

Financial Exploitation of Older Women: A Case Analysis Using the Struggle for Recognition Theory

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This article aims to make a theoretical contribution to the field of mistreatment of older adults by introducing Honneth's Struggle for Recognition theory in order to document financial mistreatment of older women. Through a case analysis of an older woman financially exploited by her son, considering self-agency and structure, it shows how financial mistreatment disrespects the three components of Honneth's theory, primary relationships, legal relations, and community of value. Personal integrity, social integrity, and honor and dignity are threatened by mistreatment. This case analysis opens for further theoretical exploration of the Struggle for Recognition theory in the understanding of mistreatment of older adults.

KEYWORDS *financial exploitation, older women, struggle for recognition*

INTRODUCTION

Many stakeholders associate the increase in actions to counter mistreatment of older adults¹ to the adoption of the Madrid International Plan of Action on Ageing, by which the United Nations recognized this social problem for the first time in an international policy document (United Nations, 2002).

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From a critical gerontology standpoint, the aging experience is structured by economic and political constraints such as loss of power and autonomy (Bengtson, Burgess, & Parrott, 1997) that lead to economic inequities (Lennox Kail, Quadagno, & Reid Keene, 2009). Individual life experience becomes structured, institutionalized or reinforced by public policies that create positive opportunities for choices and experience for aging adults (Bengtson, Burgess & Parrot, 1997) and influence their self-agency (Walker, 2005).

Even if a great deal of knowledge has been gained about mistreatment of older adults such as dynamics, profile of mistreated older adults and those who mistreat them, specifics of each type of mistreatment, consequences, diversity of prevention approaches, and validity of screening tools, it remains a complex issue. In most cases, there is a combination of a series of structural factors (such as age, gender, race, culture, availability and/or access to health and social service systems, and legal and policy framework) and social problems (alcohol or drug addiction, emotional interdependency, and precarious financial situation) (Walsh, Olson, Ploeg, Lohfeld, & MacMillan, 2010). It calls for a coordinated response among relevant professionals and agencies, but the positive effect of collaborative approaches or intersystem work remains scientifically undocumented (Rizzo, Burnes, & Chalfy, 2015).

The case study presented here provides a theoretical contribution to the understanding of mistreatment of older adults by using the Struggle for Recognition theory (Honneth, 1995) in order to document financial mistreatment of older women.

STATE OF KNOWLEDGE

Financial Mistreatment of Older Adults

Financial mistreatment,² even if not the most frequent type of mistreatment identified in prevalence studies (Garre-Olmo et al., 2009; Lowenstein, Eisikovits, Band-Winterstein & Enosh, 2009), is certainly the most discussed among practitioners. According to the results of a systematic review of articles on financial exploitation of older adults (Beaulieu, Leboeuf, & Crête, 2014), the United States federal Older Americans Act definition appears to be the most complete. It states that "the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets" (42 U.S.C.A. § 1397 j(8), as cited in Stiegel, 2012).

Financial mistreatment may include theft, fraud, misappropriation of funds, property, or assets, and misuse of legal documents such as a power of attorney (Crête, Tchotourian, & Beaulieu, 2014; De Donder et al., 2011). Explanatory theories focus either on characteristics of older adults

(Lichtenberg, Stickney, & Paulson, 2013), their environment (Lee, Lee, & Eaton, 2012), or on interactions between older adults and their environment (Jackson & Hafemeister, 2011).

In most cases, financial mistreatment is committed by a family member or a close relative of the older adult (Acierno et al., 2010; Beaulieu et al., 2014), especially when the older adult needs assistance in activities of daily living (ADLs) or when presenting health problems (Acierno et al., 2010) that limit their ADLs or instrumental activities of daily living (IADLs). Adult children are often identified as the persons who mistreat in this type of situation (De Donder et al., 2011; Fulmer, Guadagno, & Bolton, 2004).

Financial Mistreatment and Older Women

Gender is a key variable to understanding structural elements of older adult mistreatment. Women have a longer life expectancy than men, but their longevity may be accompanied by increasing frailty and disability (Eurostat, 2015; Loock, 2011). Since a decline in cognitive and functional capacity is associated with a greater risk of mistreatment among older adults (Dong & Simon, 2014; Loock, 2011), older women have greater vulnerability to mistreatment (De Donder et al., 2011).

Vulnerability to some forms of mistreatment also results from structural gender inequities accumulated throughout the life course. It is especially relevant to financial mistreatment, where a combination of risk factors such as widowhood (Loock, 2011) and lack of financial literacy (Fonseca, Mullen, Zamarro, & Zissimopoulos, 2012; Parliament of Canada, 2012) make older women vulnerable to mistreatment. Women who were dependent on their spouses for financial management, home maintenance, and transportation, for example, might often find themselves alone and even isolated after their spouse's death. Managing their household and financial affairs on their own may increase their dependency on other family members or formal or informal caregivers and may increase their vulnerability to exploitation. Some studies suggest that older women are at greater risk than their male counterparts of being financially mistreated (Payne & Strasser, 2012); while others argue that gender is not relevant to this type of mistreatment (Garre-Olmo et al., 2009). All studies point to the necessity of further research to better understand gender as a risk factor in financial mistreatment in order to improve prevention, detection, and intervention (Fulmer et al., 2004).

THEORY

Honneth, from the School of Frankfurt, developed in the 1990s a contemporary social theory called *The Struggle for Recognition: The Moral Grammar of Social Conflicts* that seeks to explicate social conflicts as a result of asymmetrical social relations. His thesis states “. . . that social confrontations can

in principle be understood in terms of the moral pattern of a struggle of recognition.” (Honneth, 1995, p. 167). Emerging work in the field of critical gerontology refers to this theory as a way of appraising both self-agency and social structures in the life of older adults (Paris, Garon, & Beaulieu, 2013).

There are three forms of recognition, the opposite of which is disrespect. The first one refers to *primary relationships*,³ such as the family and the intimate sphere. These relationships are presumed to be based on emotional support where love and friendship are of paramount importance. When an individual is not recognized as valued by the family and loved ones, the individual’s personal integrity⁴ may be threatened. The second form of recognition is based on cognitive respect and takes the form of *legal relations* that Honneth calls *rights*. Rights are the basis of social structures because they shape the way people live together. They are, by definition, collective and should be equally applied to all persons in a community (or society). In instances of disrespect, there may be denial of rights and exclusion. Finally, the third form is based on social esteem, and takes the form of a *community of value* that Honneth also calls *solidarity*. It allows people to be socially engaged. In instances of disrespect, there may be denigration and insults, which threatens the honor and dignity of the person (Honneth, 1995).

The *Struggle for Recognition* theory is relevant to the study of older adult mistreatment mainly because mistreatment is a form of social conflict taking place between at least two individuals (or a person and a system) in a given community and society that shapes relationships. All three forms of recognition which are *primary relationships*, *legal relations*, and *community of value*, are threatened by violence and neglect.

CASE PRESENTATION

This case was collected during a study of a volunteer’s experience using a “personal experience story” data collection method (Cresswell, 2012). This method provides the opportunity to make connections between different events, capturing the richness of the experience and the complexity of the actor’s knowledge (Polkinghorne, 2005). More than the narration of an event, the personal experience story method is a genuine research methodology that highlights the importance of appealing to the actor’s skills, quest for coherence and meaning regarding the reconstruction of events (Cresswell, 2012).

A case description was collected through a 90-minute interview conducted in October 2014⁵ with a volunteer involved in a community-based organization for seniors offering a special program supporting mistreated older adults. The case was reorganized or “restored”⁶ in its chronological dimension (Polkinghorne, 2005).

This mistreatment of an older woman situation occurred in Montréal, in the province of Quebec—one of Canada's 13 jurisdictions⁷—where actions to counter mistreatment of older adults started in the late 1970s (Beaulieu, 2012). Several indications and guidelines have been encoded in law and regulations, mainly in health and social services. It was only in 2010 that the Government adopted the Governmental Action Plan to Counter Elder Abuse (Government of Québec, 2010). Instead of creating a dedicated service to counter mistreatment of older adults, this Plan of Action focusses on coordination between existing services where the key players are public health and social services, police, nonprofit organizations, victims assistance centers, public curator, and the Québec Human Rights and Youth Rights Commission.

Case Description

Mary is an 80-year-old woman with two adult children. Her daughter lives out of the country and her son, Peter, lives nearby. Mary's husband, who passed away five years ago, managed the couple's finances while he was alive. According to the volunteer, whose name is Jack, she became an "easy target" when she took over the management of her own financial affairs. Mary is not legally incompetent but has a life history of mental health issues⁸ and her decision capacity appears to be challenged. According to Jack, she performs ADLs and most IADLs but not effective management of her finances. Her son Peter, who was going through divorce proceedings, declared bankruptcy and was generally in financial crisis. He visited Mary regularly and found out that she was in the habit of giving money in amounts of between \$5,000 and \$15,000 to acquaintances with whom she was seeking to establish friendships. According to Jack, Peter decided that he was more deserving of these funds than her acquaintances, and persuaded her to put her money in his name. He brought Mary to each of the four banks where she had accounts and she signed formal documents giving him full access to her funds.

In the area of Montréal where Mary lives, there is a special neighborhood program to address older adult mistreatment. A team of a police officer and a community worker visit different settings (such as restaurants, bingos, community centers) to reach out to older adults and engage in education about how to prevent mistreatment. These activities are also focused on detection. During one of their outreach session at a community center, they met Mary, who was very upset. She had just found out that large amounts of her money in her bank accounts had been withdrawn without her consent and her car had been repossessed by default of payment. The loss of her car was especially traumatic for Mary because it represented freedom and independence.

Jack, a former director of a nonprofit agency, serves as a volunteer in the senior's community center where the community worker of the special neighborhood program to address older adult mistreatment works. At the

community worker's invitation, he met Mary in December 2013. She was anxious, very upset, and angry about her financial losses and insisted on the community worker and the police officer making repeated phone calls to tell them they were slow about responding to her concerns and not helping her. Jack sorted Mary's scattered documents, including those showing her bank account balance before and after Peter was given access to the account, in order to establish what had disappeared. In the meantime, a police investigator was also looking at the possibility of filing criminal charges against Peter. It was established that \$200,000 had disappeared. Mary was denied access to a legal aid clinic as she had a small amount of savings she was keeping to buy a used car. After a police investigation that lasted over a year, Mary was told that criminal charges could not be filed because, based on the authorization forms she signed at her banks, Peter had legally obtained access to her accounts. Jack, under the supervision of the community worker, contacted a lawyer specializing in restorative justice.

Mary was accompanied by Jack to all her meetings and he kept her informed of all the steps undertaken and their results. He says, "I did not develop a friendship with her. I was like the parent who was providing her precise and accurate information, knowing that she would have preferred to hear something else." Jack was not certain that she appreciated what he did because the results were not what she hoped for. However, Jack stated that he did not expect recognition from Mary: "I do not expect that people that I help will express recognition. Sometimes their life story has been so difficult that they do not trust anything or anyone. Some people will express their appreciation, but for many others, our presence is like water off a duck's back." Mary finally accepted the proposed arrangement made by the restorative justice lawyer where her son Peter agreed to give her back \$100 per month over a set period of time. According to Jack, the son may have accepted this option after realizing that his mother was determined to bring him to court. After 16 months, Jack terminated his involvement in the case.

During the time he was involved with Mary's case, Jack expressed concern about Mary's vulnerability. "She is always ready to give money in order to create a form of friendship. According to me, this will not change. Therefore, we need to find a form of protection for her that will respect her freedom. We need to be sure that any person who might be in a position to exploit her knows that there are gatekeepers." The community worker continued her follow-up with Mary.

CASE ANALYSIS

The following analysis applies the Struggle for Recognition theory to the case example presented here, and in link with the state of knowledge.

Primary Relationships

Love and friendship are the pivotal elements of primary relationships. Widowhood and lack of financial literacy are significant risk factors, especially for women (Fonseca et al., 2012; Looock, 2011; Parliament of Canada, 2012). The lack of emotional and financial support experienced by Mary, as a result of her husband's death, are therefore the first key factors. Mary's use of money became a way to establish friendly relationships rather than to secure her means for living. This can be understood as a strategy to ensure care and emotional support, taking into account that, in terms of primary relationships (family and intimate sphere), her husband seemed to represent her main—and perhaps only—close relation. Absence of emotional and financial support resulting from widowhood made Mary rely as well on her son's offer of help (Acierno et al., 2010), which ultimately turned out to be exploitation (De Donder et al., 2011). Her son's misappropriation of her funds (Crête et al., 2014) is a clear example of financial mistreatment. Nevertheless, it was only when her bank accounts were almost emptied and her car repossessed that Mary realized she had been mistreated. Her unclear history of mental health issues and their impact on her decisional capacity are other well-documented risk factors that add to Mary's vulnerability to mistreatment (Walsh et al., 2010).

The geographical distance with her daughter and the dubious intentions of her new "friends" (their presence in Mary's life could have been motivated by money rather than altruistic reasons), open the possibility to think that Mary could not by herself have ceased the mistreatment situation that she was experiencing. The volunteer's presence in this older woman's mistreatment situation was therefore of paramount importance for its resolution. His capacity to establish a relationship of trust with her, his financial skills, and his altruistic desire to help Mary were key factors helping in the rebuilding of primary relationships (Beaulieu *et al.*, 2013). However, from a critical gender standpoint, questions can be raised on his paternalistic comments, when he says "I was like the parent who was providing her precise and accurate information."

Legal Relations

For Honneth, legal relations are based on rights. Mary stated that she felt disrespected in that her rights were denied. First, she gave her son direct access to her account by signing documents at four banks. Did she understand what she was authorizing? Was this clearly explained to her by bank officials that she was giving him full access to her accounts? In an ageist society, denial of rights can start with failure to provide information to older adults so that the person fully understands the powers and limitations of what she is agreeing to. Secondly, Mary was hoping to be recognized as a victim and her son

sued according to the Canadian Criminal Code. The police investigation's conclusion stating a lack of proof preventing filing charges against her son was clearly felt by her as a denial of her rights. In many cases, victims are reluctant to ask the police to lay charges—especially a mother against her son. This case is therefore atypical. Thirdly, her denied access to the legal aid clinic was also felt by Mary as a denial of rights. The criteria used in certain public services such as the legal aid clinic exclude people who are in need despite their small savings. Fourthly, the restorative justice conclusion appears to be accepted as a second best solution, not surprisingly given how slow the funds will be returned to her. What proportion of the stolen amount will she ever recover? The recovered money will have a positive impact on Mary's personal integrity by allowing her to eventually buy a car and, thus, regain personal freedom due to an easier access to mobility. This case clearly shows some limits regarding rights of mistreated older adults. More research needs to be done not only on the content of legal procedures but also on the different ways in which they are applied.

Community of Value

Mary expresses her desire to be part of a community of value, by looking for solidarity in order to get out of her situation and regain her money. Jack, the volunteer, is one of the many key actors, along with the police, the community center, the public social services, and the restorative justice lawyer, who can show their solidarity with Mary. From a critical point of view, this case analysis shows the limits of a series of services, especially the criminal justice system and the legal aid clinic, mainly in terms of their access criteria. Jack's comments on the importance of having gatekeepers to protect older adults such as Mary, also calls for a strong analysis of the capacity of services to respond to basic needs of older adults. This becomes a community value issue. Besides psychosocial support, which is of paramount importance in all cases of mistreatment of older adults, the restorative justice is the only solution to regain part of her money. However, Mary feels some disrespect, in the form of denigration of her expectations, in the restorative justice she is getting. Her son's reimbursement of a small amount per month is less than what she wanted.

CONCLUSION

The Struggle for Recognition theory offers a new way of looking at mistreatment of older adults. This case analysis of financial exploitation of an older woman considers the balance between structure and self-agency in cases of mistreatment of older adult, gender issues, structural inequities, and limitations of the legal system to address financial exploitation.

Regarding financial exploitation of older women, the Struggle for Recognition theory allows a new understanding from three perspectives: *primary relationship*, *legal relations* and *community of value*. It raises a series of research questions: cumulative structural inequities (family ties, financial literacy, mental health), gendered role and place of the mistreated older adult not only in the understanding of the situation but also in the expectations regarding problem solving as a recognition of their rights and limits of the application of a series of legal procedures (legal aid, criminal law, restorative justice). In this case, despite her vulnerability—especially in managing her finances—the older woman was presented as a person who was able to ask for support and get her rights to be recognized. Witnessing all the issues she encountered, we are worried about all the silent victims. The Struggle for Recognition theory is a promising avenue for further exploration to better understand and explain mistreatment of older adults.

As pointed out earlier in this article, a better understanding of the specificity of gender in this social problem is crucial in order to improve prevention, detection, and intervention for mistreatment of older adults. Including a gender-specific topic in training is essential to ensuring appropriate and adequate service to older women who are at risk of experiencing mistreatment.

NOTES

1. In Québec, the concept "mistreatment of older adults" is being used because it better reflects the meaning of the French term *maltraitance* which means to treat badly or in a wrong way. Because mistreatment behaviors (violence and neglect) are not always included in the Criminal Code of Canada, it is also a choice to avoid using the terms *victim* and *abuser*.

2. Also called financial exploitation or material mistreatment.

3. All terms written in *italics* are the ones used by Honneth.

4. Honneth refers to physical integrity but we can argue that it is also emotional and material integrity that are threatened; therefore we replace the word *physical* by *personal*.

5. This project has been accepted by the Ethics Committee of University of Sherbrooke as a part of a doctoral thesis. This case was selected among five because of its richness regarding financial exploitation of an older woman.

6. The concept of *restorying* makes reference to the reorganization of the stories into a framework that makes sense (Cresswell, 2012).

7. Canada has 13 jurisdictions: 10 provinces and 3 territories. Only the Criminal Code is applied throughout all these jurisdictions; all other laws and regulations are specific to each jurisdiction.

8. Mary never wanted to share the nature of her mental health issues to Jack. She told him she had been dependent on medication for many years.

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