12.2)
	Public officer	11 (14.9)
	Self-employed	14 (18.9)
	Farmer	8 (10.8)
	Housewife	29 (39.2)
	Other	3 (4.1)
Health Insurance	Yes	52 (70.3)
	No	22 (29.7)
Total		74 (100.0)

RESULTS

Seventy-four old people, including 41 women and 33 men were participated the study. Sociodemographic features are shown in Table 1.

Legal awareness results are shown in Table 2. As seen in the table, 79.7% of the participants were aware that both physical and psychological harmful acts were considered to be crimes under Article 86 of the TCK.

Twenty-seven participants (36.5%) thought these behaviors could not legally be accepted as crimes if the perpetrator did not act with the intent to cause bodily or property damage to the victim. According to the third question, only 55.4% of the participants thought the penalty could be increased by the judge if the victim was unable to defend her/himself because of age. Most participants (78.4%) stated both physical and psychological abuse and negligence could be considered torment with a resulting increase in penalty, because of the systematic nature and associated pain and indignity.

Participants had experienced crimes against property, and theft was the highly faced one (24.3%). Of participants who declared the exposure age, 54,5% were exposed to theft when they were between 65-74 ages, 33,3% were exposed to robbery between 45-64, 66,7% were exposed to fraud between

65-74 ages and, also there were not any differences regarding to age or sex.

Fifty participants were exposed to physical abuse or negligence whereas fifty-three were exposed to psychological abuse and negligence, but only two of them applied legal ways.

Socio-demographic features and exposure to abuse and neglect are shown in Table 3.

Exposure to minor physical and psychological abuse and neglect is higher than major behaviors. The number of the participants exposed to abuse and neglect were more than other age ranges within the 75-84 age range. The number of women who exposed to physical and psychological abuse and neglect was statistically higher than men ($p < 0.05$).

There were no significant correlation between dependant and independent variables.

DISCUSSION

It is seen that researches are mostly about exposure of the elderly to abuse and negligence different than this study which examines the legal awareness mainly. The study conducted by Acierno and colleagues using data from 5777 respondents aged 60 years or older in the USA, revealed the following one-year prevalence rates: 4.6% for emotional abuse, 1.6% for physical abuse, and 0.6% for sexual abuse (7). A survey conducted in Boston in 1990 reported an elderly abuse rate of 3.2%, including a physical abuse rate of 2.2%, and a neglect rate of 4% (8). A study in Illinois showed physical, emotional, and sexual abuse among the elderly of 25%, 44%, and 4%, respectively (9). A total abuse prevalence of 4% was reported following a Canadian survey of the elderly, with financial abuse rates ranging from 1.9% to 3.3%, verbal abuse from 0.8% to 1.8%, physical abuse from 0.3% to 0.9%, and neglect from 0.2% to 0.6% (10).

A survey of "Intera-familia Physical Elder Abuse," involving 113 elderly nursing home candidates and their relatives in Istanbul, revealed that 25.6% of elderly individuals were exposed to physical abuse, mostly through face slapping and severe beating, which caused these individuals to feel lonely, sad, and desperate (11). Another study of physical abuse, financial abuse, and neglect in 204 participants older than 65 years in Izmir, found 1.5%, 2.5%, 3.5%, and 28.9% of participants were exposed to physical abuse, financial abuse, definite neglect, and probable neglect, respectively (12).

The results of this study were similar to those of a study of elderly candidates in a nursing home in Istanbul, although the rates were higher than those obtained from independent-

**Table 2—** Legal Awareness of Elderly About Abuse and Negligence

Questions	Number of the Participants n (%)
1. Person intentionally giving harm or pain to another person or executes an act which may lead to deterioration of health or mental power of others. is sentenced to imprisonment from one year to three years” according to Turkish Criminal Code(TCK)Art.86. In your opinion, which one of the following acts could be accepted in this context?	
..... Hitting, pinching, pushing and other physical violence acts	7 (9.5)
..... Indignity and other similar acts of psychological violence	3 (4.1)
..... Both	59 (79.7)
..... Total	69 (93.3)
2. Could unintended negligent acts be punishable as a crime, when they lead to deterioration of physical or mental power of others?	
..... No if unintended	27 (36.5)
..... May be	16 (21.6)
..... Have no idea	27 (36.5)
..... Total	70 (94.6)
3. Would the punishment of a crime, gives harm to the health or property of a person not have self-protection ability because of being old, be increased according to TCK?	
..... Yes	41 (55.4)
..... No	6 (8.1)
..... Have no idea	23 (31.1)
..... Total	70 (94.6)
4. Acts systematically implemented and caused suffering of another person physically or psychologically with pain and indignity are defined as “torment” and punished with imprisonment from three years to eight years if committed to an old person who cannot protect her/himself due to corporal or spiritual disability. Which one of the following acts can be evaluated as “torment” in your opinion?	
..... Behaviors cause physical harm like injury, attack etc.	4 (5.4)
..... Acts giving psychologically harm; defamation, threat, sexual harassment.	3 (4.1)
..... Both	58 (78.4)
..... Total	65 (87.8)
5. Have you ever faced with any of the crimes below mentioned and against to property? If you did, please indicate the age	
..... Theft	18 (24.3)
..... Fraud	9 (12.2)
..... Robbery	7 (9.5)
..... Forgery	7 (9.5)
6. Have you ever been exposed any of the physically harmful acts undermentioned? If you did, please indicate the age	
..... Minor physical abuse and negligence like hitting, slapping, pushing etc.	42(56.8)
..... Major physical abuse and negligence like burning, tie up, forcing to sexual activity, giving harm to health in any other ways.	8 (10.8)
..... Total	50 (67.6)
7. Have you ever been exposed any of the below mentioned psychologically harmful acts? If you did, please indicate the age.	
..... Minor psychological abuse and neglects; shouting, defamation, intimidation, blaming, teasing etc.	43 (58,1)
..... Major psychological neglects; isolation, offended, ignorance etc.	10 (13,5)
..... Total	53 (71,6)
8. Did you apply legal ways when you have been exposed any of the acts fore mentioned?	
..... Yes	2 (3,9)
..... No	49 (96,1)
..... Total	51 (100,0)



Table 3— Socio-demographic Features and Exposure to Abuse and Neglect.

Socio-demographic Features	Number n (%)	Physical Abuse and Negligence			Psychological Abuse and Negligence			
		Minor n (%)	Major n (%)	Total n (%)	Minor n (%)	Major n (%)	Total n (%)	
Total	74 (100)	42 (56.75)	8 (10.8)	50 (67.6)	43 (58.1)	10 (13.5)	53 (71.6)	
Age	65-74	21 (28.4)	10 (23.8)	5 (62.5)	15 (30.0)	11 (25.6)	6 (60.0)	17 (32.1)
	75-84	47 (63.5)	28 (66.6)*	2 (25.0)	30 (60.0)	27 (62.8)*	4 (40.0)	31 (58.5)
	85 and over	6 (8.1)	4 (9.5)	1 (12.5)	5 (10.0)	5 (11.6)	- (-)	5 (9.4)
Gender	Female	41 (55.4)	24 (57.1)*	5 (62.5)	29 (58.0)	27 (62.8)*	5 (50.0)	32 (60.4)
	Male	33 (44.6)	18 (42.9)	3 (37.5)	21 (42.0)	16 (37.2)	5 (50.0)	21 (39.6)
Education	Illiterate	20 (27.0)	12 (28.6)	2 (25.0)	14 (28.0)	11 (25.6)	4 (40.0)	15 (28.3)
	Literate	10 (13.5)	6 (14.3)	1 (12.5)	7 (14.0)	7 (16.3)	0 (0.0)	7 (13.2)
	Primary School	34 (45.9)	17 (40.5)	4 (50.0)	21 (42.0)	18 (41.9)	5 (50.0)	23 (43.4)
	High School	8 (10.8)	5 (11.9)	1 (12.5)	6 (12.0)	6 (13.9)	0 (0.0)	6 (11.3)
	College/ University	2 (2.7)	2 (4.8)	- (-)	2 (4.0)	1 (2.3)	1 (50.0)	2 (3.8)
Occupation	Worker	9 (12.2)	5 (11.9)	1 (12.5)	6 (12.0)	6 (13.9)	1 (10.0)	7 (13.2)
	Public Officer	11 (14.9)	5 (11.9)	0 (0.0)	5 (10.0)	4 (9.3)	0 (0.0)	4 (7.5)
	Self-employed	14 (18.9)	7 (16.7)	2 (25.0)	9 (18.0)	6 (13.9)	3 (30.0)	9 (17.0)
	Farmer	8 (10.8)	5 (11.9)	1 (12.5)	6 (12.0)	7 (16.3)	0 (0.0)	7 (13.02)
	Housewife	29 (39.2)	18 (42.9)*	4 (50.0)	22 (44.0)	19 (44.2)*	4 (40.0)	23 (43.4)
	Other	3 (4.1)	2 (4.8)	- (-)	2 (4.0)	1 (2.3)	2 (20.0)	3 (5.7)
	Health Insurance	Yes	52 (70.3)	29 (69.0)	4 (50.0)	33 (66.0)	28 (65.1)	5 (50.0)
No	22 (29.7)	13 (30.9)	4 (50.0)	17 (34.0)	15 (34.9)	5 (50.0)	20 (37.7)	

*p<0.05

ly living elderly in Izmir. The rates were higher than those of many studies conducted in other countries, which involved a broader population. Exposure to external abuse and neglect might induce some individuals to choose a nursing home. Future research should attempt a better understanding of these issues. In addition, national surveys similar to those used in the USA, Canada, and Israel (13-15), should also be conducted in Turkey to confirm the findings. To protect the elderly from abuse and neglect, it is important to draw up a comprehensive plan with the cooperation of professionals from different areas, and implement a multidisciplinary procedure, as suggested by previous studies (15, 16).

In this study, participants those aged 75–84 years were found to have greater exposure to minor and major psychological abuse and neglect ($p<0.05$). A report from 1997, however, stated in community-based studies, no association was observed between age of the victim and frequency of abuse (10).

It has been reported in a Canadian study (14) that males experience more physical abuse and negligence than females. In a study in Illinois, approximately three of every four victims were female (9). In a study based on official records from

Northern Portugal, most sex offenses against the elderly were experienced by women, especially those who lived alone (17).

In the present study, more women than men were exposed to minor physical and psychological abuse and neglect ($p<0.05$). The rate of sexual abuse could not be determined because questions were classified according to abuse severity, rather than type of abuse.

Previous community-based surveys revealed that elderly abuse did not correlate with education or economic background, and victim age and abuse frequency were not associated (10). However, according to a study by Burnes, psychological and physical abuse were associated with being separated or divorced, living in a lower-income household, and being of a younger age; neglect was associated with poor health, being separated or divorced, living below the poverty line, and being of a younger age (18). There was no statistically significant difference related to education in the current study for physical abuse and neglect ($p>0.05$), but the number of elderly people who reported minor psychological abuse and neglect was higher among those with lower levels of education, as well as those who were housewives ($p<0.05$).



The two main issues of elderly abuse and negligence are a lack of awareness of the problem and difficulty in defining the acts (19). This study aimed to identify awareness regarding offenses considered to constitute abuse and neglect according to the law and to determine whether the elderly participants took legal action upon exposure. Previous studies on the rate of prosecutions resulting from elderly abuse and negligence are available (20,21), although none have addressed the awareness of older people regarding what constitutes a crime, even a minor crime, or the elements that would increase the incurred penalty. This study shows that majority of elderly people can determine whether a behavior can be classified as abuse or negligence (i.e., can be considered a crime). However, their awareness regarding the role of intention is insufficient. This can be a reason for the lack of legal proceedings, even when abuse and negligence occur. Participants mostly exposed to minor abuse and neglect types, this may be the other reason.

A total of 67.6% participants were exposed to physical abuse, and 71.6% participants were exposed to psychological abuse and neglect; however, only 3.9% of them took legal action in this study. The legal action application rate was found to be less than that reported in the study by Acierno (7) in the USA, where only 1 in 10 of the incidents were reported to the police. Only 39% of elderly abuse and negligence cases have been a matter of legal intervention according to the results of the study by Alon and Berg-Warman in Israel. Most of the cases were psychological, but legal intervention was in question for 49% of financial exploitation, 44% of physical, and 38% of psychological cases in that research. Israel has established different methods of legal intervention for the protection of the elderly against abuse and negligence; therefore, only 14% of the cases are reported to the police (19). Further explanations are that the elderly may feel embarrassed or ashamed to admit that they have a problem and need help, especially if the perpetrators are family members or they may not have legal awareness (22).

In conclusion, the elderly are much more open to abuse and neglect because of their vulnerability (23). This study determined that the elderly experience abuse and negligence and understand that these behaviors could be considered crimes. Participants generally were aware of increased penalties in cases where abuse or neglect is committed against those unable to defend themselves because of age; and also for cases of torment. However, the participants lacked sufficient legal awareness regarding the role of intention. This study also showed that few of the participants had taken legal proceedings,

even a much lower rate than ones who had experienced major physical abuse and neglect. It is therefore necessary to improve the legal awareness of both the elderly and elderly care professionals with respect to abuse and negligence, and to understand why elderly people are reluctant to pursue legal proceedings. Legal assistance should be established for the protection of the elderly against these behaviors and for enhancing their quality of life. Furthermore, various measures must be taken to increase public awareness regarding the available legal proceedings.

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