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**CHILD-PARENT
VIOLENCE
EXERCISED AGAINST
OLDER ADULTS.
A PRELIMINARY
ANALYSIS OF THE
JUDICIAL APPROACH IN
ECUADOR**

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Abstract: In the first chapter, child-to-parent violence (VFP) is presented as a complex and multi-causal problem that must be analyzed from a comprehensive theoretical approach such as the ecosystem that allows its understanding. The need for a specialized response from the legal context in our country is emerging, as evidenced by the cases that will be analyzed throughout this study. It is considered that this work is a preliminary approximation of the situation of VFP in Ecuador and that it is one of the first to analyze this phenomenon in the older adult population. The second chapter presents the methodology followed in this work, from which the sample (files) was characterized in terms of: Sociodemographic variables and violent typology. The standardized tests also made it possible to provide information about the psychological state of the participants. In the third chapter, the results are presented according to the specific objectives set for this work in order to respond to the general objective. This information allows an integrated vision of the situation of child-to-parent violence (VFP) directed towards the elderly in the Province of Manabí-Ecuador. In the fourth chapter, the conclusions of the process carried out in consideration of the proposed objectives are presented. In addition, a macro-systemic analysis of this reality and the main difficulties in the application of the systemic approach in the State Attorney General's Office are included.

Keywords: child-to-parent violence, older adults, case study

INTRODUCTION

Child-to-parent violence (VFP) has been defined by the Spanish Society for the Study of Child-to-Parent Violence (SEVIFIP) as repeated behaviors of physical, psychological (verbal or non-verbal) or economic violence that are directed towards the figures parents

or those who take their place. Specific acts of aggression, those produced in a state of decreased consciousness or due to psychological alterations, and parricide without a history of previous aggressions have been excluded from this conception (Pereira et al., 2017, p. 6).

Due to the multiple variables related to its onset, development and prolongation over time, it has been declared a multi-causal, complex phenomenon (Del Hoyo-Bilbao et al., 2020; Molds et al., 2016) and that must be analyzed from integrative theories. as ecosystemic (Arias-Rivera and Hidalgo, 2020; Hong et al., 2012; Simmons et al., 2018).

It is important to point out that within the systemic approach it is essential to take into account the different characters participating in the violent act; that is, not only the aggressor, but also the victim, the families of origin, the children, the social systems in which they interact (education, work, leisure, etc.), access to support networks such as the judicial system or social services, among others (Alonso and Castellanos, 2006). Each member of the family system is analyzed from their role in the violent scenario (abuser, victim, bystander) and their contribution to the initiation, precipitation, maintenance, or progression of violent behavior, without forgetting that each one experiences it in different ways (Garrido and García-Cubillana, 2015).

In this sense, the violent experience can be valued differently. It can mean a "relational loss with the other" for the victims, represent an instrumental, reactive or emotional "gain" depending on the benefits obtained by the perpetrator and for the third parties involved. object of "the search for meaning" in the attempt to glimpse the causal factors of the various violent situations as well as the emotional and cognitive changes as a consequence of these acts (Staudigl, 2013, as

cited in Arias-Rivera, 2021).

On the other hand, since violence and more specifically VFP is a relational phenomenon, we must not fail to point out that it is influenced by the cultural context whose nuance is evident in the various connotations that society attributes to it according to role, age or gender of those involved (Abadías, 2019) as well as being the result of cultural constructions modeled according to the social learning approach (Aroca-Montolío et al., 2012) that are transmitted transgenerationally (Abadías, 2015).

The psychological theories that have been linked to understanding the VFP are Cognitive-Behavioral, Psychodynamic, or Psychosocial, as well as other theories from other fields such as communication, criminology, or sociology (Arias-Rivera & Hidalgo, 2020).

Most of the investigations related to VFP are based on samples with the adolescent population and their fathers and mothers, but there are few studies whose victims are older adults.

METHODOLOGICAL CHARACTERISTICS OF THE RESEARCH

GENERAL GOAL

To carry out a preliminary analysis on the judicial approach of cases whose characteristics are compatible with child-to-parent violence (VFP) directed towards older adults, carried out by professionals from the Multi-competent Prosecutors of the Province of Manabí.

SPECIFIC GOALS

Describe the Ecuadorian judicial guidelines for dealing with cases of child-to-parent violence directed at older adults.

Describe the sociodemographic

characteristics of the cases under study from the ecosystem perspective.

Identify the child-to-parent violent typology and the consequences described in the psychological expertise

Analyze the judicial approach given to cases of child-to-parent violence directed at older adults.

KIND OF INVESTIGATION

This qualitative research carried out under the modality of case study was carried out in 5 phases:

- 1) Three files presented at the State Prosecutor's Office were selected whose characteristics were appropriate and relevant for the fulfillment of the objective of this study;
- 2) Research questions (both general and specific) were prepared that served as a guide for carrying out the study;
- 3) The collection of information was carried out based on the report obtained from the semi-structured interviews and the reagents applied by psychological experts as part of the complaint process before the Prosecutor's Office;
- 4) The results of the psychological expertise report were analyzed in order to identify the main characteristics at the Exosystemic, Microsystemic and Ontogenic level of the files analyzed, as well as the violent child-parent typology;
- 5) Finally, the analysis of the judicial approach given to cases of child-to-parent violence directed towards older adults was carried out.

Ambit	Instrument	Description
Individual	Semi-structured Interview Questionnaire	Sociodemographic and educational data
	Mental mini test (MINI MENTAL STATE EXAMINATION)	Brief and standardized mental state analysis
	SCL-90-R	Anxiety Symptom Check Analysis
	Hamilton Scale for Anxiety -	Assess the severity of anxiety in a global way
	Trauma Scale (DTS).	Assess post-traumatic stress
	Beck Depression Scale	Reliable mechanism for measuring mood

Table 1. Synthesis of the instruments applied
Source: Own elaboration from the data provided by the personal psychological expert

RESULTS

THE JUDICIAL GUIDELINES FOR THE ATTENTION OF VFP CASES DIRECTED TOWARDS THE ELDERLY

Before describing the judicial guidelines for the attention of VFP cases directed towards older adults, it is necessary to define what is a Specialized or Multi-competent Fiscal Agent? And what is a Research Plan?

SPECIALIZED OR MULTICOMPETENT FISCAL AGENTS

The Ecuadorian State Attorney General's Office has an institutional structure divided into different levels, both administrative and investigative intervention, the latter being the object of study in this section.

Thus, the organizational distribution in investigative matters is subdivided into specialized and multi-competent prosecutors, its difference lies in the fact that the first named is dedicated to the exclusive investigation of a group of crimes with similar characteristics, while the second is dedicated to investigating all the crimes enshrined

within our legal system in criminal matters, this for a matter of population density, with the Gender Prosecutor being the one indicated to investigate crimes related to intrafamily violence.

RESEARCH PLANS

At the beginning of the Investigation, the Fiscal Agent together with his work team, proceeds to evaluate the initial information contained in the complaint and its annexes; In the event that they exist, this is for the purpose of debugging and selecting the data that is most useful for clarifying the criminal act.

This is what is known as a research plan, whose purpose refers to planning what is to be achieved (objective), how it is proposed to achieve it (procedure and coordination) and with what elements of conviction (legal regulations).

DERIVATION TO THE DIFFERENT AREAS

As mentioned in the previous point, once the cause and its numbering designation of the crime news item have been sorted, it is immediately referred so that the investigation can begin.

In the case of criminal offenses referring to violence against women or members of the family nucleus, the department in charge of investigating is the Gender Prosecutor's Office, whose functions are incorporated into the distributive manuals of the institution (Fiscalia General del Estado Ecuatoriano, 2020; Tirira -Blonde, 2021).

ISSUANCE OF REPORTS

Once the Investigation Plan and the Fiscal Impulsos of the corresponding Investigative Proceedings have been carried out, it is hoped that the expert technical reports will be obtained in the shortest possible time, with the collaboration of the victim(s).

Among the most relevant are:

- a) Medical Assessment: in the case of physical injuries.
- b) Psychological Assessment: both of the victim and of the accused.
- c) Assessment of the Social Environment: since not in all cases the children share the roof of the parents, therefore, it becomes transcendental to know the environment in which they develop.

PROTECTION MEASURES IN FAVOR OF VICTIMS

Protection Measures are a vitally important tool whose primary purpose is to “Protect the rights of victims and other participants in the criminal process” (Section 4 of Art. 11 Comprehensive Organic Criminal Code-COIP, 2021).

At the time of formally opening the investigation in cases of not flagrant crimes and in the flagrante delicto hearing in cases of flagrante crimes, specifically regarding:

- a) Offenses related to violence against women or members of the family nucleus
- b) Crimes of sexual and reproductive integrity
- c) Integrity and personal freedom
- d) Human trafficking

The Prosecutor has the obligation to urgently request the judge to adopt one or more protection measures in favor of the victims, who must immediately order them (Art. 558 Numeral 12 Subsection 2 Comprehensive Organic Criminal Code -COIP, 2021).

This request is made through the SAIF 2.0 System of the State Attorney General’s Office, within which the victim must provide the pertinent information on the case specifying the full names and surnames, ID number and address of the aggressor, to subsequently

generate a document with the most appropriate measures as the case may be.

Table 2 below describes the characteristics of the cases under study.

Ecological Levels of Development	Characteristics
Ontogenetic	<ul style="list-style-type: none"> • Average age: 75 years • Marital Status: Widowed/separated • Gender: All the files analyzed are male. • Education level: None or incomplete primary • Clinical Assessment: Post-traumatic stress disorder, Intermittent depressive state
Microsystemic	<ul style="list-style-type: none"> • Family Composition: Large family, with an average of 7 children • Relational dynamics characterized by violence • Violent family history and presence of multiple crises
Mesosystemic	<ul style="list-style-type: none"> • Social Support: Chronic Isolation
Exosystemic	<ul style="list-style-type: none"> • Socioeconomic conditions: Poverty. Situation that prevents guaranteeing the fulfillment of basic needs.

Table 2. Synthesis of the characteristics of the cases under study

Source: Own elaboration from the data provided by the personal psychological expert

CHILD-TO-PARENT VIOLENT TYPOLOGY AND THE CONSEQUENCES DESCRIBED IN THE PSYCHOLOGICAL EXPERTISE

Next, Table 3 describes the child-to-parent violent typology and the consequences reported by the subjects during the interviews (clinical and forensic). It is important to note that the cases analyzed expose a long history of abuse (psychological and physical) before seeking help/formal complaint to the Prosecutor’s Office.

Violent Typology	
Psychological	<ul style="list-style-type: none"> • Constant disqualification • Shouting, insults • Teased about his state of health • Skill Deterioration Taunts • Manipulation • Abandon • Threats of death
Physical	<ul style="list-style-type: none"> • Pushing • Strikes using the hands • Hits using objects • Drowning attempts
Patrimonial	<ul style="list-style-type: none"> • Appropriation of real estate • Usufruct of real estate owned by the elderly

Table 3. VFP typology

Source: Own elaboration from the data provided by the personal psychological expert

On the other hand, the emergence of symptoms from violent behaviors directed towards older adults by their adult children is described (See Table 4).

Symptomatology	Characteristics
Anxious-Depressive	<ul style="list-style-type: none"> • Dyspnea • Sensation of suffocation • Decay • Crying easily • Headaches • Dizziness • Sweating • Sensation of danger • Irritability • Difficult to focus.
Affective	<ul style="list-style-type: none"> • Ambivalence • Low self-esteem • Fear of retaliation • Feeling of loss of family bond

Table 4. Symptoms developed from VFP

Source: Own elaboration from the data provided by the personal psychological expert

JUDICIAL APPROACH IN CASES OF CHILD-TO-PARENT VIOLENCE DIRECTED AT OLDER ADULTS: INCONSISTENCIES AND LEGAL GAPS

In order to respond to this objective, the difficulties and legal gaps in the care of cases of child-to-parent violence directed towards older adults are analyzed.

Automated system of protection measures

As explained above, currently the State Attorney General's Office has an Automated System that grants speed and efficiency in cases of violence against women or members of the family nucleus; however, it is necessary to make visible a phenomenon that arises at the time of receiving the complaint, that is, in certain cases the victims are unaware of important information regarding the facts.

Among this information is:

- a) The current address of the persons investigated
- b) Full names and surnames,
- c) Identification document number (certificate)

To deal with this situation, it is common for the official who receives the complaint to have the diligence to search for this data by any means so that the document is generated, increasing the time it takes to execute the complaint process.

In certain cases they are obtained and in other cases they are not, this without prejudice to the continuation of the investigation, the truth is that the victim must wait a considerable time until this dynamic is completed, adding to this the workload and the number of users that must be attended to daily, result in a division in the quality care and warmth that must exist in this scenario.

Based on this analysis, we consider that a modification in the aforementioned system or the creation of a database with abundant updated information on people in general is necessary, in order to provide proven care and according to the needs of all.

Lack of Current Regulations

With what has already been indicated, it is inferred that within our Ecuadorian legal system there are protection measures such as a contingent of immediate application

in favor of the victims, however, there are situations that are not contemplated in the aforementioned articles, to give an example when the victim does not have a home of their own in which to reside and the Exit Order measure of the accused person from the home does not operate because it belongs to him.

In this context, within our national territory, there is the Directorate of Attention, Special Protection and Reparation for Victims of Violence, Exploitation, Trafficking, Trafficking and Other Priority Attention Groups (DAPERVVETT), together with the Secretariat of Human Rights and other Non-profit organizations offer a list of shelters, both public and private, for this type of case, however, within the aforementioned regulations, an order for the victim to be transferred and received in one of these houses is not included. of reception as a protection measure, making the work of the administration of justice in question to protect their personal integrity in a broad way, therefore, it is of total importance that this circumstance be incorporated as a protection measure in Art. 558 COIP.

CONCLUSIONS

In this chapter we focus on the systemic analysis, in which the circularity of violent behavior is considered, without excluding linear aspects. Violent behaviors must be approached from the legal point of view, under a linear perspective, where a differentiation between victims and perpetrators is established. But, there is also an urgent need to be investigated and analyzed from the process (Abadías, 2015; Llamazares Rojo et al., 2013), the bidirectional nature (Ibabe & Jaureguizar, 2011; Loinaz et al., 2017) and the influence of the family history of the subjects involved, in order to understand the violent relational pattern and provide effective solutions adjusted to the reality of this phenomenon

(Alonso & Castellanos, 2006; Pereira & Bertino, 2009)

In correspondence with Objective 1 (Describe the Ecuadorian judicial guidelines for the attention of cases of child-to-parent violence directed towards older adults), we can conclude that there are guidelines in the judicial system that allow the approach of reported cases. However, due to multiple causes, the processes can take between 6 months and 1 year to resolve, which could trigger a process of re-victimization and a defenseless attitude in the victim, which would further complicate the situation experienced.

With regard to Objective 2 (Describe the sociodemographic characteristics of the cases under study from an ecosystem perspective) and 3 (Identify the child-to-parent violent typology and the consequences described in the psychological expertise), the following can be summarized:

1. It must be noted that the average age of those attacked is 75 years and all the cases analyzed correspond to men. Important aspect when planning prevention programs. It is interesting that, unlike VFP committed by adolescents, where it is pointed out that the mother is the most attacked parental figure when compared to the parents (Agustina & Romero, 2013; Arias-Rivera & Hidalgo, 2020; Edenborough et al., 2008; Simmons et al., 2018), in the PFV directed towards older adults, only cases of male parents are found. It is possible that the explanation is given by differential patterns in the profile of the abuser or by the difficulty of older adults to initiate a complaint process.

On the other hand, age is a risk factor, considering that due to the characteristics of the cases analyzed, monitoring and support are needed in basic and daily care tasks.

2. It is important to point out that complaints by parents only occur after enduring a long period of psychological and

physical aggression, which is also indicated in studies of CPV with adolescents (Hong et al., 2012), and that the trigger for the formal complaint is the patrimonial VFP, which leads one to think that the physical and psychological VFP has normalized in these cases.

3. There are patterns of transgenerational violent interaction, related to experiences of child abuse and exposure to gender violence among parental figures, this speaks of a VFP directed towards older adults, of a reactive nature, so it is essential that psychological expertise explore these areas and legal devices help break this cycle.

4. The present types of VFP are: psychological, verbal and patrimonial, the same ones that have been increasing in frequency and levels of severity.

Based on all these conclusions, we can affirm that the state of vulnerability of the elderly requires a specialized response from the legal context.

Regarding specific objective No. 4 (Analyze the judicial approach given to cases of child-to-parent violence directed at older adults), we start from the observations made by the National Assembly, when describing the reasons for reforming the COIP in the year 2021, which refers to the adaptation of Ecuadorian legislation to the new global and regional conceptual approaches, as a strategy that guarantees the proper functioning of criminal justice.

... Although it is true, in other countries this conceptual development has been left in the hands of doctrine and jurisprudence, in the Ecuadorian case, this process has been unsuccessful. Criminal judges have been subjected to an excessively legalistic conception. To this must be added the crisis of the higher education system and the lack of research in all areas of criminal law and criminology. All this has resulted in a

limited conceptual, theoretical and technical development. For this reason, modern regulatory, doctrinal and jurisprudential developments are incorporated and adapted to the Ecuadorian reality, as strategic mechanisms to promote a new criminal culture and the strengthening of existing criminal justice (Código Orgánico Integral Penal-COIP, 2021, page: 4)

This laudable effort needs to be continuous and move towards other forms of invisible violence, in this case, child-to-parent violence directed towards the elderly. Not only in the criminalization of the crime within the legal provisions but also with the development of pertinent guidelines and in accordance with the characteristics of this complex and relational phenomenon. We refer to the systemic vision of the phenomenon that includes not only appropriating new theoretical approaches but also assuming a different attitude towards violence.

From another perspective, within the investigative structures of a criminal nature, it is common to observe the increase in cases of violence against women and members of the family nucleus in all its types. This is corroborated by the statistics issued by the corresponding institutions, which report the increase in prevalence and severity levels, all this despite the efforts made by the state through the creation of public policies in order to eliminate its impact on the society.

In this line of ideas, it is necessary to mention that this panorama is complicated when the Administration of Justice is currently collapsed due to the excessive workload, in addition to the lack of multidisciplinary personnel in each of the Specialized or Multi-competent Prosecutors.

These situations presented together result in the impossibility of applying the systemic approach according to the guidelines learned during the specialization, among

these: granting the prudent and necessary time so that the victims have an adequate environment.

Given this, we asked ourselves, what would be the strategies to overcome these difficulties? Within the strategies to overcome these problems, a priori it would be:

1) The integral intervention of the State through the corresponding organisms,

2) Creation of public policies that are sympathetic to the true nature of these phenomena, without the existence of ideologies or political agendas to fulfill due to acquired commitments

3) The allocation of the economic budget based on the reality of the problem

But above all, overcoming must come from within since we cannot sit and wait for the solutions to reach us, we must have empathy for others as an intervention tool to meet our objective of applying the systemic approach.

This attitude is urgent in our practice and proof of this is that, at the end of this Title Work, it is known that all the cases were filed due to lack of cooperation from the victims. Violence is likely to escalate to even more serious levels, as has been reported in cases of VFP committed by adolescents, after unsuccessful formal intervention (police, legal, and social services) (Cottrell & Monk, 2004; Miles & Condry, 2016).

At the Macrosystemic level

Delving into the analysis at the macrosystemic level, although it was not the subject of this case study, it is considered that the VFP directed towards older adults is intertwined with some issues subject to reflection.

The first is the need to formulate public policies about older adults that imply changing implicit ideas (attitudes and assumptions) that are wrong about aging. That is, not only in the lines of action but in their application (World

Health Organization, 2015, p. 9). This implies a social restructuring of the conception of aging.

The second has to do with the responsibility that we as a state have in the face of a situation that lies between two spheres, the private and the public, where it is necessary to make everyone aware of intolerance of any form of violence, rethinking our support for all families, since it is clear the fundamental role that family dynamics plays in the genesis, maintenance and increase of the levels of violence of the VFP (Pereira, 2019).

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