

The Abuse of Older People: To Legislate or not to Legislate?

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Elder abuse legislation, policy and practice varies significantly across national borders (Penhale et. al, 2008; WHO, 2002) reflecting local cultural, social and economic differences. Harbison and Morrow's (1989) model of elder abuse provides a useful framework from which to order and understand the diverse approaches that different jurisdictions have adopted including paternalism, protectionism, legal/rights and empowerment. Whatever approach is favoured it must address the growing vulnerability of older people and address their growing fear of losing self-determination and basic human rights (van Bavel et al. 2010; Dow and Joosten, 2012). The current national and international trend appears to be towards legislation for the protection of older people although this is approached is subject critique. The argument for adopting legislation focuses on the need for specialist laws to protect older people, similar to the protection accorded to children under social welfare legislation. Legislation offers the potential for increased awareness, status and resources for adult services, a sector generally underfunded in the United Kingdom. In line with this trend, Scotland has recently introduced Adult Support and Protection (Scotland) Act 2007 for the purposes of protecting adults from harm. Most states of the USA have adopted specific elder laws and professionals work under a framework of mandatory reporting. The state of Pennsylvania's for example requires each county agency to receive and investigate reports of older adults in need of protective services 24 hours a day, seven days a week targeting abuse, neglect or self-neglect exploitation, and abandonment of older people (Pearson, 2013). Alternatively the argument against legislation highlights the negative and often traumatic impact of criminalizing low levels of abuse for the older person and their family. It is often argued that the law on its own is not a panacea to guaranteeing safeguarding in each and every situation and instead of adult protection being confined to social care and criminal justice services alone, abuse should be seen as everybody's business. Countries such as Ireland and Australia have opted not to adopt specialist adult protection legislation relying instead on existing state legislation and options such as guardianship, advocacy, family mediation and service coordination in response to elder abuse as a community issue. The introduction of a policy framework for safeguarding vulnerable people in 2006, an ageing demographic profile and a significant increase in the number of reported cases of adult abuse have contributed to public debate as to the benefits of adopting a legalistic approach to adult protection in Northern Ireland, UK. A team of Belfast social work and legal academics were commissioned to review factors facilitating or acting as barriers to adult protection legislation in Northern Ireland. The study involved a community scoping exercise to identify current issues not addressed by the existing policy based framework and an international literature review of possible legal options and remedies for the gaps identified. This presentation summarizes the key findings from the review and critiques the usefulness of