
Study of Victimization: Causation and Explanation About Efficiency of Codes of the Elderlies in Iranian Criminal Law

Hesam Abbasi

Postgraduate in Criminal Law and Criminology, Payame Noor University, Iran

*Corresponding Author E-mail: Hesam1986@Gmail.com

Received: 19 March 2013, Revised: 18 April 2013, Accepted: 20 December 2013

ABSTRACT

Victimization is often caused by several factors such as poor physical and mental health, emotional imbalances, lack of social status and lack of environmental care, but some people's offence is because of their physical, psychological and the other physiological characteristics more than the others. Aging means reduction of mental and physical powers that occurs over time and in different countries based on people living conditions and culture it differs. The elderly always are group of people vulnerable of being the targeted to crime. Unfortunately, the existing laws have very limited support. Also, there are behaviors which from perspective of government's criminal laws may not be considered as crime but influence the elderly and their surrounding strongly. As a result, addressing them besides the acts and omission acts that controvert criminal laws of the governments, in order to understanding the causes of the elderly abuse, preventing it and reducing that damages influencing the elderly seems essential. So, according to extensive development in criminal laws and differentiation policy view of legislators to this area of study the existence of corporate policy in this area is required. But unfortunately there is no position for corporate policy in Iran and less attention is paid to it.

Keywords: Victimization, Elder, IPC, Etiology, Criminal Policy.

Introduction

Victimization is often caused by several factors such as poor physical mental and emotional imbalances, lack of social status and lack of environmental care, the level of victimization of some people is more than the others because of special characteristics. Misbehavior with the elderly is the consequence of increase in the number of the olds in families and society increasing the rate of them in two

past decades. Of course there are not any official statistics of the elderly abuse rate in Iran. These days women and children are mostly considered as the main victims of violence in families and the elderly less addressed. Although child abuse and spouse abuse differs in different societies based on their cultural and social structures. These kinds of abuse are more prevalent but it doesn't mean that there is

no elderly abuse. Aging is reduction of mental & physical powers that occurs over time. The aging causes facial and physical characteristics deficiencies in the elderly and makes them vulnerable to crime. Jeremy Bentham believes when the culprit decides to commit a crime, first, like a economists compute the advantage and disadvantage of that crime, and we can say, the culprit is the wise enough to compute the danger and costs of crime which the society may impose him, and elderly abuse has little place in victimization computation. Fear of revenge, inability to defend, less risk and lack of knowledge about being victimized are amongst the reasons that guilty will be brought to this crime. But unfortunately in order to solve the elderly problems and compensating committed offenses the legislator has been little attention that more support of them is needed, under the light of protection of differential criminal aphorism. What formes the fundamental issue of this paper "will be the explanation of bright and dark corners of elderly victimization" and therefore in this regard, several questions are raised that we will seek to answer. Including:

What is the true meaning of elderly?
 What is the meaning of elderly victimization?
 What are the causes of elderly victimization?
 Where is the place of elderly in protection law of Iran?

But with a brief analysis of the available resources, the basic hypothesis of this study is that "the elderly always are vulnerable to crime because of their special status and according to lack of protection law favoring them, it seems necessary that approach of criminal policy be developed.

Research necessity

Lack of statistical information and cognitive research in crime and law about the elderly victimization in all around the world is because of this fact that much of the crimes against elderly never reported

to criminal institutes and most of the elderly victims are among accidently justice cases and the discovery of a few number of causes of violence or elder abusing and punishing a few number of guiltyies are kind of accidental justice, that is not the favorable of real justice. Also, cases such as, unknown feelings and life situation of many elderly, incuriosity, inhumane treatments, different type of violence, abuse and crime against them, and also lack of differential criminal policy about elderly and deficiencies of laws in many countries along with increasing population in all of the world, reveals the necessity and importance of supporting this vulnerable population through regulatory mechanisms.

Elderly

Aging is reduction of mental & physical powers that occurs over time and it differs in different countries based on people living conditions and cultures. There is no definition for the age of elderly in Iran but if we compute the full retirement of service age, according to "Tamin-e-Ejtemaie" law, The age of elderly is 60 for men and 55 years for women and according to government employment law the age of elderly for men and women is 65 years old. The features of this period can be named: reduction of physical powers, retirement and out of job opportunities, solitude, out breaks, mental imbalance malnutrition and lack of environment care.

Victim

The main concept of victim has been progressively separated from the meaning of immolation and in legal literature became homogeneous with "victim". And just is corresponding with act and omission that fathering criminal phenomenon. So, victimization is one certain damaging effect because of act or ommission. (Nour Mohamadi and

Ebeahimi, 2010, p44) therefore, victim is some one that his personality has been suffered and most of the people are familiar with this concept.

"Ezzat Abdol Fattah", the Canadian criminology count two kinds of victimization:

Special victim, who is the real person that hurts

None special victim, that means consensual or legal institutes

"Poul Separovich" expressed in his book "victimology", expresses that victims are people who are still suffering from symptoms caused by incident.

He used the term of "survivors" beside the concept of victims for the past suffered people that don't suffer now.

Elderly victimization

Concept

Victimization is often caused by several factors such as poor physical and mental health, emotional imbalances, lack of social status, and lack of environmental care and this factors caused increase in victimization rate among some persons with special characteristics more than the others. In other word, the rate of elderly victimization is not more than the others but the elderly vulnerability in special crimes & certain attacks is more than the others. Also the causes of victimization in elderly are different from the causes of victimization in others and the effect of victimization in elderly is more in depth comparing younger people and their damages that caused by crime and abuse against elderly cannot easily be recovered. In order to achieve supporting solutions, firstly, we should investigate the origins and causes of violence against elderly, and after considering the result of this investigation, measures should be taken to write a supportive program for elderly. According to expressed content, the

elderly victimization can be state as "elderly who suffer through the act or omission that violate criminal law -and this suffering includes laws that are prohibit the abuse of power-, and imposes mental or psychological pain, economical loss toward the elderly fundamental rights individually or as a group"(Zandi,2010).

Also abusing against the elderly includes:

- 1- Physical abuse
- 2- Medical abuse
- 3- Emotional and psychological abuse
- 4- Sexual abuse
- 5- Sociology abuse
- 6- Financial abuse
- 7- Family abuse
- 8- Institutional abuse
- 9- Neglecting

Categories of elderly victimization

A) Victimization caused by common crimes

Common crimes are crimes that usually have been described criminally in the criminal law of the most countries and negligence of them by legislator is accompanied with a penalty. The goal of this penalties to Bulldoze interpellation and Reparation of guilties, which includes:

- 1- Victimization against the physical integrity of the individual: murdering, assault.
- 2- Victimization against the spiritual and mental integrity of the individual for example: the crime related to the drug or insult and obsenity
- 3- Victimization due to crimes against the physical and moral integrity for example: victimization due to physical abusing and victimization due to abduction, sequestration and victimization due to excruciation
- 4- Victimization due to crimes against properties and ownership, that includes: victimization due to steeling, purse theft and picking. The

victimization due to financial abuse and spoof.

B) Victimization caused by uncommon crimes

Sometimes the people, especially those who protect the elderly do something against them that in the law of most nations are not considered as crime. This actions include planned and systematic actions in different form of psychological abuse. It looks necessary to bring them into the legal system of countries in term of criminal mass or tort. The base of this crime can be the act or omission from persons who have the duty of restraining the elderly or those who abuse civil liberties, like: excluding the elderly from their fundamental rights, refusal of giving information, excluding from life, private facilities, depriving of meeting with visitors, deprivation or censoring their letters, postal correspondence and so on. There is significant a significant testimonials that illustrates that the elderly are suffering from victimizations or abuses especially from those who watching them.

C. Victimization caused by armed conflicts

The war between governments and civil armed conflict remained irreparable disasters on the society. War effects will be remaining inside community and even generations for many years. Ruinous wars of I & II, killing of Armenians and Jews, massacre in Hiroshima and Nagasaki and Iraq invasion of Iran are the examples of bloody armed conflicts which expect destructions and harm against innocent people and civilians, had no benefit to the countries. We can mention the existence illness of the elderly as an important effect of wars that most of them were the victims of Iraqi violation to our country. Although

about twenty three years have passed from the end of the war, many of these victims did not recovered and transferred their problems to the next generation. Therefore, the attention and supportive measures in order to prevent the elderly victimization in conflicts, in the form of "prevention policy of government & NGOs" needs a special and differential protection of them.

Etiology of elderly victimization

Lack of social status and lack of environmental care, mental and emotional imbalances, social isolation, high vulnerability, diseases, abuses and violences apathy towards the elderly make them vulnerable to victimization by potential guilty. Nevertheless, elderly have natural talent of being victims; they suffer more injuries at the time of confrontation with victimization. Elderly are sometimes the goal of attacks that caused by their children, grandsons, relatives or the persons responsible for their care. So they need special attentions. Using protection efforts and covering deficiencies in law –for instance: necessity of impeachment against the elderly and more cultural respect for the elderly- can be ended up in worthwhile results. For example, with cultural education in schools and families the true kind of manner with elderly can be taught. Victimized elderly refuse to impeach for reasons such as of: lack of awareness of their rights and possible litigation, the complexity and difficulty of the procedure, fear of scandal, financial dependence to family, feelings of economic insecurity and loss of shelter, fear of being kept in institution such as nursing homes for elderly, or fear of retribution. It provides a base for increasing the durability and crimes against the elderly in community.

The main causes of elderly victimization include:

Personal and personality factors of elderly

Physical weakness and specific physical properties and characteristics of the elderly and lack of appropriate defense make them potential victims. Different types of violence against the elderly (like: domestic violence) are the resonator factors of victimization. Criminologist divided victimizations based on the process of victims, into two categories: stimulus and seductive; About first group, "Shaffer" divided the criminal responsibility to the offender and offenses, and about the second group he said, since they always should predict the risks and take the necessary proceedings, They should not be considered as guilty, so this is necessary to be considered guilty partially. Elderly in some cases with carelessness and provocative acts put themselves in the category of stimulus victims and according to Shaffer theory criminal responsibility should be devolved to them. For example, a weak elderly who carry money in dangerous areas, and exposes himself in victimization or an elderly who tolerates violence and refuses to report that violence report, these kinds of act or omission can be among the factors that refer to the role of victim in violence and its duration in community.

Cultural factors

Culture consists of customs, morals, believes and educational and religious institutions, and all common ideas that rooted in peoples lives, it defines the scope and boundaries of criminal law in society. Culture includes the values that their refusal considered as crime, however, it supports actions and thoughts that prefers. (Najafi Abrand Abadi, 2008, p 80) despite

the emphasis of our culture to respect the elderly, elderly experienced different types of financial abuse and inattention. Therefore, having knowledge of elderly abuse can arise the awareness and sensitivity of individual and organization related to this phenomenon until effective measures being taken in order to program a system that detects the elderly who are at risk and makes the culture ready to preserve the elderly more and more.

Economic factors

Unfortunately, many of the elderly suffering from lack of financial independence and are not supported by insurance and retirement payments. The elderly poverty and financial dependence are the important causes of violence against them. This dependence put them neutrality at wide variety of vulnerability, targeted to victimization, suffering all kinds of physical, emotional and psychological violence that never report them. In some families and institutes deal with the elderly in the way that a child is behaved or is dealt with in some way that he is not able to decide about his economic and social affairs they decide instead of him or usurpation economic independence of him for example some elderly do not have access to their bank accounts and their estates is blocked. Therefore it looks necessary to implement policies and programs to eradicate poverty or lower it, for instance payments such as: "Tamin -e- Ejtemaei insurance", retirement payment, disablement insurance and health insurance payment.

Social factors

Violence against the elderly in community (like, murder, assault and trauma) causes fear, intimidation and insecurity in the life of the elderly. Other factors includes lack of direct and fair supervision on the

elderly social service centers and the role of public media that are capable of implementing a huge impact on the society manner and play an important role in the sociability, transition of values and counter-values in the society from an early ages for a typical member of society.

State factors

Much of the latent elderly victimization is not considered as guilty in private environments and at the process of trial cannot be easily proved and verified. Therefore malpractice and negligence of the states are reasons that vacillate and resonate violent behavior against elderly. When the government looks with negligence and tolerance to violent offenses such as violence in private environments like families, it provides appropriate area for frequent and continuous victimizations.

Elderly victimization and criminal policy

Along with changes in criminal law and development of differential criminal law, it seems in most legal systems that most of the legislators showed tendency to differential criminal policy, in the light of modern era developments; On the other words, with the perception of having a different view importance to different guilties and different victims, and different situations of crime commitment, tried to deconstruct their their fixed and preferred criminal policy, also tried to develop strategies in different dimension and procedures of their criminal policy for each under-study group. The forgoing of a flat face of criminal policy of themselves pimensions and aspect of criminal strategies and practicers are built specifically for each subject. However considering above-mentioned cases, it is necessary that along with having a review

of criminal policy concept, and its different forms, finding an explanation for this question that current criminal law is able to make supportive atmosphere for elderly victimization or not? Based on that, in coming paragraphs, above mentioned will be reviewed briefly.

Criminal policy and its different forms

Briefly, policy is perception tact and handling community affairs and issus. Thus, the criminal policy on one hand has attention to analysis and understanding of a particular issue in society (criminal phenomenon) and in the other hand, is related to applying one strategy in order to respond to deviation or delinquency. For the first time, criminal policy term was used by "Anselm Von Feuer Bach", the German lawyer- in his "criminal law" book that published in 1803. Criminal policy consists of a couple of ways that the community, concludes criminal phenomenon based on them. In other words, criminal policy in its current concept consists of all precautionary and coercive measures, used by government and civil society, individually or mutually, for crime prevention, struggle with delinquency, reformation or suppression of guilty. Each purposeful criminal policy to achieve its goals needs efficient tools that regarding to applied criminal policy tools, can be divided to legislative criminal policy, criminal justice policy, executive criminal policy and corporate criminal policy.

Legislative criminal policy

Not only the legislative criminal policy should be considered as first layer of criminal policy also it should be considered as the main core of the criminal policy and determinate factor of reaction type to criminal phenomenon. (Lazergez, P 95, 2003) Because, regarding principles of

criminal law, like, legality of crimes and punishments principle undeniable amenability, reflexes the importance of planned criminal policy by legislator. On the other words, legislative criminal policy consists of legislator's tacts and measures about crime and their responses to it; and it takes different forms according to correspondence of criminal policy to political systems of each country. Legislative criminal policy is preference of legislators and their translation indifferent kinds of crimes and punishments and as a whole is the way that criminal phenomenon is confronted and trailed. (Najafi Abranad Abadi, Criminal Policy, p 260) But definition of these interventions, measures and principles that are able to be concluded to criminal interventions as criminalization of some behaviour can be helpful in each legal system based on its foundations.

Judicial criminal Policy

By the use of juridical tools that legislator can use them by his authority -like custodial sentences or semi- freedom system- therefore, criminal Judicial policy is a tool that of how to understand and remove from legislative criminal policy and how laws and regulations are applicable (Same, p 261)

Executive Criminal Policy

The third column in a nationwide unified criminal policy is an adopted policy by executive branch of government for implementation of legislative branch policies and adaptation to those policies. Therefore, the policy of executive branch in the extent of crime control that monitores the implementation of existing laws and jurisprudence, shapes the executive criminal policy that the role of police (in the wide meaning) has a very special importance, a role that relates to

the duty of police in homeland security"(Same, p 263) Thus police could perform two active role in applying this policy, discovery and arrestment of accused that acquire it in the situation of judicial officer and also in police patrols in the community that prevents crime commitment and order implementation in society.

Corporate criminal policy

Corporate criminal policy with the use of people supported institutes in addition to using legal and legislative lever ages try to conclude to favorable criminal policies. Based on that, corporate criminal policy means a criminal policy with corporation of civil society that in its framework, other leverages and organs besides police and justice department, boring order to criminal phenomenon. This collaboration guaranties scheme of legislative and executive branches in crime policy, Or the use of people assistance in criminal phenomenon (same, page 265) it seems that police department can benefit from assistance of state institutes in corporate criminal policy for public order aims.

A review of legal propositions concerning the elderly

Iranian legislator mentioned in 206th line of Islamic criminal law: "in the case where the murderer did not intend to kill and does something that is not typically deadly but might be deadly due to age, illness, disability or being under aged, the crime be typically deadly and the murderer is aware of that" and also in the 271th line of the same law it is explained "when the murderer is not going to mutilate or main and his act doesn't conclude to it, but murderer knows that the victim is potentially vulnerable of mutilate or murder because of being under aged, weak ill or old". Also in the 633th line mentioned

when one person individually or in one's order deserts a child or someone else who is not able to protect himself".

Supported the elderly and disabled individuals, in the rest of the article we explain the legal shortcomings concerning the elderly.

Legal shortcomings concerning the elderly

Iranian legislator never employed elderly abuse in his texts but it was better that the legislator used the word "elderly" besides "child" in 633th and 619th lines of Islamic criminal law because illness, age, being disabled, under aged and woman are conditions that make a person vulnerable from the viewpoint of criminology. Children and the elderly are more vulnerable to victimization than everybody else. The children because of usual attempt for pleasure strong excitement, and dependence to the family and elderly because of physical weakness and mental imbalance. In other words, an insult or curse and ridiculing an elderly that legislator mentioned in 619th line can imprint a great sorrow to the spirit of elderly. According to finding of criminology potential villains select their victims among those that have the least dangers and costs, so the elderly with their special characters are potential victims. Also there are behaviors that may not be considered crime in criminal law, but affects the elderly and their surroundings, as a result the necessity of criminology and legal punishment in case of misconduct, abuse and ignoring essential rights, of the elderly and in present law, punishment intensification with guilty is needed and criminology of this crimes is a fundamental duty of legislator. For example evading from crime report and misbehavior with the elderly can be explained as following: everybody that is

aware of the right depriving, and misbehavior with the elderly, patients, pregnant women, physically and mentally handicapped individuals and children and with the ability of reporting crime, evades reporting the crime..." define a punishment and with the criminology of these crimes, and increasing the cost of crime through increase in criminal costs, disturb their motivation. It is clear that elderly vulnerability in some special crimes and also in certain attacks is more than others, and damage against them could be improved later than others and is needed to the differential support of others. French legislator in 434-3th line of criminal law of France, determines evading from reporting crimes against children as a crime and worthy of punishment. According to this time everyone who is aware of a under-fifteen child abuse case, and evades reporting it to administrative and juridical authorities is convicted of paying three hundred "franc" and three year imprisonment.

There are two main goal encouraging people reporting a crime:

- 1- It is likely to prevent crime in the future
- 2- The report of the crime may be resulted to the punishment of the guilty that have been involved in crime (Najafi Tavana, page 184)

Or for example, allotting a special number to report charges made against the elderly, in order to reduce crimes against the through recognition of guilty and putting them in trial and punishment. Because in crimes like suite crimes that have highest black statistics, without corporation of citizens cannot be discovered and achieve to a favorable result, and it is necessary that with widespread actions in all areas related to crime discovering, reduction of black

statistics in crimes, recognition and arresting of guilty, doing in-time criminal punishments, approving fair law and adjustment of unpleasant laws, paves the way for criminal justice. This contribution in criminal legislative level is predictable with the reactions that people do regarding actions that are not converted to law. Anyway this actions may be considered as counter-culture from the people viewpoint, and be converted to law, and respecting the elderly and protecting them in order to prevent victimization be known as a norm; and may people and social society reflect a protective reaction regarding plans and bills that are from the government side.

Conclusion

Unfortunately elderly abuse is not a well-known phenomenon in Iran; if the situation of this crime becomes obvious, it will show a significant number. This is a very bitter reality that we are viewers of an apathy to elderly abuse cases. A glance to the current law of Iran indicates its incorrect and inefficient situation regarding elderly abuse. Even in some cases elderly abuse is supported through other subjects of criminal law. According to special needs and condition of senility, the presence of special elderly social workers seems essential, and it is in a situation that there is no special social worker for the elderly in clinics as it is clear that the presence of elderly special social worker helps them in social and mental aspects of their life. Paying attention to the shortcomings of Iranian law regarding the elderly is a common criminal policy and this shortcoming is obvious in Iran current law. Using cultural tactics and finding best ways of respect them and proposing methods to prevent elderly abuse case can be very helpful. "Prohibitive supports" regarding the

elderly abuse through prohibitive efforts of governments or non-governmental organizations and by the use of special supports like a review in law about violent crimes that provides a wide area in interpretation of criminal law can be very helpful. Also criminology of behaviors against the elderly in families and in society, besides taking to the consideration of supportive aspects of Guaranty Performance and Payoff adoption are the other ways to cover this shortcoming in Iranian criminal law. Contribution of social society and people in this process means that protection of this generation is possible and people can play a very important role in elderly protection process. In other words, for the realization of a united criminal policy in one specific state, the need to the contribution of concerned people to this area and besides a consistency in all above-mentioned parts of this puzzle. Therefore a keeping a value is possible that all needed tools for the instruction of that culture are provided. Finally it is worth-mentioning that in area of confronting with the crime as a whole and elderly abuse as a case, the best way is providing a safe social system and with the least amount of crime commitment and violence. A social system that all people have the same opportunities, a system in which the way to progress is paved for all equally. From those who learned violence, heartlessness and injustice is not anything expected but injustice and violence. So, only after providing this circumstances, the society has the authority to punish the guilty to accompany them to the society and turn them back to the society embrace.

References

Choen, L., Felson, M. (1979). Social change and crime Rate Trends, A Routine Activity Approach *American Sociological Review*, No 44, 1979.

Fattah, E. (1991). *Understanding Criminal Victimization*, Prentice Hall Canada Inc, Scarborough, Ontario, 1991.

Nour-mohamadi, M, and Ebeahimi M. (2012), Ingredient from woman victims in Afghanistan, *The journal of the Scientific and Educational Bimonthly of the public and Revolution Prosecutors Office of Tehran*, 2nd Year, 2010 June and July.

Rohami, M. (2011), *Victimless Crimes*, Mizan Publication, 2011.

Zandi, F. (2007), *The Prevention from Elderly victimization*, University of Tehran Publication, 2007.

Najafi Tavana, A., Fadaei, H. (2007), *Obligation Of persons to report the crime in Iran and France*, *The Journal of Islamic Law*, Vol. 5, 19, 2007.

Tavajohi, A. (1997), *The Position of victimization in Iranian Criminal policy*, Univirsity of Modares Publication, 1997.

Farrington, David. (2002). *Development Criminology and Risk - focused*

Prevention, the Oxford Handbook of criminology, 2002.

[9] Griffiths, A, Gwyneth. Williams, J. (1994), *Elder Abuse and the Law*, in the *Mistreatment of Elderly people* London, Newbury Park, New Delhi, Sage Publication, 1994.

Navab Nezhad, Sh. (2001), *The Psychology of Elderlies*, *The Journal of Elderlies Collection*, Banovane nikokar Publication, 2001.

Najafi Abrand Abadi, A. (2008), *Criminal Policy*, Salsebil Publication, 2008.

Picca, G. (2011), *Criminology*, Translated to Persian by Najafi Abrand Abadi, A., Mizan Publication, 2011.

Njaf Abadi, E. (2007), *Iranian Criminal Policy against Harm able Victims*, University of Ghom Publication, 2007.

Lazergez, Christine, *Criminal Policy*, Translated to Persian by Najafi Abrand Abadi, A., Mizan Publication, 2012.

How to cite this article: Hesam Abbasi, Study of Victimization‘Causation and Explanation About Efficiency of Codes of the Elderlies in Iranian Criminal Law. *International Journal of Advanced Studies in Humanities and Social Science*, 2013, 2(2), 108-117. http://www.ijashssjournal.com/article_83454.html