

SILENT APPROPRIATION: PROPERTY VIOLENCE AGAINST THE ELDERLY WITHIN THE FAMILY

APROPRIAÇÃO SILENCIOSA: VIOLÊNCIA PATRIMONIAL CONTRA O IDOSO NO ÂMBITO FAMILIAR

APROPIACIÓN SILENCIOSA: VIOLENCIA CONTRA LA PROPIEDAD DE LOS ANCIANOS EN EL SENO DE LA FAMILIA

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ABSTRACT

This article analyzes financial abuse against the elderly within the family context, emphasizing its invisible manifestations and the legal challenges related to its identification and repression. It starts from the premise that such conduct cannot be understood solely from an economic perspective, and it is necessary to consider emotional, relational, and contextual factors that influence the victim's autonomy. The study examines the increased vulnerability of the elderly, problematizes the validity of consent in situations of emotional dependence, and investigates the evidentiary difficulties arising from the silent nature of these practices. Furthermore, it analyzes the protection measures available in the Brazilian legal system, especially within the scope of the Statute of the Elderly, highlighting the need for a balance between protection and preservation of autonomy. The methodology adopted is qualitative, based on bibliographic and documentary research. It concludes that the effectiveness of legal protection depends on overcoming a formalistic approach, adopting a perspective sensitive to the relational dynamics that permeate financial abuse.

Keywords: Elderly Person. Financial Abuse. Vulnerability. Autonomy. Family.

RESUMO

O presente artigo analisa a violência patrimonial contra a pessoa idosa no âmbito familiar, com ênfase em suas manifestações invisíveis e nos desafios jurídicos relacionados à sua identificação e repressão. Parte-se da premissa de que tais condutas não podem ser compreendidas apenas sob a ótica econômica, sendo necessário considerar fatores emocionais, relacionais e contextuais que influenciam a autonomia da vítima. O estudo examina a vulnerabilidade ampliada da pessoa idosa, problematiza a validade do consentimento em situações de dependência afetiva e investiga as dificuldades probatórias decorrentes da natureza silenciosa dessas práticas. Além disso, analisa as medidas de proteção disponíveis no ordenamento jurídico brasileiro, especialmente no âmbito do Estatuto do Idoso, destacando a necessidade de equilíbrio entre tutela e preservação da autonomia. A metodologia adotada é qualitativa, com base em pesquisa bibliográfica e

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documental. Conclui-se que a efetividade da proteção jurídica depende da superação de uma abordagem formalista, com adoção de uma perspectiva sensível às dinâmicas relacionais que permeiam a violência patrimonial.

Palavras-chave: Pessoa Idosa. Violência Patrimonial. Vulnerabilidade. Autonomia. Família.

RESUMEN

El presente artículo analiza la violencia patrimonial contra la persona adulta mayor en el ámbito familiar, con énfasis en sus manifestaciones invisibles y en los desafíos jurídicos relacionados con su identificación y represión. Se parte de la premisa de que tales conductas no pueden ser comprendidas únicamente desde una perspectiva económica, siendo necesario considerar factores emocionales, relacionales y contextuales que influyen en la autonomía de la víctima. El estudio examina la vulnerabilidad ampliada de la persona adulta mayor, problematiza la validez del consentimiento en situaciones de dependencia afectiva e investiga las dificultades probatorias derivadas de la naturaleza silenciosa de estas prácticas. Asimismo, analiza las medidas de protección disponibles en el ordenamiento jurídico brasileño, especialmente en el marco del Estatuto del Anciano, destacando la necesidad de equilibrar la tutela con la preservación de la autonomía. La metodología adoptada es cualitativa, basada en investigación bibliográfica y documental. Se concluye que la efectividad de la protección jurídica depende de la superación de un enfoque formalista y de la adopción de una perspectiva sensible a las dinámicas relacionales que subyacen a la violencia patrimonial.

Palabras clave: Persona Adulta Mayor. Violencia Patrimonial. Vulnerabilidad. Autonomía. Familia.

1 INTRODUCTION

The aging of the Brazilian population has caused a significant reconfiguration of social, family and legal relations, requiring the Law to respond more and more sensitively to the protection of the elderly. In this context, violence against the elderly is no longer manifested only through physical aggression or negligence, but takes on more subtle, complex and often invisible forms. Among these, property violence stands out, especially when practiced within family relationships.

Unlike other forms of violence, the misappropriation of financial resources and material goods of the elderly often manifests itself under the guise of legitimate actions, such as the pretext of "care", "protection", "financial management" or even "consensual donation". This camouflage makes it extremely difficult for the competent authorities and support networks to identify them, as well as to confront them legally and socially.

The core of this complexity lies in the pre-existing relationship of trust between the victim and the perpetrator. Often, the perpetrator is a family member, close caregiver, or someone in whom the elder places faith and dependence. This intimate and power relationship creates an environment conducive to manipulation and abuse.

The emotional dependence and, in many cases, the physical or cognitive fragility of the victim, resulting from age-related diseases, mental decline or social isolation, contribute significantly to the naturalization and perpetuation of these abusive behaviors. The elderly sometimes hesitate to report for fear of retaliation, of losing the little support they have left (even if abusive) or because of feelings of shame and guilt.

Thus, the phenomenon of misappropriation of elderly people's resources is not only an act of fraud or theft, but an insidious form of violence that unfolds in a context of vulnerability. It becomes, therefore, one of the most intricate challenges from a legal point of view, requiring a multidisciplinary approach that goes beyond mere criminal repression, encompassing prevention, social assistance and the protection of the fundamental rights of the elderly individual. The absence of conclusive evidence or the difficulty in discerning the fine line between aid and abuse make the criminal prosecution of these crimes a constant obstacle.

Although the Brazilian legal system, especially through the Statute of the Elderly, recognizes and typifies property violence, it is observed that its approach still focuses predominantly on objective and economic aspects, without considering in depth the subjective and relational elements that permeate these practices. This gap compromises the effectiveness of legal protection, as it ignores the invisible mechanisms of induction, dependence and manipulation that weaken the autonomy of the elderly.

In view of this scenario, this article proposes a critical analysis of patrimonial violence against the elderly in the family environment, seeking to understand its legal contours, its practical manifestations and, above all, the evidential and interpretative challenges that hinder its identification. It is based on the premise that such conducts cannot be analyzed only from the patrimonial perspective, but must be understood as an expression of a relational vulnerability that directly impacts the dignity of the human person.

In this sense, the research problem that guides the study consists of investigating what are the limits between the legitimate administration of the elderly's assets and the configuration of patrimonial violence in the family context, especially in view of the difficulty of identifying and proving these behaviors. As a hypothesis, it is argued that patrimonial violence against the elderly manifests itself in a structurally invisible way, and is often legitimized by relationships of trust and dependence, which requires the Law to reread the criteria for the validity of consent and the existing protection mechanisms.

For the development of the research, a qualitative methodology will be adopted, of a bibliographic and documentary nature, with analysis of the current legislation, specialized doctrine and jurisprudence of the higher courts, with emphasis on the Superior Court of Justice. The article is structured in three main axes: the conceptual delimitation of property violence against the elderly, the analysis of its manifestations in the family environment and, finally, the legal challenges related to the evidence and the effective protection of the victim.

2 PATRIMONIAL VIOLENCE AGAINST THE ELDERLY: CONCEPTUAL DELIMITATION AND LEGAL FOUNDATIONS

Property violence against the elderly is one of the most recurrent and, at the same time, least visible forms of violation of fundamental rights in contemporary times. Its normative provision is expressly contemplated in the Brazilian legal system, especially in the Statute of the Elderly, which establishes mechanisms of full protection and recognizes the vulnerability of this portion of the population.

Property violence against the elderly can be conceptualized as the practice, direct or indirect, of appropriation, control or limitation of the use of their assets, income or economic rights, carried out through manipulation, induction or abuse of bonds of trust, which compromises their decision-making autonomy and converts care relationships into instruments of domination, even if under the appearance of consent or protection.

This definition, although legally adequate, proves to be insufficient to encompass the complexity of the phenomenon when it develops within family relationships, where the limits between care, help and exploitation become diffuse.

Under the terms of article 102 of the Statute of the Elderly (Law 10,741/2003), it is a crime - To appropriate or divert assets, earnings, pension or any other income of the elderly person, giving them an application different from that of their purpose: (Text given by Law No. 14,423, of 2022). Penalty – imprisonment from 1 (one) to 4 (four) years and a fine.

In this context, the analysis of patrimonial violence requires overcoming a strictly objective perspective, centered on the occurrence of economic loss, to incorporate subjective elements related to the autonomy, freedom of choice and psychic integrity of the elderly. This is because, in many cases, the disposition of patrimonial property occurs with apparent consent, but it is vitiated by factors such as emotional dependence, fear, manipulation or lack of knowledge.

Contemporary doctrine has advanced in the recognition that the vulnerability of the elderly is not limited to physical or cognitive aspects, but also encompasses social and relational dimensions. In this sense, the family, traditionally conceived as a space of protection, can, paradoxically, become an environment conducive to the practice of abuse, especially when there is a concentration of decision-making power in the hands of a single member.

According to Minayo (2006, p. 105):

Abuses are usually committed by family members, in attempts to force powers of attorney that give them access to the assets of the elderly; in the sale of property and real estate without their consent; through their expulsion from their traditional physical and social space of the home or by their confinement in some minimum room in residences that, by right, belong to them, among other forms of coercion. Complaints of economic and financial abuse are associated with the various forms of physical and psychological abuse that produce injuries, traumas or even death.

Thus, property violence against the elderly should be understood not only as a violation of an economic nature, but as a form of restriction of autonomy and dignity, insofar as it prevents the free exercise of property rights and compromises the self-determination of the individual. Such an understanding imposes on the Law the challenge of developing more sensitive and effective mechanisms for identifying and repressing these conducts.

3 THE VULNERABILITY OF THE ELDERLY AS AN EXPANDED LEGAL CATEGORY

Understanding property violence against the elderly necessarily requires the expansion of the concept of vulnerability, traditionally associated with biological or cognitive aspects. In the contemporary context, vulnerability must be analyzed from a multidimensional perspective, encompassing not only physical limitations, but also emotional, social, and relational factors that influence the individual's capacity for self-determination.

Minayo (2006, p. 106-107) reveals that abuses against the elderly occur mainly in those who have a higher degree of dependence, as seen below:

(...) The most vulnerable elderly are those who are physically or mentally dependent, especially when they have problems of forgetfulness, mental confusion, sleep disorders, incontinence, mobility difficulties, requiring intensive care in their activities of daily living. As a result of abuse and mistreatment, many elderly people begin to feel depression, alienation, post-traumatic disorder, feelings of guilt and denial of the occurrences and situations that victimize them and to live in despair.

The legal doctrine has advanced in the recognition that certain categories of subjects demand differentiated protection due to their position of fragility in legal relationships. In this sense, the notion of vulnerability, widely developed in the scope of Consumer Law, can be adapted to understand the situation of the elderly, especially in the family context, where bonds marked by dependence and asymmetry of power are established. As Bruno Miragem observes:

The legal notion of vulnerability has its origin and development, in the Brazilian experience, associated with consumer law. Not that before it, the protection of the legal position with less power was unknown, as demonstrated by the recognition of the worker's hyposufficiency as a founding principle of labor law since the middle of the last century. Its recognition by the theory of law, especially from the transformations of constitutional law with the consecration of fundamental rights, allowed the admission of a special, differentiated protection to groups of people in view of the quality or specific situation that legitimizes this distinction. The translation of this distinction as vulnerability will be expressly consecrated in relation to the consumer, although it admits its broader understanding in relation to other groups or categories (especially children and adolescents, the elderly, indigenous people, among others)

In the case of the elderly, this vulnerability takes on even more complex contours, as it is often associated with factors such as social isolation, emotional dependence and fear of breaking affective bonds. Such elements contribute to the formation of a scenario in which the elderly, although formally capable, find themselves in a position of fragility in the face of family members who start to exercise control over their financial life.

This reality highlights the need to recognize the existence of a relational vulnerability, characterized by the influence exerted by affective bonds in decision-making. Unlike classic vulnerability, which manifests itself objectively, relational vulnerability operates silently, interfering with the individual's freedom of choice without necessarily explicit coercion.

In this context, the legal protection of the elderly cannot be limited to the superficial verification of their formal civil capacity, that attested by the law and by the records, but rather be an instrument that penetrates the concrete and complex conditions in which their decisions

are made, considering the intrinsic vulnerability of advanced age and the dynamics of family relationships. The mere presumption of validity of legal acts, based solely on the absence of interdiction, ignores the countless forms of subtle coercion, emotional manipulation or induction that manifest themselves in the domestic environment, often under the mask of affection, dependence or assistance.

It is essential to consider, therefore, the psychosocial context, the physical and mental health of the elderly, the level of dependence on caregivers and, above all, the existence of undue pressures or influences that may compromise the free and conscious manifestation of their will. The absence of this more in-depth analysis, based on an interdisciplinary perspective (involving Law, Psychology, Social Assistance and Gerontology), can lead to the serious and silent legitimization of abusive practices.

These practices, especially property violence, are often disguised as care, zeal, or family assistance, where the appropriation of assets, incomes, or the disinterested management of the elderly's assets is justified as a "protective measure" or a "necessary help". The legal system must therefore create more robust and sensitive mechanisms to identify and curb "silent appropriation", ensuring that the autonomy and dignity of the elderly are the non-negotiable pillars of any legal or family intervention.

Thus, the vulnerability of the elderly person should be understood as an expanded legal category, capable of encompassing not only physical and cognitive aspects, but also emotional and relational dimensions that directly impact their autonomy. Such understanding is fundamental for the adequate confrontation of property violence in the family environment, as it allows the identification of situations in which the apparent legality of the acts actually hides a profound inequality of power.

4 CONSENT AND INVISIBLE VICES OF THE WILL

The analysis of property violence against the elderly in the family environment inevitably leads to the problematization of the validity of consent in acts of property disposal. Traditionally, Civil Law establishes that the manifestation of free and conscious will is an essential element for the validity of legal transactions, and is subject to invalidation only in cases where there are defects such as error, willful misconduct, coercion, state of danger or injury, as provided for in the Brazilian Civil Code.

However, the complexity of family relationships involving elderly people reveals the existence of situations in which consent, although formally present, is compromised by factors that do not fit perfectly into the classic categories of vice of will. These are subtle, continuous

and often imperceptible influences, which result from affective bonds, emotional dependence or the need to maintain family relationships.

In these cases, the elderly person may be led to perform acts of patrimonial disposition not by direct imposition, but by a kind of affective induction, in which the desire to please, the fear of abandonment or the trust placed in a certain family member act as determining elements of his decision. This form of influence is not characterized as coercion in the traditional mold, but produces similar effects, insofar as it compromises the individual's freedom of choice.

Contemporary civil doctrine has recognized the need for a more sensitive interpretation of the defects of consent, especially in situations involving subjects in a condition of vulnerability. As Flávio Tartuce points out, the analysis of the validity of legal transactions must consider not only the form, but also the context in which the manifestation of will occurs, including any situations of imbalance between the parties.

In this sense, patrimonial violence against the elderly, often disguised under the guise of family "help" or "administration", evidences the chronic insufficiency of the traditional model of consent analysis. This model, based on a presumption of rationality and full freedom of choice, is profoundly incapable of capturing and deciphering the complex and often abusive relational dynamics that permeate and influence the decision-making of the elderly individual.

Apparent voluntariness, or the formal signing of documents such as powers of attorney or donations, can actually hide an insidious and prolonged process of emotional conditioning, subtle psychological coercion, or even the exploitation of a preexisting state of physical or affective dependence. Such tactics weaken the autonomy and capacity for self-determination of the elderly in a progressive and silent way, making the final legal act a mere reflection of a cycle of moral and psychological abuse.

In view of this scenario, a critical and humanized rereading of the legal criteria for the validity of legal transactions signed by elderly people becomes imperative. The Law cannot be satisfied with the mere verification of formal civil capacity or the absence of manifest defect (error, willful misconduct, direct coercion). It is necessary to incorporate a context analysis that considers the life history, the specific vulnerability of the elderly, the nature of the relationship with the agent who benefits from the act, and the presence of indicators of abuse of family power or dependence. This new perspective seeks to protect not only the form of consent, but the substance of free and informed will, recognizing property violence as a modality of abuse that requires an interdisciplinary and protective look.

In this way, the interpreter of the Law is faced with the challenge of identifying situations in which consent, although formally existing, does not reflect a truly free decision.

Such a task requires the consideration of subjective and contextual elements, as well as the adoption of a more critical posture in the face of acts performed in the context of relationships marked by dependence and asymmetry of power.

5 MANIFESTATIONS OF PROPERTY VIOLENCE IN THE FAMILY ENVIRONMENT

Property violence against the elderly manifests itself particularly intensely in the family environment, where relationships of trust and proximity create an environment conducive to the practice of abuses that are difficult to identify. Unlike fraud practiced by third parties, the behaviors developed within the family tend to have apparent legitimacy, and are often justified as care or protection measures.

One of the most common forms of manifestation of this violence consists of the direct appropriation of the elderly's financial resources, through the retention of bank cards, making undue withdrawals or using social security benefits for purposes other than those intended for their subsistence. Such practices, although legally characterized as illegal, are often tolerated by the victim himself, due to the relationship of trust established with the aggressor.

Another recurrent modality involves the induction to the practice of acts of patrimonial disposition, such as donations, transfers of assets or signing of contracts that favor certain family members. In these cases, the elderly person is led to believe that he is acting for his own benefit or his family, when, in reality, his will is conditioned by external influences that compromise his freedom of decision.

There are also situations in which control over the elderly's assets is gradually transferred to third parties, under the argument of facilitating the administration of their resources. This transfer, initially justified as a support measure, can evolve into a true restriction of financial autonomy, preventing the elderly from exercising control over their own assets.

In addition, the undue indebtedness of the elderly person is highlighted, especially through the contracting of payroll loans without the full knowledge or consent of the victim. This practice, widely disseminated in the Brazilian context, evidences the exploitation of the vulnerability of the elderly by family members or third parties who benefit from their condition.

The common element to all these manifestations is the presence of a relationship of trust that makes it difficult for the victim and the legal system itself to perceive violence. The absence of an evident rupture in the family bond contributes to the maintenance of these practices, which are perpetuated in a silent and progressive way.

Thus, property violence in the family environment cannot be analyzed only from the perspective of objective illegality, and it is essential to consider the relational context in which

it develops. Understanding these dynamics is essential for the construction of more effective legal responses, capable of identifying and curbing conducts that, although apparently legitimate, constitute a serious violation of the rights of the elderly.

5.1 ISOLATION OF THE ELDERLY AS A STRATEGY FOR ASSET CONTROL

One of the most subtle and, at the same time, most effective manifestations of property violence against the elderly consists of their progressive isolation from family and social life. This is a practice that, although not always perceived as violence, plays a central role in consolidating control over the elderly's assets, as it reduces their capacity for resistance and limits access to information and external support.

According to Maria Berenice Dias (2016, p. 1084) this is moral abuse practiced by the alienating family member and constitutes a severe violation of the right to family life.

(...) Carried out in relation to children, adolescents, the elderly or people with disabilities, acts of alienation constitute a severe violation of the fundamental right to family life, harming the subsistence of affective bonds, evidencing true moral abuse. Alienation is usually practiced when there is a relationship of trust, such as a family member, caregiver or person who exerts some kind of influence in their life. In all these circumstances, the malicious action of the alienating agent is facilitated due to the condition of vulnerability of the other.

Isolation can occur in several ways, including the restriction of contacts with other family members, the control of visits, the filtering of telephone or digital communications, and the creation of narratives that aim to discredit third parties. In many cases, the aggressor builds an environment of distrust, inducing the elderly to believe that only he acts for his benefit, while other family members are presented as threats or individuals interested in patrimonial advantages.

This dynamic generates a progressive rupture of the affective bonds of the elderly, intensifying their emotional dependence on the controlling agent. As a consequence, the elderly begin to concentrate their trust in a single individual, which facilitates the induction to the practice of acts of patrimonial disposition, often without full awareness of the legal implications involved.

From a legal point of view, isolation represents a relevant element for the characterization of patrimonial violence, insofar as it evidences the existence of a context of manipulation and asymmetry of power. Although it does not constitute, in itself, a direct patrimonial offense, the deliberate removal of the elderly from their support network compromises their autonomy and weakens the validity of any manifestations of will.

In this sense, isolation should be interpreted as a factor indicative of defect of consent, especially when associated with acts that result in economic loss for the victim. The isolated analysis of the legal transaction, without considering the relational context in which it was concluded, can lead to the legitimization of abusive practices that, in essence, result from a process of emotional and social control.

In addition, the isolation of the elderly reveals a non-patrimonial dimension of violence, which directly impacts their dignity and their right to family and community life. By restricting access to other sources of support and information, the aggressor not only facilitates the appropriation of assets, but also compromises the victim's psychic integrity, deepening their condition of vulnerability.

In view of this, the Law needs to recognize isolation as a relevant element in the identification of situations of abuse, adopting an approach that goes beyond the formal analysis of property acts and considers the concrete circumstances in which family relationships develop. Such a perspective is essential for the construction of more effective protection mechanisms, capable of facing the complexity of contemporary forms of violence against the elderly.

6 THE EVIDENTIARY CHALLENGES IN THE CONFIGURATION OF PROPERTY VIOLENCE AGAINST THE ELDERLY

The identification and repression of property violence against the elderly in the family environment find one of its greatest obstacles in the evidentiary field. This is because such practices, as a rule, do not manifest themselves through ostensive or easily documentable acts, but develop progressively, silently and inserted in relationships marked by trust and affective closeness.

Unlike classic property offenses, in which the materiality of the damage can be demonstrated through documents, bank records, or external testimonies, family property violence is often covered with apparent legality. The acts performed, such as transfers, donations, or authorizations for financial transactions, are usually formally regularized, which makes it difficult to demonstrate any defect in the manifestation of will.

This scenario generates a relevant evidential paradox: the existence of documents that indicate the victim's consent, but which, in reality, may have been produced in a context of induction, emotional dependence or social isolation. In these cases, the purely formal analysis of documentary evidence proves to be insufficient to reveal the underlying dynamics of violence.

The evidential difficulty is aggravated by the fact that the elderly often do not recognize themselves as victims or are reluctant to report the aggressor, especially when they are part of their family nucleus. The fear of breaking affective bonds, emotional dependence and fear of retaliation contribute to the underreporting of these practices, limiting the production of direct evidence.

In addition, testimonial evidence, traditionally valued in judicial proceedings, can be weakened, since potential testimonies often come from people in the same family context, subject to conflicts of interest or external influences. This circumstance compromises the reliability of the evidence and makes it difficult to factually reconstruct the events.

In view of these limitations, it is necessary to rethink the evidentiary model applied to this type of situation, adopting an approach that is more sensitive to the specificities of property violence against the elderly. In this sense, the use of indicia evidence gains relevance, based on the joint analysis of circumstances that, in isolation, could seem irrelevant, but which, together, reveal a pattern of abusive behavior.

Elements such as the progressive isolation of the elderly, the concentration of financial control in the hands of a single family member, sudden changes in asset management and the exclusion of other family members from living together may constitute relevant indications of the existence of violence. The valorization of these elements requires the judge to have an interpretative posture that is more attentive to the relational context in which the facts are inserted.

In this scenario, it is also pertinent to reflect on the possibility of relaxing the traditional rules for distributing the burden of proof, especially when there is consistent evidence of the victim's vulnerability. The application of principles such as the full protection and dignity of the human person may justify the adoption of solutions that favor the effectiveness of judicial protection.

The performance of the Judiciary, in this context, must be guided by a perspective that goes beyond the formal analysis of legal acts, seeking to understand the concrete circumstances in which they were practiced. The mere existence of documents signed by the elderly person cannot be considered, by itself, sufficient to validate acts that may have been produced under undue influence.

Finally, it is important to highlight that overcoming the evidentiary challenges in property violence against the elderly requires not only interpretative adjustments, but also interdisciplinary action, involving professionals from the legal, social and psychological areas. Understanding the emotional and relational dynamics that permeate these situations is

essential for the proper evaluation of evidence and for the construction of fairer and more effective decisions.

Thus, evidence, in this context, ceases to be a mere instrument for verifying isolated facts, but starts to assume a central role in the reconstruction of a complex reality, marked by power relations, dependence and, often, invisibility.

7 PROTECTION MEASURES AND JUDICIAL ACTION IN THE GUARDIANSHIP OF ELDERLY VICTIMS OF PROPERTY VIOLENCE

Confronting property violence against the elderly in the family environment requires the legal system not only to recognize the problem, but also to adopt concrete measures capable of interrupting the cycle of abuse without unduly compromising the victim's autonomy. This is one of the greatest challenges of contemporary judicial action, which consists of balancing protection and freedom in contexts marked by relational vulnerability.

The Brazilian legal system has relevant instruments for the protection of the elderly, especially through the Statute of the Elderly, which provides for protection measures applicable in situations of threat or violation of rights. Such measures include the removal of the aggressor from living with the elderly, referral to social protection services, as well as the request for medical or psychological treatment, when necessary.

In the patrimonial sphere, judicial action may involve the adoption of precautionary measures aimed at the preservation of the elderly's assets, such as the freezing of values, the suspension of powers of attorney, the annulment of legal acts performed under defect of will and the restriction of financial transactions. These measures are essential to prevent the continuation of the damage, especially in situations where there is evidence of economic exploitation.

However, the application of these measures must be carried out with caution, in order to avoid the substitution of one form of violation for another. Excessive state intervention can result in the suppression of the autonomy of the elderly, reproducing, in another form, the logic of control that is sought to be combated. In this sense, legal protection cannot be confused with the indiscriminate withdrawal of the individual's decision-making capacity.

Curatorship, for example, traditionally used as a protection mechanism, should be interpreted in light of the transformations introduced in the Brazilian legal system, especially after the incorporation of a perspective more focused on the autonomy of the person. In this context, its application should be exceptional, proportional, and limited to strictly necessary acts, avoiding the imposition of broad and unnecessary restrictions.

The performance of the Judiciary should, therefore, be guided by a logic of minimum intervention and maximum protection, seeking to preserve, whenever possible, the capacity for self-determination of the elderly. This implies the adoption of personalized solutions, which consider the specificities of each case and the real condition of the victim.

In addition, the effectiveness of protection measures depends on the articulated action of different institutions, including the Public Prosecutor's Office, the Public Defender's Office, and social assistance services. The complexity of situations involving property violence requires an interdisciplinary approach, capable of integrating legal, social, and psychological aspects.

Another relevant aspect concerns the need to strengthen preventive mechanisms, aimed at guiding and raising awareness of the elderly population about their rights. Adequate information can work as an important protection instrument, reducing vulnerability and making it difficult to commit abuses.

Finally, it is important to highlight that judicial action, in these cases, should not be limited to the resolution of the concrete conflict, but should also assume a pedagogical role, contributing to the construction of a culture of respect for the dignity of the elderly. The repression of property violence, combined with the promotion of autonomy, is an essential element for the realization of the fundamental rights of this social group.

Thus, the legal protection of the elderly person who is a victim of property violence must be guided by a delicate balance between protection and freedom, recognizing that the true effectiveness of the Law lies not only in the ability to intervene, but in the sensitivity to do so without annulling the subject that is sought to be protected.

8 CONCLUSION

The analysis of property violence against the elderly in the family environment shows that the phenomenon goes beyond the purely economic dimension traditionally attributed to this type of crime. It is a form of violation that is structured in relationships of trust, dependence and asymmetry of power, developing silently and often invisible both to the victim and to the justice system itself.

Throughout the present study, it was demonstrated that the classical legal approach, centered on the formal verification of the manifestation of will and the materiality of the patrimonial damage, proves to be insufficient to capture the complexity of these situations. The existence of apparent, formally valid consent is not, by itself, sufficient to rule out the possibility of abuse, especially when inserted in contexts marked by relational vulnerability, social isolation and emotional inducement.

In this sense, patrimonial violence against the elderly requires a rereading of traditional legal institutes, especially with regard to the validity of consent and the analysis of defects of will. It is necessary to recognize that the autonomy of the elderly person can be compromised not only by explicit factors, such as coercion, but also by subtle and continuous influences that result from affective bonds and emotional dependence.

The evidential difficulty identified throughout the work reinforces the need for the adoption of a more sensitive approach by the Judiciary, capable of valuing indicial and contextual elements in the reconstruction of the facts. The isolated analysis of documents and formal acts proves to be inadequate to reveal the dynamics of control and manipulation that characterizes this type of violence.

Likewise, state action must seek a balance between the protection of the elderly and the preservation of their autonomy, avoiding solutions that, under the pretext of guardianship, end up reinforcing the logic of control already experienced by the victim. Measures such as curatorship must be applied in an exceptional and proportional manner, favoring alternatives that ensure the individual's self-determination.

Based on these reflections, it is argued that property violence against the elderly should be understood as an expression of an expanded vulnerability, which involves not only property aspects, but also emotional, social and relational dimensions. Such understanding imposes on the Law the challenge of developing more effective instruments for identifying, preventing and repressing these behaviors, incorporating an interdisciplinary and contextualized perspective.

Finally, it is concluded that the effectiveness of the legal protection of the elderly depends on overcoming a formalistic view of the Law, adopting an interpretative posture that recognizes the complexity of human relations and the centrality of the dignity of the human person as a guiding value. Only from this paradigm shift will it be possible to adequately confront the contemporary forms of violence that, although silent, produce profound impacts on the life and autonomy of the elderly.

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