

Małgorzata Halicka
Jerzy Halicki
Emilia Kramkowska
Anna Szafranek
Uniwersytet w Białymstoku

**LAW ENFORCEMENT, THE JUDICIARY
AND INTIMATE PARTNER VIOLENCE
AGAINST THE ELDERLY
IN COURT FILES**

The problem of violence against the elderly, especially in the context of law enforcement institutions, has so far been poorly studied. Insufficient knowledge of the subject suggest further research. This need was noticed by the authors of this work, leading to an attempt to take a closer look at the problem and perform preliminary research. The article is based on an analysis of the documents from the District Court in Białystok performed as part of the international project: *Mind the Gap*. Selected aspects presented in the text are an overview of the information gathered during the analysis of 70 case files concerning intimate partner violence against women aged 60 or more. The victim of intimate partner violence is usually the perpetrator's wife, who suffers from various health problems and cohabits with the perpetrator. She usually experiences emotional, physical and financial abuse, from a drunk husband. Alcohol addiction has a significant influence on the appearance and persistence of violence. Nevertheless, elderly women are unwilling to turn to any institution for help, call the police, or go to court. On the other hand, law enforcement agencies do not possess tools suited to the specifics of elderly victims. The ageing of Polish society requires a revision of current solutions in the legal system and social aid, in order to adapt them to the needs of the growing population of elderly citizens.

Key words: the elderly; violence; the judiciary.

Małgorzata Halicka, Zakład Socjologii Edukacji i Gerontologii Społecznej, e-mail: mhalicka@onet.pl; Jerzy Halicki, Zakład Andragogiki i Gerontologii Edukacyjnej, e-mail: j.halicki@uwb.edu.pl; Emilia Kramkowska, Zakład Socjologii Edukacji i Gerontologii Społecznej, e-mail: emilka.kramkowska@wp.pl; Anna Szafranek, Zakład Prawa Karnego i Kryminologii, e-mail: annaszafranek01@gmail.com

Introduction

The process of demographic ageing we currently experience in Poland is encouraging for publishing in the fields of social gerontology, or the sociology of ageing, which attempt to explain the various phenomena and problems caused by the so called inversion of the demographic pyramid, in which the population size of the third generation exceeds that of young people. Most of these works are concerned with the health problems of the elderly (Wojszel: 2009, Mossakowska, Więcek and Błędowski 2012), their social (Synak 2002; Perek-Białas and Worek 2005: 25; Halicki 2010, Mucha and Krzyżowski 2011: 5; Czekanowski 2012;), economic (Frąckiewicz 2008: 26–39, Błędowski 2012a: 393-406), and pedagogical situation (Pospiszyl 1994; Badura-Madej and Dobrzyńska-Mesterhazy 2000; Trafiałek 2006; Leszczyńska-Rejchert 2007: 76). Along these problems of the elderly, the issue of domestic violence is increasingly significant. Subject literature focuses more on violence against children and middle-aged women than the elderly and the issue of intimate partner violence against elderly women is the least recognized. Although the last decade brought changes in this area – researchers in a number of fields investigate this subject more frequently, the press and the media bring cases of violence to the public’s attention – these are still, so far, insufficient measures. The subject of violence (especially intimate partner violence) against the elderly was selected for analysis, because it is poorly covered in Polish scholarly literature, including sociological one and there was the possibility thanks to the international cooperation for better understanding an issue.

Violence against the elderly – definitions and theoretical basis

In Polish scholarly literature violence is generally defined as imposing one’s will on someone or forcing someone to do something (Halicka and Halicki 2010: 20). Irena Pospiszyl defines violence as “any non-accidental acts against the personal freedom of an individual or leading to physical or emotional harm to an individual, beyond normal social relations” (Pospiszyl 1994: 14). Jadwiga Mazur, on the other hand, points to the fact that violence can be instrumental, when it is a tool for achieving a specific goal (such as enslaving the victim, preventing her from acting and thinking independently, bending her to the perpetrator’s needs and appetites), but it can also be gratuitous, when the perpetrator seeks pleasure in causing pain and suffering (Mazur 2002: 14; 38). It is worth mentioning here the understanding of violence in the Act on Preventing Domestic Violence of 29th July 2005, which defines it as a single or repetitive deliberate action or negligence, which infringes on the rights of family members

or cohabiting individuals, in particular putting these individuals at risk of death, injury to their health, dignity, or bodily integrity, loss of personal freedom (including sexual freedom), leading to physical or emotional injury and causing suffering and moral harm to the victim. (Dz. U. 2005 Nr 180: art. 2). As can be seen in these definitions, anyone can be a victim of violence, be they healthy or disabled, young or old, male or female. Since this text is devoted to the problem of intimate partner violence against elderly women, this issue will be discussed in more detail.

The 1995 Toronto Declaration on the Prevention of Elder Abuse states that "Elder abuse is a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person (Walsh, D'Aoust and Beamer 2012: 201). It can take many forms: of physical (beating, pulling, face-slapping, kicking, pushing, strangling), psychological (blaming, cursing, threatening, isolating, threats of violence), sexual (stripping, rape, forced intercourse, touching) or economic abuse (theft, denying an elderly access to their own funds, misappropriation of money and valuables), as well as intentional or unintentional neglect (e.g. denying care, not providing food, medicine and shelter; Staręga 2003: 5; see. Bonnie and Wallace 2003). Therefore, violence against the elderly may manifest as an act or failure to act. In extreme forms it manifests as aggression and can be a threat to the victim's health (e.g. injury) and even life (Halicka and Halicki 2010: 27). Research indicates that the elderly usually experience violence from a person they trust (Anetzberger 2008), frequently a family member e.g. from the spouse (Halicka and Halicki 2010; Bond, Penner and Yellen 1995: 118). For the purpose of this article we use the definition of marital violence against the elderly as developed for the Intimate Partner Violence against Older Woman (IPVoW) project. Intimate partner violence is "a non-legitimate forceful tactic, intentionally employed by a partner/ spouse/ex-partner to cause physical and/or psychological harm. It includes the use of physical force and infliction of injuries as well as emotional and sexual abuse, sexual harassment, financial exploitation and intentional neglect – particularly if the victim depends on care and support from the partner or former partner" (Nägele, Böhm, Görden, Tóth and others 2010: 1).

Before the issue of intimate partner violence is discussed, it is worth stressing that the problem of violence against the elderly is a relatively new area of research in Poland – it was only in the 80's and 90's of the 20th century that Polish researchers began to explore this subject. In Poland it was analysed by the following researchers: Halicka 1997; Binczycka-Anholcer 1997; Orzechowska 2000; Peđich 2002; Mazur 2002; Staręga 2003; Twardowska-Rajewska, Rajewska-de Mezer 2005; Baumann 2006; Rudnicka-Drożak and Latalski 2006; Kupiec 2007; Wawrzyniak 2007; Sygit and Ossowski 2008; Trafiałek 2008;

Tobiasz-Adamczyk 2009; 2 and Halicki 2010; Halicka, Halicki and Ślusarczyk 2012. Furthermore, one of the issues of *Praca Socjalna*, prepared by scholars from the University in Białystok is devoted in its entirety to the problems of violence against the elderly (*Praca Socjalna* 2012). The particular character of these periodical calls for a connection to be formed between the problem of intimate partner violence against the elderly and sociological theory, in particular the adaptation of social action theory (represented by, among others, Max Weber and Talcott Parsons) and conflict theory (Randall Collins' conflict theory) for a better understanding of the problem in question. As analysis of the issue of intimate partner violence against the elderly requires one to recognise the reasons and motives for such behaviours and this may be facilitated by the use of these theories.

To begin with, it is worth explaining the key concept of *social action*. According to Max Weber an action is a human behaviour (external or internal act, ignoring or abidance) when one agent or many agents Connect with the act a subjective sense (see: Weber 2002: 6). While the social actions of individuals are by definition directed at others and in their course determined not only (not even mainly) by their individual qualities – some inborn "nature" – but also and even mainly by the presence of those whose reactions they are to elicit, or are a response to (Weber 2002: 8). One could say that Weber strongly stressed the importance and essence of the influence the existence of other people exerts on us. Furthermore, he believed that, when talking about the social actions of individuals, one cannot ignore the cultural and historical context of this influence.

Weber also paid a lot of attention to understanding social actions and discussed, among others, the direct understanding of them, which is based in simple interpretation of the behaviour of others, e.g. when we observe their gestures, expressions we know what they mean and we can interpret them. Conversely, the explanatory understanding of social actions is a higher level of knowing human actions, at which the essential question is „why?”. Weber claimed that it is not enough to know the meaning of human actions, but one also needs to ask why they behave in a given way. The motives of their actions are what matters (Szacki 2003: 469).

A similar understanding of social action was offered by T. Parsons, who stated that social action is by definition purposeful, has a subjective meaning and a more or less clear motivation. Whoever undertakes such actions must have knowledge of the conditions and objects surrounding the action. One needs to feel the need to reach a given objective and react to it emotionally. One needs to have criteria for evaluating both the objective and the means, to make the choices necessary for proper energy use (Parsons 1952: 59–60). It seems that Parsons strongly stressed individualism and the motives of an individual or factors initiating interaction (social action). Nevertheless, Parsons states that the

motives of human actions can be oriented towards cognition, cathexis, or evaluation, which seems to indicate that in social actions not only the attitude of the actor and his motives play a role, but also the expectations of others (Parsons 1991: 4). Therefore, the actor is not completely free to undertake any action or behaviour, but must obey social norms. Parsons discusses it as follows: there is a common agreement that an accurate choice needs from the actor the knowledge about his situation, what considers the knowledge about assumable consequences that may result from different alternative ways of acting (Parsons 1972: 7–8). He also notes that following the social norms and values makes the interactions understandable and predictable and upholds the social order (Parsons 1991: 6–7). Once we have an established order and know the norms, it is easier to see which actions diverge from these norms and inquire about their motives.

Violence experienced by the elderly can take on many forms, which means that both perpetrators and victims are motivated to act by various things.

Furthermore, when analysing the problem of intimate partner violence against the elderly it's worth considering the profile of the victims and perpetrators of such violence. Towards this purpose it is worth invoking Randall Collins' conflict theory.

Randall Collins was inspired by the works of Max Weber and Erving Goffman to see the basis of all social differentiation, which leads to conflict, in the division into those who give orders and those who take them. This differentiation can be observed in all organisations and social institutions (Szacki 2003: 836). Collins is a representative of microsociology in the analysis of social interactions, so the division he proposes can be applied to the family as a basic social institutions.

It should also be added that Collins developed a profile of order givers and takers, including their outlook on life and lifestyle (see Collins 1971:1009–1010). He indicated that the first ones have „a lot of emotional energy, high activity, self-confidence, (...), still continuing to play its role, participating in the ritual of demonstration of power” (Collins 2007: 19). Conversely, those who take orders are passive, alienated from the “official” world, it is rituals and ideology, and are more frequently backstage than in the limelight (see Collins 2006: 482–501). It should be added that those who control the situation are aggressive, which makes them dominate others, making them passive and draining their energy. They can ignore the signals given by others. According to Collins, it is one of the ways in which they assume a dominant position, especially when these signals are sent to question their opinions or control (Collins 2011: 144–149).

Collins' concept is a good representation of the relation between the victim and perpetrator of violence. In this case the perpetrator is the one who gives orders and the victim is the one who takes them. This profile of both sides of this

interaction is confirmed in the material presented further.

Considering the definition of violence, including intimate partner violence, presented above, as well as Collins' conflict theory and other social theories adopted for this analysis, the further part of this work will present the results of research on intimate partner violence against the elderly, which is based on information drawn from the case files of the District Court in Białystok.

Methodology

The data which is the basis for this analysis was gathered in the realization of the international project DAPHNE III „*Mind the Gap! Improving Intervention in Intimate Partner Violence against Older Women*”¹, which took place between 1st March 2011 and 28th February 2013². The project focused on a single aspect of the problem of violence against elderly women – the legal system, in which frames an elderly woman needs to find the way if she wants an abusive husband punished.

It is worth noting that results of the previous international project DAPHNE III *Intimate Partner Violence against Older Women* (2009–2010)³ showed that only a small group of elderly women, who are victims of violence, seeks help. It is clear, that they are less aware of the support systems and less able to reach them than younger women. This conclusion was formed based on the research performed as part of the *IPVOW (2009–2010)* project. Results showed that of 142 institutions helping female victims of violence (crisis intervention centre, social aid, police), 116 noticed that elderly female victims of domestic violence rarely seek help and 108 pointed towards difficulties in motivating this group of victims to take action.

It was also noticeable, that law enforcement and social aid institutions hardly understand the complexity of the problem of intimate partner violence against elderly women, as does the society in general. Many professionals from

¹ International report, national reports and all materials from the project are available on-line at: www.ipvow.org

² The project involved 7 partners from 6 European states (Austria, Germany, UK, Poland, Portugal and Hungary). The Polish partner was the Department of Sociology of Education and Social Gerontology and the Department of Andragogy and Educational Gerontology of the Faculty of Pedagogy and Psychology of the University of Białystok

³ The project, in which were involved 8 partners from 7 European states (Austria, Germany, Israel, UK, Poland, Portugal and Hungary) was coordinated by the German Police University and ran from January 2009 till December 2010. The main aim was to explore the institutional knowledge on the topic of intimate partner violence against older women in participating countries in order to develop an international image on the problem

law enforcement and social aid institutions confirm severe lacks in knowledge of how to deal with these cases. This information comes from research done as part of the *IPVoW (2009–2010)* project, where 117 of the respondents (N=142), who worked in institutions supporting female victims of violence, declared that working with elderly female victims of intimate partner violence requires specialised professional training. In-depth interviews with the victims themselves⁴ indicated that police officers and social aid workers they sought help with do not have the appropriate knowledge and approach. Conclusions drawn from the IPVOW project convinced project partners to continue their research while focusing on law enforcement institutions. This was done in the next project: „*Mind the Gap! Improving Intervention in Intimate Partner Violence against Older Women*”, the results of which are presented in this article. In order to suggest improvements in law enforcement procedures, the participating countries first needed to analyse existing procedures. This is why each of the partner had to obtain documents gathered by the judiciary and law enforcement in order to obtain information about cases of intimate partner violence against women aged 60 or more, who took legal steps against their partners. In analysis of documents there was used the content analysis (Amesberger, Haller and Toth: 2013).

The documents analysed by the Polish partner were obtained from the District Court in Białystok. We were obliged to analyse 70 cases that were qualified (by police, prosecution and court) as crimes of domestic violence by a husband/partner against older women. The legal basis for police and public prosecutors' activities was infringement of art. 207 of the Criminal Code. So if police and later – public prosecutor recognized a particular situation as infringement of art. 207, this case was getting (sent) to the court. We analysed documentation from these cases. In search of appropriate cases we had to go back to documents as far as 2001, because only including this time span (2001–2010) made it possible to analyse 70 cases. The analysis started in February 2012 and finished in May 2012. All analysed files were available in the form of original paper documents, which allowed for a detailed analysis. We read them in the Court buildings and took notes due to restricted access to data.

The tool which we used to explore the issue was a 19 page long questionnaire developed by the project partners together. It consisted of five parts: general information, characteristics of the victim, characteristics of the perpetrator/suspect, description of the situation, and the reaction of law enforcement institutions in each case. This tool was standardised and with a possibility to be used by all partners.

⁴ The *IPVoW (2009-2010)* project in Poland included 11 interviews with female victims of intimate partner violence aged 60–79.

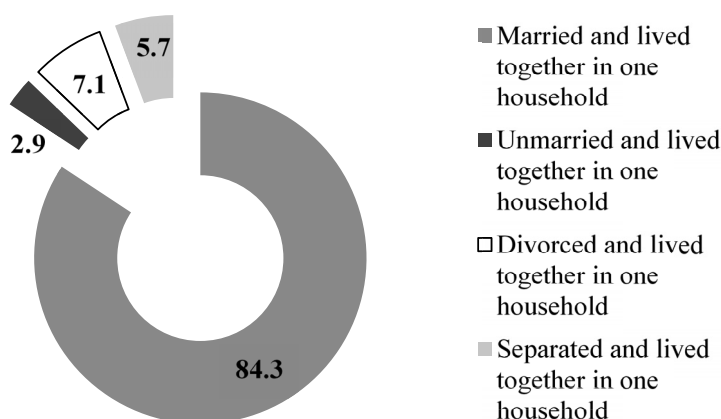
All the cases we analysed were from the Podlasie voivodship, which is a north-eastern part of Poland. This region, often referred to as “Poland B”, i.e. the poorer, less developed part of the country. Most of the analysed cases involved elderly living in a city (53 cases, 75.7% of the total), and many less from rural areas (17 cases, 24.3%).

We would like to stress that we only had access to cases which were transferred by the police to the prosecutor’s office and later to court. It is impossible to assess how many cases referred by the police were dismissed by the public prosecutor, because of insufficient evidence. The prosecutor’s office did not release any data, nor does the police have access to such information. It seems to be a weakness in the system.

To sum up: the aim of this paper is to answer the questions: Do women aged 60 or more affected by intimate partner violence take legal steps against the perpetrator? Who are these women? What are their characteristics? Who are the perpetrators? How does the Polish legal system handle cases of violence against the elderly? Is it effective, or could the procedures be improved?

Results – the characteristics of victims, perpetrators and the situation of violence

The analysed files indicate that at the time when a case was reported to the Police the victims were aged 60-81 and the greatest number of them (51.4%) were aged 60. There was also a number of women aged 62, 64 and 65 (7.1%). It is noticeable that the victims had various health problems – 42.9% suffered from chronic somatic illnesses, 7.1% were disabled, 5.7% were mentally ill, 2.9% suffered from dementia and 1.4% was addicted. Some of the women were in the care of the perpetrator (4.3%) and one received nursing care from other people or institutions. It can be said that a large number of these women had health problems, which is not surprising considering that on average people at this age in Poland are in rather poor health. However it is possible that victims’ health problems result from their situation – causing the passivity of the victims (or order-takers in Collins’ theory). Long-term subjugation to the perpetrator negatively impacts the victim’s emotional state, leading to depression. This happens when the victims knows she is under the order-giver’s control (Collins 2011: 136–142). Therefore, the victims’ health problems (both physical and emotional) hinder the victims’ ability to defend themselves. Social action theory suggests that the victims’ health problems can be one of the factors encouraging aggressive behaviours.

Graph 1. Type of relationship between the victim and the perpetrator (%)

Analysis of the documents obtained from the District Court in Białystok reveals (Graph 1) that the vast majority of the victims were married and lived together in one household with their husband (84.3%). This socio-demographic feature corresponds with the average characteristic of that age group in Poland. Most of the elderly in Poland are married, divorces happen rarely. However, among analysed cases there were also couples who were in separation or even divorced, but still lived together with their ex-husband. In this case we may wonder why it is so. Why does the victim not separate physically from the perpetrator? In the language of the theory of social actions – what were her motives? Were they influenced by Weber’s social and cultural environment? This interpretation cannot be discarded – the elderly are highly conscious of social opinion. Furthermore, analysis of the court documents indicates that this may be caused by gaps in Polish law, which allows for the eviction of the perpetrator, but makes it difficult to do in practice. Therefore, it is usually the victim who considers moving out⁵. Our research indicates that 80% of the victims testified that they wanted to separate and move away from the perpetrator, but only 20% of them tried to do this. This may be connected to the fact that, as Collins states, an individual under coercion feels lonely (Collins 2011: 134). She is aware of her alienation and knows that if she moves out of a common household, she will need to seek help with other people or institutions, at the same time believing she would receive none. Therefore they

⁵ This statement came up very often in the analysed files and it is perfectly exemplified in this testimony: “my husband drinks and is aggressive; I had to run away from home many a time (...), but I always come back, because I have nowhere else to go”. It’s worth noting that the interviews performed in the previous project (IPVOW 2009-2010) showed that all victims (N=11) confirmed that they would want to move away from the perpetrator, but have nowhere to go.

usually have nowhere to go or do not want to part with all of their possessions and even years after the divorce, they still live with the perpetrator. It should be mentioned that this practice is also common among victims of younger age. They often have children and nowhere to go (Pospiszyl 1994: 180–183, 200–203; Rode 2003: 180–191; Nowakowska, Kęпка, Chańska and Kuczyńska 2005).

What are the characteristics of the perpetrators of intimate partner violence against elderly women? In all cases the perpetrator was an elderly man. Documents indicate that at the time of the last recorded incident (which usually prompted the victim to reveal her situation) the perpetrator was aged 52 to 82. Most of them were 60 (14.3%) and there were a few aged 59 (12.9%), 61 (11.4%) and 65 (10%). Their health situation should also be mentioned: 38.6% suffered from serious somatic diseases, 14.3% were disabled, 2.9% were mentally ill and 5.7% had dementia. One more important issue is that all of the men abused alcohol. This is very important, because alcoholism has a significant influence on the appearance and escalation of domestic violence. It is wrong to assume that alcohol is its core reason, but it is correct to say that alcohol is a factor increasing the risk of violence. It should also be mentioned that perpetrators' addiction to alcohol as a factor increasing the risk of violence is not only the feature of intimate partner violence against the elderly. On the basis of other research we could say that in many cases of domestic violence, also among young people, alcoholism is a problem (Mazur 2002; Badura-Madej and Dobrzyńska-Mesterhazy 2000; Pospiszyl 1994).

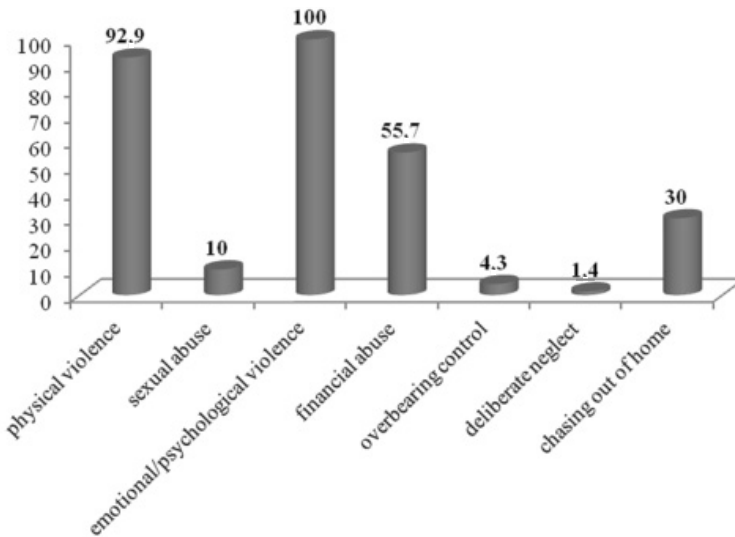
Another important piece of information coming from court files analysis is prior history of violence. It turns out that 92.9% of the perpetrators committed various violent acts before and 28.6% had a criminal record because of that. Usually the perpetrator had been convicted for abusing his wife, but there was also a case of a man who also raped his daughter. In most cases the sentence was probation or imprisonment. The files indicate that the perpetrators frequently ignored court orders – 38.6% did not receive addiction treatment or did not attend a counselling group. They also ignored restraining orders and refused to pay alimony, continued to be violent at home or drive while drunk. It seems that these behaviours are mostly manifested by people who are sure of themselves, domineering, capable of transforming fear of legal consequences into energy and courage to break the law (Collins 2007: 19). Furthermore, we should note that those who coerce others often develop a sadomasochistic personality, which connects domination with fear. Frequent experiencing of these emotions creates a “long-term emotional style”, as Collins refers to personality (Collins 2011: 135). As it can be seen, the qualities of the perpetrators match the description of order givers in Collins' theory.

All this points towards the ineffectiveness of the Polish legal system. It is hard to avoid the conclusion that the perpetrators' behaviour not only does not

improve, but deteriorates, especially after the period of probation. And it is the perpetrators' characteristic in general, not only in situations when the victim is elderly. So if a man had had a prior history of violence and appears before court again, it can be concluded that mistakes were made in his resocialization. These mistakes often lead to a feeling of invulnerability and a return to violent behaviours⁶. It also suggests that current solutions leave much to desire with respect to effective protection of the victims. From the point of view of the social action theory, the feeling of impunity can be a significant motivator for the perpetrator's violent behaviours.

Analysis of the documents indicates that the most frequent type of violence, which is present during almost all incidents, is also the one most difficult to detect, i.e. emotional abuse (verbal or psychological violence) and physical violence (hitting, pulling, kicking, pushing, slapping, strangling), but there were also cases of financial abuse, chasing out of home, as well as sexual abuse (Graph 2). These findings are similar to cases of violence between people of younger age. Emotional abuse and physical violence is the most common (Popiszyl 1994; Badura-Madej and Dobrzyńska-Mesterhazy 2000; Mazur 2002).

Graph 2. Types of violence experienced by victims during each incident (%)



⁶ Such conclusions can be drawn from the testimonies of the perpetrators themselves. Case file analysis revealed cases where the perpetrator himself stated that: "I'm not afraid of legal consequences, I don't have long to live anyway" (*syng. K III 476/03*), others (2 cases) claimed that nobody will do anything to them – they had a feeling of impunity. In one case the perpetrator invoked his "friends in high places" who would not let him be incarcerated..

We should not ignore the fact that a great majority of the perpetrators were drunk during the last incident. Only three of them (4.3%) were sober. Invoking Parsons' concept of social action it can be concluded that a perpetrator of violence – under the influence of alcohol – is unable to correctly assess the situation. It is likely that any comment or rebuke made by the perpetrator's partner is seen as nagging, blaming, or provoking an argument. Therefore, the actions undertaken by the perpetrator in order to "solve" problems, domestic conflicts, are based on strength and violence. Obviously drunkenness adds "courage" and facilitates such actions. What is more, the perpetrator's behaviour lies beyond any social norm regulating normal human relations.

Results – intimate partner violence among the Elderly in the Polish legal system

Another aspect of the analysed situations of intimate partner violence among the elderly was the actions undertaken by law enforcement agencies in response to a report of an incident⁷ (Table 1).

As it turns out, the police in almost all cases (97.1%) took steps to bring charges against the suspect/perpetrator. Obviously, for this to happen an investigation has to take place and evidence needs to be gathered. Often this takes time, but the victim should receive help and support from the very beginning of the whole procedure leading to the perpetrator's punishment. Polish law enforcement agencies seem to be aware of that, because in 94.3% of cases the victims were informed about their rights and 95.7% learned how and where they can receive the immediate help they most need. However, one should inquire to what extent this is ad hoc or "pro-forma", since the "Blue Card" procedure requires that the victim is given the so called B card, which contains a list of all their rights. What is more, as table 1 indicates, the type of steps taken in cases of domestic violence depends on the people involved. The elderly in Poland have a strong feeling of shame and since the appearance of a police car draws

⁷The Mind the Gap! project was based on court file analysis (N=70) and qualitative analysis, so correlations were not analysed. Nevertheless, we would like to note that the results of the previous IPVoW indicated that the age of the victim influences her attempts to have the perpetrator punished. Victims of intimate partner violence aged 75 or more are characterised by a very traditional approach to marriage and social roles, which negatively impacts their ability to oppose aggression and take steps to have the perpetrator prosecuted. Religion, which treats marriage as indissoluble, is also a factor. Younger women (aged 60–74), on the other hand, more frequently take legal action against their abusive spouse. Education is also a factor: the better educated the victim, the more likely she is to notify law enforcement institutions about domestic violence. (see more: http://www.ipvow.org/images/ipvow/reports/IPVoW_Poland_polska_final.pdf)

Table 1. Response of law enforcement agencies

| Lp. | What steps were taken by law enforcement agencies as part of the immediate response to a report of intimate partner violence? | YES | | NO | | No information available | | Total | |
|-----|--|-----|-------------|----|------|--------------------------|-----|-------|-----|
| | | N | % | N | % | N | % | N | % |
| 1 | forced entry into the victims home | 0 | 0 | 70 | 100 | 0 | 0 | 70 | 100 |
| 2 | entering into the victim's home with the permission of the victim and/or suspect/perpetrator | 40 | 57.1 | 30 | 42.9 | 0 | 0 | 70 | 100 |
| 3 | separating the couple | 15 | 21.4 | 55 | 78.6 | 0 | 0 | 70 | 100 |
| 4 | ordering the perpetrator not to enter the home | 2 | 2.9 | 68 | 97.1 | 0 | 0 | 70 | 100 |
| 5 | bringing charges against the suspect/perpetrator | 68 | 97.1 | 2 | 2.9 | 0 | 0 | 70 | 100 |
| 6 | taking suspect/perpetrator into custody | 12 | 17.1 | 58 | 82.9 | 0 | 0 | 70 | 100 |
| 7 | forced psychiatric hospitalization of the suspect/perpetrator | 2 | 2.9 | 68 | 97.1 | 0 | 0 | 70 | 100 |
| 8 | voluntary psychiatric hospitalization of the suspect/perpetrator | 0 | 0 | 70 | 100 | 0 | 0 | 70 | 100 |
| 9 | measures aiming at deescalating a situation by communicating with partners (conflict resolution) | 12 | 17.1 | 58 | 82.9 | 0 | 0 | 70 | 100 |
| 10 | giving victim information leaflet about the law | 66 | 94.3 | 2 | 2.9 | 2 | 2.9 | 70 | 100 |
| 11 | giving information about options for support to victim | 67 | 95.7 | 2 | 2.9 | 1 | 1.4 | 70 | 100 |
| 12 | involving domestic violence service of crisis intervention centers as part of formal protocols (<i>like Blue Card Procedure, Intervention Centers</i>) | 20 | 28.6 | 47 | 67.1 | 3 | 4.3 | 70 | 100 |
| 13 | accompanying the victim to the hospital | 2 | 2.9 | 67 | 95.7 | 1 | 1.4 | 70 | 100 |
| 14 | involving medical service | 34 | 48.6 | 36 | 51.4 | 0 | 0 | 70 | 100 |
| 15 | accompanying the victim a refuge | 0 | 0 | 70 | 100 | 0 | 0 | 70 | 100 |
| 16 | accompanying the suspect/perpetrator to a shelter / hotel / hostel, detoxication ward etc. | 19 | 27.1 | 50 | 71.4 | 1 | 1.4 | 70 | 100 |
| 17 | involving other support institutions for victims, namely ... | 0 | 0 | 70 | 100 | 0 | 0 | 70 | 100 |
| 18 | other ... | 0 | 0 | 70 | 100 | 0 | 0 | 70 | 100 |

the attention of neighbours, they are often loathe to do this. Therefore, only in slightly over a half of the cases (57.1%) did the officers enter the victim's home. In 27.1% of the cases the police officers took the suspect/perpetrator away, usually to sobering-up station and in 21.4% of the cases the victim and suspect/perpetrator were separated. Furthermore, it is much less frequent (17.1%) that police officers try to deescalate the conflict by talking to the pair (conflict resolution) or have grounds to arrest the suspect/perpetrator (17.1%). In rare cases the suspect/perpetrator is forbidden to approach the victim and stay at their current residence (2.9%) or forced to undergo psychiatric treatment (2.9%). Therefore, one can say that the various law enforcement services take steps to help victims of violence. On the other hand, it is hard to avoid the conclusion that these steps are hardly, if at all, adapted to the needs of the elderly.

It is also worth taking account of the investigation and court proceedings themselves. Analysis of the files for individual cases of intimate partner violence against elderly women revealed that only 4 of the 70 victims (5.7%) had a legal representative during the investigation. Furthermore, during court proceedings only two women were represented by a lawyer, while in the case of the perpetrators the number was 21 (32.8%). This is because any suspect who had undergone psychiatric evaluation is provided with a public defender, because there is a reasonable doubt as to his sanity. This is justified by the need to provide impartiality and avoid abuse due to, for example, the suspect's mental illness. However, it seems that these regulations put the victim, who is not entitled to a public defender at a losing position. Whether she will be represented in court or not usually depends on her financial situation. As was already mentioned, only four of the victims could afford a lawyer during the investigation and only two during court proceedings. This seems to be a vital issue, especially if we take into consideration the age of the victims and their ability to fight for their rights. Undoubtedly, the victims (those who take orders in Collins' theory) are removed, passive, helpless – they are more often backstage than in the limelight and may find it difficult to handle new situations. It is clear that the elderly have trouble finding their way around the legal system and it cannot be ruled out this lack of “professional” aid influenced the results of the proceedings.

Conclusions

Information contained in this text, which are a short presentation of the selected aspects of court document analysis, indicate a number of important issues.

First of all, intimate partner violence among the elderly is a topic that is not well recognized in literature. However, our research indicates that this problem really exists and there is a group of older women who want to stop their traumatic

situation, punish the perpetrator and lead him to legal liability.

Secondly, intimate partner violence has its specific characteristics, largely connected with the age of the victim and perpetrator. These are health problems and various changes occur in one's body as a result of the ageing process. For example, as one ages, one becomes less sensitive to stimuli, which have to be stronger to elicit a reaction (Rembowski 1984). Problems with vision, which raise the threat of loss of independence, are also important (Spinelli, Faroni and Castellini 1998). Losing one's eyesight may lead to violence and may discourage an elderly from seeking help. Loss of hearing, which makes it difficult to understand speech (Studen 2011), may make a person mistrustful and lonely. Our research confirms the significant role of health problems and changes in the body connected with the ageing process, in situations of intimate partner violence. Of course, there are some features that are common to victims of younger and older age (i.e. forms of experienced violence, the role of perpetrators' addiction to alcohol) but there are also specific characteristics. Apart from the fact that in most cases the situation of violence had lasted for many years, it assumes new features connected with ageing, acquired mechanisms of coping with the experienced behaviours, etc.

Furthermore, the age of the victims and perpetrators is important in the context of possible solutions to the situation and is often unfavourable to them. Current forms of aid for victims of domestic violence are mostly directed at young people. However, the ageing of Polish society forces us to consider the eldest citizens and prepare law enforcement agencies to work with them. Therefore, it is necessary to frequently stress the features distinguishing violence involving the elderly, develop efficient mechanisms for helping this group of victims and educate members of appropriate agencies. For example, it's worth remembering that the elderly get upset easily and contact with law enforcement agencies may be a stress factor for them. One should bear it in mind when questioning them. Although prosecutors and judges believe themselves to be prepared to conduct a variety of cases, they should be made aware of the specifics of working with the elderly, because our research indicates that their faith in their own competence is not always reflected in practice.

It is also worth mentioning here that the future generations of elderly will be more aware of the rights than the current older generation, because as it is claimed they will be better educated (Błądowski 2012b: 11–23). Therefore, one can hope that the victims of violence will press more strongly to have the perpetrators punished. Therefore courts, public prosecutors and law enforcement agencies should be prepared to work with an elderly client.

Bibliography

- Amesberger, Helga, Birgitt Haller and Olga Toto. 2013. *A Summary of law enforcement file analysis from Austria, Germany, Hungary, Poland, Portugal and the UK*. Vienna. Online: http://www.ipvow.org/images/ipvow/manuals/International_Summary_case_file_analysis_engl_final.pdf Access date: 26.03.2015.
- Badura-Madej, Wanda and Dobrzyńska-Mesterhazy, Agnieszka. 2000. *Przemoc w rodzinie. Interwencja kryzysowa i psychoterapia*. Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego.
- Baumann, Katarzyna. 2006. Osoby w okresie późnej dorosłości jako ofiary nadużyć. *Gerontologia Polska* 14–3: 119–124.
- Binczycka-Anholcer, Marzena. 1997. *Medyczne i kryminologiczne aspekty przemocy wobec osób starych*. In: B. Hołyst (ed.). *Przemoc w życiu codziennym*. Warszawa: Agencja Wydawnicza CB, p. 144–161.
- Błądowski, Piotr. 2012a. *Sytuacja materialna osób starszych*, In: M. Mossakowska, A. Więcek and P. Błądowski (ed.). *Aspekty medyczne, psychologiczne, socjologiczne i ekonomiczne starzenia się ludzi w Polsce*. Poznań: Termedia Wydawnictwa Medyczne, p. 393–406.
- Błądowski, Piotr. 2012b. *Starzenie się jako problem społeczny. Perspektywy demograficznego starzenia się ludności Polski do roku 2035*, In: M. Mossakowska, A. Więcek and P. Błądowski (ed.). *Aspekty medyczne, psychologiczne, socjologiczne i ekonomiczne starzenia się ludzi w Polsce*. Poznań: Termedia Wydawnictwa Medyczne, p. 11–23.
- Bond, John B., Roland L. Penner and Penny Yellen. 1995. Perceived Effectiveness of Legislation Concerning Abuse of the Elderly: A Survey of Professionals in Canada and the United States. *Canadian Journal on Ageing* 14–2: 118–135.
- Collins, Randall. 1971. *Functional and conflict theories of educational stratification*. "American Sociological Review" Vol. 36 (December): 1002–1019. Online: <http://prima.uwb.edu.pl:2112/ehost/detail/detail?vid=24&sid=9c0da719-c58f-4fbd-9628-36c5515e5ff6%40sessionmgr4005&hid=4112&bdata=Jmxbmc9c-Gwmc2l0ZT1laG9zdC1saXZl#db=hus&AN=520647487> Access date: 26.02.2015.
- Collins, Randall. 2006. *Konfliktowa teoria stratyfikacji* (trans.) Przemysław Sadura. In: A. Jasińska-Kania, L. M. Nijakowski, J. Szacki and M. Ziółkowski (ed.). *Współczesne teorie socjologiczne*. Tom 1. Warszawa: Wydawnictwo Naukowe Scholar, p. 482–501.
- Collins, Randall. 2007. *Violence*. Princeton University Press. Online: <http://press.princeton.edu/chapters/s8547.pdf> Access date: 27.02.2015.
- Collins, Randall. 2011. *Łańcuchy rytuałów interakcyjnych*. Kraków: Nomos.
- Czekanowski, Piotr. 2012. *Społeczne aspekty starzenia się ludności w Polsce. Perspektywa socjologii starości*. Gdańsk: Wydawnictwo Uniwersytetu Gdańskiego.
- Dubas, Elżbieta. 2000. *Edukacja dorosłych w sytuacji samotności i osamotnienia*. Łódź: Wydawnictwo Uniwersytetu Łódzkiego.
- Frąckiewicz, Lucyna. 2008. *Potrzeby społeczne starzejącego się społeczeństwa*. In: *Biuletyn Rządowej Rady Ludnościowej*. 53: 26–39. Online: http://www.stat.gov.pl/cps/rde/xbcr/bip/BIP_rrl_biuletyn53.pdf Access date: 20.07.2012 r.

- Halicka, Małgorzata. 1997. *Nadużycia i zaniedbania wobec osób starszych*. In: M. Malikowski (ed.). *Problemy społeczne w okresie zmian systemowych w Polsce. Materiały z Konferencji Naukowej, Rzeszów 9-10 maja 1997 roku*. Rzeszów: Wyższa Szkoła Pedagogiczna, p. 405-410.
- Halicka, Małgorzata and Jerzy Halicki. 2010. *Przemoc wobec ludzi starych jako przedmiot badań*. In: M. Halicka and J. Halicki (ed.). *Przemoc wobec ludzi starych. Na przykładzie badań środowiskowych w województwie podlaskim*. Białystok: Temida2, p. 19-44.
- Halicka, Małgorzata, Jerzy Halicki and Przemysław Ślusarczyk. 2012. *Przemoc w stosunku do osób starszych*. In: M. Mossakowska, A. Więcek and P. Błędowski (ed.). *Aspekty medyczne, psychologiczne, socjologiczne i ekonomiczne starzenia się ludzi w Polsce*. Poznań: Termedia, p. 495-509.
- Halicki, Jerzy. 2010. *Obrazy starości rysowane przeżyciami seniorów*. Białystok: Wydawnictwo Uniwersytetu w Białymstoku.
- Leszczyńska-Rejchert, Anna. 2007. *Człowiek starszych i jego wspomaganie – w stronę pedagogiki starości*. Olsztyn: Wydawnictwo Uniwersytetu Warmińsko-Mazurskiego w Olsztynie.
- Mazur, Jadwiga. 2002. *Przemoc w rodzinie. Teoria i rzeczywistość*. Warszawa: Wydawnictwo Akademickie „Żak”.
- Mossakowska, Małgorzata, Andrzej Więcek and Piotr Błędowski (ed.). 2012. *Aspekty medyczne, psychologiczne, socjologiczne i ekonomiczne starzenia się ludzi w Polsce*. Poznań: Termedia Wydawnictwa Medyczne.
- Mucha, Janusz and Łukasz Krzyżowski. 2011. *Starzenie się w warunkach dynamicznej zmiany. Perspektywa „biegu życia”. Wprowadzenie*. In: J. Mucha and Ł. Krzyżowski (ed.). *Ku socjologii starości. Starzenie się w biegu życia jednostki*. Kraków: Wydawnictwo AGH, p. 5-25.
- Nägele, Barbara, Urte Böhm, Thomas Görgen, Olga Tóth and Others. 2010. *Intimate Partner Violence against Older Women – Summary Report. Summary of a research project carried out in Austria, Germany, Hungary, Poland, Portugal and United Kingdom*. Online: http://www.ipvow.org/images/ipvow/reports/summary_report_final.pdf Access date: 26.02.2015.
- Nowakowska, Urszula, Alicja Kęпка, Weronika Chańska and Sylwia Kuczyńska. 2005. *Przemoc w rodzinie a wymiar sprawiedliwości*. Warszawa: Fundacja Centrum Praw Kobiet.
- Orzechowska, Grażyna. 2002. Człowiek stary ofiara przemocy w rodzinie. *Rocznik Andragogiczny* 101-107.
- Parsons, Talcott and Edward A. Shils. 1952. *Values, Motives and System of Action*. In: T. Parsons and E. Shils (eds.). *Toward a General Theory of Action*. Cambridge MA: Harvard University Press.
- Parsons, Talcott. 1972. *Szkice z teorii socjologicznej*, (trans.) Alina Bentkowska. Warszawa: PWN.
- Parsons, Talcott. 1991. *The social system. With a New Preface by Bryan S. Turner*. London: Routledge Taylor & Francis Group.

- Perek-Białas, Jolanta and Barbara Worek. 2005. *Zabezpieczenie się na starość jako warunek aktywnej starości*. In: J. Perek-Białas (ed.). *Aktywne starzenie, aktywna starość*. Kraków: Wydawnictwo Ureus, p. 25–40.
- Pedich, Wojciech. 2002. *Regionalne zróżnicowanie sytuacji ludzi starych na wsi*. In: B. Synak (ed.). *Polska starość*. Gdańsk: Wydawnictwo Uniwersytetu Gdańskiego, p. 231–285.
- Pospiszyl, Irena. 1994. *Przemoc w rodzinie*. Warszawa: Wydawnictwa Szkolne i Pedagogiczne Spółka Akcyjna.
- Oblicza przemocy wobec starszych kobiet – raport z badań. *Praca Socjalna* 2012: 5.
- Rembowski, Józef. 1984. *Psychologiczne problemy starzenia się człowieka*. Warszawa: PWN.
- Rode, Danuta. 2003. *Przemoc wewnątrzmałżeńska – przejawy i psychospołeczne uwarunkowania*. In: G. Poraj and J. Rostowski (eds.). *Zagrożenia życia rodzinnego*. Łódź: Wydawnictwo Uniwersytetu Łódzkiego, p. 180–191.
- Rudnicka-Drożak, Ewa and Maciej Latalski. 2006. *Rodzaje przemocy wobec kobiet po 65 roku życia*. In: J. T. Kowaleski and P. Szukalski (eds.). *Starość i starzenie się jako doświadczenie jednostek i zbiorowości ludzkich*. Łódź: Uniwersytet Łódzki, p. 186–189.
- Rudnicka-Drożak, Ewa and Maciej Latalski. 2006. *Zjawisko przemocy wobec osób starszych powyżej 65 r.ż. mieszkańców rejonów wiejskich woj. Lubelskiego w porównaniu do rejonów miejskich*. „*Problemy Higieny Epidemiologii*” 87: 147. (suplement)
- Spinelli, Donatella, E. Faroni and Giovanni Castellini. (1998). The „personality” of the glaucomatous patient: Preliminary results. *Acta Ophthalmologica Scandinavica* 76: 53–54.
- Staręga, Adrianna. 2003. *Przemoc wobec osób starszych*. „*Niebieska Linia*” Dwumiesięcznik poświęcony problematyce przemocy. 5/28. Online: <http://www.pismo.niebieskalinia.pl/index.php?id=143> Access date: 6.08.2012.
- Studen, Stanisława. 2011. *Psychologia starzenia się i starości*. Warszawa: PWN.
- Synak, Brunon (ed.). 2002. *Polska starość*. Gdańsk: Wydawnictwo Uniwersytetu Gdańskiego.
- Sygit, Ewa and Roman Ossowski. 2008. Przemoc wobec osób starszych ze względu na ich wiek, płeć i wykształcenie. *Gerontologia Polska* 16–3: 163–168.
- Szacki, Jerzy. 2003. *Historia myśli socjologicznej. Wydanie nowe*. Warszawa: WNPWN.
- Tobiasz-Adamczyk, Beata (ed.). 2009. *Przemoc wobec osób starszych*. Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego.
- Tokarz, Beata. 2005. *Postawy wobec starości i ludzi starszych*. In: B. Tokarz (ed.). *Stop dyskryminacji ze względu na wiek. Co wiemy o dyskryminacji ze względu na wiek. Głos ekspertów, doświadczenia osób starszych*. Warszawa: Akademia Rozwoju Filantropii w Polsce, p. 10 – 19. Online: http://www.zysk50plus.pl/storage/fck/file/stop_publicacja.pdf Access date: 02.05.2012.
- Trafiałek, Elżbieta. 2008. *Polska starość. Niebieska Linia* 4–57: 3–7.
- Trafiałek, Elżbieta. 2006. *Starzenie się i starość. Wybór tekstów z gerontologii społecznej*. Kielce: Wydawnictwo Uczelniane Wszechnica Świętokrzyska.

- Twardowska-Rajewska, Jolanta and Joanna Rajewska-de Mezer. 2005. *Nadużycia wobec seniorów w ich rodzinach*. In: M. Binczycka-Anholcer (ed.). *Przemoc i agresja jako problem zdrowia publicznego*. Warszawa: Polskie Towarzystwo Higieny Psychicznej, p. 446–458.
- Ustawa z d. 12 marca 2004 r. o pomocy społecznej*. (Dz. U. 2004 Nr 64, poz. 593, z późn. zm).
- Ustawa z dn. 29 lipca 2005 r. o przeciwdziałaniu przemocy w rodzinie*. (Dz. U. 2005 Nr 180, poz. 1493, z późn. zm.).
- Walsh, Christine A., Gabrielle D’Aoust and Kate Beamer. 2012. *Przemoc i mobbing wobec osób starszych: badanie powiązań teoretycznych i empirycznych*. In: C. P. Monks, I. Coyne (ed.). *Przemoc i mobbing w szkole, w domu, w miejscu pracy* (trans.) Guzowska, Małgorzata. (ed. of the polish version: M. Gamian-Wilk). Warszawa: WNPWN, p. 201–223.
- Wawrzyniak, Joanna. 2007. *Przemoc w starości*. In: Joanna Wawrzyniak (ed.). *Socjologiczne i psychologiczne aspekty przemocy*. Łódź: Wydawnictwo Wyższej Szkoły Humanistyczno-Ekonomicznej, p. 265–274.
- Weber, Max. 2002. *Gospodarka i społeczeństwo*. (trans.) Dorota Lachowska. Warszawa: Wydawnictwo Naukowe PWN.
- Wojszel, Zyta Beata. 2009. *Geriatryczne zespoły niesprawności i usługi opiekuńcze w późnej starości. Analiza wielowymiarowa na przykładzie wybranych środowisk województwa podlaskiego*. Białystok: Trans Humana.
- Wizner, Barbara, Anna Skalska, Alicja Klich-Rączka, Karolina Piotrowicz and Tomasz Grodzicki. 2012. *Ocena stanu funkcjonalnego u osób w starszym wieku*. In: M. Mossakowska, A. Więcek and P. Błędowski (eds.). *Aspekty medyczne, psychologiczne, socjologiczne i ekonomiczne starzenia się ludzi w Polsce*. Poznań: Termedia Wydawnictwa Medyczne, p. 81–94.

Wymiar sprawiedliwości i organy ścigania wobec przemocy w małżeństwach ludzi starych w świetle akt sądowych

Streszczenie

Problematyka przemocy wobec ludzi starych, zwłaszcza w kontekście funkcjonowania instytucji wymiaru sprawiedliwości i organów ścigania, jest słabo rozpoznana. Niedostateczna wiedza na ten temat skłania do eksploracji tego zjawiska. Treści prezentowane w artykule są wynikiem analizy dokumentów Sądu Rejonowego w Białymstoku, prowadzonej w roku 2012 w ramach międzynarodowego projektu *Mind the Gap*. Podstawę analizy stanowi 70 akt spraw sądowych dotyczących przemocy stosowanej w związku małżeńskim/ partnerskim wobec kobiet w wieku 60 i więcej lat. Ofiarą przemocy w takim związku jest najczęściej żona, u której występują problemy zdrowotne i która mieszka ze sprawcą. Najczęściej doznaje przemocy emocjonalnej, fizycznej i ekonomicznej ze strony nietrzeźwego męża. Problem uzależnienia od alkoholu męża-sprawcy przemocy jest czynnikiem silnie oddziałującym na doświadczają-

nie przez żonę/partnerkę przemocy wieloletniej. Mimo to starsze kobiety niechętnie zwracają się po pomoc do instytucji, niechętnie wzywają policję, także niechętnie idą ze sprawą do sądu. Z drugiej strony organy ścigania i wymiar sprawiedliwości nie dysponują odpowiednimi narzędziami, które byłyby dostosowane do specyfiki wieku, tj. osoby starszej doznającej przemocy. Ze względu na proces starzenia się społeczeństwa polskiego niezbędna jest rewizja istniejących rozwiązań obowiązujących w systemie prawnym, a także w systemie pomocy społecznej, celem dostosowania ich do potrzeb coraz liczniejszej grupy starszych wiekiem obywateli naszego kraju.

Główne pojęcia: ludzie starzy; przemoc; organy ścigania.