

Understanding Elder Abuse and Crime

Introduction

The central argument pursued in this chapter is that an accelerating interest in elder abuse is central to understanding it as a modern crime as a social phenomenon. It will be argued that the 'discovery' of elder abuse legitimates practice in which the social policy makers monitor but does not intervene. This has led to a social situation that has radically transformed crime of its traditional rationale as processing offenders who engage in elder abuse. One intended consequence of these policies has been to transfer the financial and emotional responsibilities for elder abuse to social welfare agencies rather than criminal justice agencies. Such a social policy has found resolution through an emphasis on forms of abuse perpetrated by carers on older service users. This sudden concern for the safety and financial security of older people, who are service users, legitimates a role for welfare professionals when we should be questioning why elder abuse is not seen in the same **criminalised** way as child abuse.

This chapter will draw upon the theoretical work of Michel Foucault whose contribution to social theory is 'one of the most important events in thought of the twentieth century' (Veyne 1980: 22). Until now, there has been no serious Foucauldian study of 'elder abuse' in the U.K., although this is slowly developing (Powell 2020). To utilise Michel Foucault's synthetic insights raises questions of power, of unintended consequences, of the impact of neglecting elder abuse that theories have yet to confront adequately, but which are the very stuff of recent social theory.

What is elder abuse?

Defining what age an 'elder' is, is largely subjective with many discrepancies, and there is no official UK definition (Warburton-Wynn, 2021). The World health organisation (WHO, 2021) referring to people aged 60 and over, define elder abuse as "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". These forms of abuse can be perpetrated by individuals and facilitated by institutions and systems which perpetuate it. The types of abuse include sexual, physical, emotional, psychological, domestic, financial and neglect. They may be calculated or spontaneous and may intersect with other social and cultural factors such as sexual orientation, gender, disability and ethnicity, putting older people at further risk of abuse through discriminatory practices (Hourglass, ND).

This is a serious human rights issue and worldwide problem, as a study by Yon et al. (2017) state, 1 in 6 elderly people across the globe experience abuse in community settings. This equates to more than 140 million people and is set to increase rapidly in line with global population growth. They predict that if current trends continue, by 2050 this will mean 330 million elderly people will experience abuse globally. Similarly Yon et al. (2019) found that within institutional care settings worldwide, 64.2% of staff admitted to perpetrating elder abuse. They call for more surveillance and monitoring as part of global action, but as this chapter argues, it is this discourse which is fuelling the problem.

Within the UK, Warburton-Wynn (2021) reports on sexual violence towards older people within hospitals, stating that there is a lack of consistent recording which leads to a lack of crimes being raised. This suggests there are serious systemic problems in identifying sexual violence towards elders as a crime. Within the care sector, Cooper et al. (2018) identified abuse in 91 out of 92 care

homes surveyed. Whilst they point to structural problems leading to staff burnout as being responsible for abusive behaviours, they do not mention the potential criminality of these actions. The UK Office for National Statistics reports (ONS, 2021), older people in care make up the highest proportion of self - funders (49.6%), many others also contribute to their care costs as it is means tested and expensive (Age UK, 2021). This could be seen to be a layer of systemic and institutional financial abuse in which older people quite literally pay for the abuse they receive. There is clearly a global crisis of elder abuse which is not being addressed or recognised for its criminality.

The Modern 'Discovery' of Elder Abuse

In the UK, formal recognition of this 'new' social problem of elder abuse has occurred with two policy initiatives: first, the implementation of the health policy under the then British Conservative administration under John Major many years ago (1992-1997). This included moves to enforce a privatised welfare economy, with emphasis on the centrality of care (Powell 2006). A residual role for the local state included monitoring and inspecting care purchased from the 'mixed economy'. Indeed, the development under 'New Labour' in the late 1990's of a 'third way' campaign that sought to reinforce startling continuities of the previous administration of a moral obligation to care by communities or families. Similarly, David Cameron, the former British Prime Minister had focused on the idea of a Big Society that has much in common with former UK Tony Blair's government: the common aim of these policy narratives would be to transfer financial and caring responsibility for dependent older people away from the collective and to individual families and institutions such as care homes. In other words, the problem of elder abuse has reached professional salience at a time when the relationship between formal and informal care was being re-structured. The conversation about criminal justice agencies and elder abuse was invisible.

It can be argued that these two policy initiatives have a number of common threads which establish a shift in older people's services away from care and support and toward the surveillance of those being cared for in institutional settings. The form that this shift has taken varies depending upon the site of interaction and subsequent power relations between professional social workers and service users. For mental health services, surveillance is directly aimed at the nominated 'consumer' or 'patient'. It has led to the compulsory treatment of people in community settings and the instigation of community supervision orders. Yet, the startling continuity is that elder abuse and policing by law enforcement is a narrative slipped through the Orwellian 'rabbit hole'. Seen as an issue of social welfare means huge forms of criminality never get uncovered. This is not only to criticise law enforcement but how government takes seriously or not the problem of elder abuse in society. The devastating impact on older people in care homes during covid could be argued to be a form of elder abuse with the tragic loss of life and staggering lack of due diligence and duty of care was completely ignored (Powell, 2021).

Ironically, outside of law enforcement, increased surveillance is often presented in official policy as a tactical response to crises at margins of care policy rather than crime policy, the accidental accretion of responses to unintended consequences. The argument pursued, here, however, will suggest that increased surveillance is part of a strategic agenda of wider questions of morality and control without which the technology surrounding "care" rather than "crime" fails to make sense to those

employed to use and facilitate it. Understanding and acting on elder abuse is framed as care gone wrong rather than **an** criminal act uncovered.

It is not that care has made more of an awareness of the fragmented variants of elder abuse, but that abuse gives meaning to care and before its 'discovery', technologies such as social work were the welfare equivalent of a solution looking for a problem. Hence, it is precisely these 'marginal' activities that explain to us the flight of care itself. Elder abuse, in particular, fills a vacuum at the centre of care policy, giving it an ideological legitimisation function it had previously not had. It does not given an ideological or legal legitimisation to law enforcement.

Foucault and relevance to elder abuse

This chapter will explore issues in a number of ways. First, the methodological 'box of tools' drawn from the work of Michel Foucault (1977) will be used to expand upon discontinuities between social policy and its consequences for older people. Two themes will then be expanded, firstly, questions of morality to highlight change and the social policy technology available to execute it, namely, care management rather than police work. Secondly, the relationship between overt concerns and covert consequences will be analysed in order to examine how benevolent intentions, without critical analysis, can result in negative outcomes for the recipients of state intervention.

Michel Foucault's main interest is in the ways in which individuals are constructed as social subjects, knowable through disciplines and discourses. The aim of Foucault's work has been to 'create a history of the different modes by which, in our culture human beings are made subjects (1982: 208). In *Madness and Civilisation* (1965), Foucault traces changes in the ways in which physical and mental illness was spoken about. Foucault employs a distinctive methodology for these studies, archaeology, which aims to provide a 'history of statements that claim the status of truth' (Davidson 1986: 221). Foucault's later work, *Discipline and Punish* focuses on the techniques of power that operate within an institution and which simultaneously create 'a whole domain of knowledge and type of power' (Foucault 1977: 185). This work is characterised as genealogy and sets out to examine the 'political regime of the production of truth' (Davidson 1986: 224). Both archaeology and genealogy are concerned with the limits and conditions of discourses but the latter takes into account political and economic concerns relevant to care policy. They also do to crime policy. The Police and Criminal Evidence Act has not been utilised with great discretion to go after offenders of elder abuse as its seen as a "domain" of caring.

Indeed, the work of Foucault has engendered an awareness that modern institutions operate according to logics that are often at excessive variance with the humanist visions embedded in policy analysis (Penna and O'Brien 1998: 51). In other words, the overt meanings given to a certain policy of activity may not correspond to their consequences. Whether these outcomes are intended or accidental was less important to Foucault than the analysis of power. As Smart (1985: 77) points out, Foucauldian analysis asks of power: 'how is it exercised; by what means?' and second, 'what are the effects of the exercise of power?' Within those strategies, investigation would need to be centred on the mechanisms, the 'technologies' employed and to the consequences of any social momentum for change.

An example of the discordance between social policy, the philosophy that overtly drove a certain initiative and its effects, comes from Foucault's (1977: 201) analysis of utilitarianism. Indeed, a

pervasive theme of Foucault's (1977) work is the way in which the panopticon technique 'would make it possible for a single gaze to see everything perfectly' (1977: 173). Foucault describes how panopticism (based on the design of Jeremy Bentham) becomes a process whereby certain mechanisms permeate social systems beyond actual, physical institutions. Techniques are thus 'broken down into flexible methods of control, which may be transferred and adapted ... (as)... centres of observation disseminated throughout society' (1977: 211-2).

The mechanisms used to extend the reach of centres of power will vary depending upon the ground upon which they are required to operate. Their function is to evoke and sustain moral interpretations of particular social behaviours throughout intermittent observation such that their objects come to internalise their own surveillance.

One important facet of Foucauldian analysis is his preoccupation with genealogy in which conventional values are in flux as in the case of madness, discipline and sexuality (Foucault 1965, 1977 and 1978) and how the emergence of professional discourses interpenetrate the evolution of new commonsensical understandings of 'normality'. There are, in other words, periods in which particular sites of control, for example, institutional care, family relations, intimate relationships are subject to novel mechanisms and technologies in order to facilitate the transition from one state of affairs to another. These technologies may be overtly applied during periods of flux until moral relations have been accepted, and, during the process of their application they both modify and are modified by the professional groupings charged with their implementation. Whilst Foucault does not impose any sense of causality on the development of such discourses, it is possible to discern the need for both an explicit moral reason and a method of operation, shaped to whatever new contexts are appropriate. Government morality would act as an active process for activities such as surveillance. A professional technology would provide a means of implementation depending upon the site (for example, in institutions of the state) of the targeted activity. Yet, it is not that surveillance has manifested for law enforcement on elder abuse but neglect itself which adds to the definition of elder abuse.

As Rouse (1994) has perceptively pointed out, an examination of the relationship between power and knowledge is central to interpret and understand social phenomena through a Foucauldian gaze. This is particularly apposite where there is an attempt of a disaggregation of a stated policy and its mechanisms in order to discover what is thereby hidden or obscured. One of the consequences of power and knowledge is that rather than the focus on the explicit use of a particular technique of knowledge by someone in power to cause a certain effect, attention is drawn to the reflexive relationship between both elements. There is a concern then:

'with the epistemic context within which those bodies of knowledge becomes intelligible and authoritative. How statements were organised thematically, which of those statements counted as serious, who was empowered to speak seriously, and what questions and procedures were relevant to assess the credibility of those statements that were taken seriously. ...The types of objects in their domains were not already demarcated, but came into existence only contemporaneous with the discursive formations that made it possible to talk about them' (Rouse 1994: 93).

Hence, just as knowledge shapes what action is possible, what power is exercised, those actions shape the creation of new knowledge and what is thereby given credibility and legitimacy. Over time legitimate 'domains' are established which both define what is real and what can be done about it.

Other possible interpretations are simultaneously discounted and delegitimised (police action). The result is a self-contained commonsense world in which power and knowledge support each other. These domains, for example, not only sustain certain professional discourses, they mould what those professions might become or might not become.

Returning to an earlier theme, the process by which a particular domain is established may not be the same as the reasoning given to explain what events take place and their effects. Indeed, as his understanding of this relationship developed, Foucault (1982: 86) indicated that 'power is tolerable only on condition that it mask a substantial part of itself. Its success is proportional to its ability to hide its own mechanisms'.

Furthermore, in care relations the open intention to 'empower' through allowing older people to live in their own communities/institutions and monitoring support, may have become a means of policing care and through that the conduct of older people. Staggeringly, the narrative of criminal justice does not enter the conversation. Throughout the past several years, care policy has drawn upon a number of sources of flux to achieve momentum. These have included a concern over familial obligation to care and changing social work practices, from a traditional providing role to that of managing older people which can have consequences for violation of human rights.

Second, a model based on obligation does not fit well with what research is available on how third generational family relations work. Intergenerational family relations can be characterised as 'action at a distance' (Foucault 1991) a situation that would seem to have historical roots extending at least until the eighteenth century in U.K settings (Laslett 1977) and indicate that the current policy model may be more traditionalist than the traditional. Leave any consequences of care to professions rather than the police.

However, another complicating factor to an 'obligation' based social policy manifests from the idea that care is at root a voluntary activity. It is not, therefore, bound by any formal code of social practice, as would be the case for the official police. Hence, there is no formal reason for intervention should a policy of elder abuse meet resistance. Thus, a social policy exists that contains fiscal policy and morality and makes care legitimate responsibility for older people and their rights. The threat of 'elder abuse' provides the excuse for this invasion of the private sphere, a shift from 'consent' to 'coercion' and from 'support' to 'surveillance'. However, to be fully effective, a technology would also need to be found that would implement the logic of that policy rather than criminal justice.

Care Management

The core technology by which care can be implemented exists in the role of care management. It can be conceptualized as the co-ordination of services into a 'package of care' in order to maintain 'clients' in community settings. The managerial technology is indirect in three ways. First, the pivotal function of the care manager is seen as being the management of a package that draws on services made available through a 'mixed economy of welfare'. Second, there is a shift toward supporting informal carers rather than directly working with the nominated client. Third, there is the emphasis on assessment and monitoring of provision that is supplied by service providers.

This quality of indirectness 'makes sense' as a means of managing a 'mixed economy of welfare' which requires that those who purchase care, or their agents, are separated from those who provide

it. Because of the intensification of marketisation, this limits the development of cartels, allows purchasers to choose between competing alternatives, thus placing them in the role of 'honest brokers' who assess need, supply information on the alternatives and then co-ordinate purchases. It does not, however, make sense in terms of direct care, intervention or interaction between older people and social workers other than as a sort of 'professional travel agency', advising clientele on the options, best deals and cash options. Care assessment and monitoring have now become an integral feature of social work practice and reflect a trend toward justifying welfare activities in terms of quality assurance (Powell and Chen 2020).

However, the 'mixed economy of welfare' in the U.K has consequences for the surveillance of older people. The mixed economy reflects political rationalities and technologies of government. Welfare pluralism is used to mobilise the use of resources - and thereby embody power relations - and thereby supply an economic vocabulary to legitimise the allocation of those resources and associated schemes of inspection and surveillance of services for older people. Powell and Chamberlain (2012: 26) notes that 'social actors', such as care managers, try to translate values into their own terms, to provide standards for their own actions and in so doing, facilitate 'rule at a distance'. A mixed economy of welfare is a means of doing this, it fabricate representations of 'empowerment' for older people. As Chua (1995: 111-145) points out, not dissimilar to the social construction of health care accounting software, services become devices which transform real relations. In a sense, 'older people' become 'consumers', 'social workers' become 'managers', 'social service departments' become 'purchasers' all crystallised by the formation of community care policies. In this case, services provide schemas for the 'conduct of conduct' (Foucault 1991) dominated by power/knowledge and characterised by the discretionary autonomy of care managers. It is within this disciplinary matrix of policy, practice and autonomy that power operates on older people, ultimately reinforcing the fragmentation that surveillance engenders in the psyches of older people at the centre of the professionals' gaze. This form of surveillance:

'clearly indicates the appearance of a new modality of power in which each individual receives as his status his own individuality, and in which he is linked by his status to the features, the measurements and gaps, the 'marks' that characterise...and make him a 'case' (Foucault 1977: 192).

Hence, the older client is marked out for perpetual surveillance throughout the remainder of his or her community care service. Carers and professionals also come under scrutiny as part of the continuous review of the client's needs. All are caught by a gaze which is 'always receptive' (Foucault 1977: 89) to older people and provides a further rationale for surveillance of the 'elderly population'.

Panopticism

Why is care policy that is essentially empty of interpersonal meaning be 'legitimised' by the accretion of surveillance? Rather than the use of criminal justice to monitor care gone wrong to criminality? The answer to this measure lies in the fact that it was not created as a philanthropic metaphor but as a mechanism for engineering the cost and structure of social welfare. Care has been part of a strategy to reduce the costs of state welfare by adopting market principles (Hoyle and Le Grand 1991). Attempts at cost reduction have taken on two forms. First, there is the active encouragement of a private welfare economy in order to depress wages and related costs. Second, a hollowing out of the local state, through mechanisms such as care management and inspection, so that the primary role of social service departments has become that of monitoring and supporting direct care

rather than provision itself. These trends may not simply reflect a flow through from market ideology but also wider pressure on the nation state as a consequence of globalization (Powell 2020).

Awareness that the welfare state can be understood, not so much as a series of social service institutions and neo-liberal responses to social problems, but as an instrument of wider state power and governance is not new (Townsend 1986; Jessop 1994). What is perhaps striking is the extent to which the techniques used by welfare workers have been drained of creative and radical meaning concerning resistance with marginalised groups and had drawn workers into the day to day management of scarce resources (Phillipson 1998).

Until the advent of a panoptic culture, community care with older people lacked a convincing unifying metaphor for its activity. With its instigation, a previously inchoate accretion of initiatives around 'care' achieves harmony and force. Once the vigilance advocated by the Department of Health's guidelines on elder abuse, are added to the indirect functioning of care management technology and the moral backdrop of obligation, the discourse of community care acquires a coherence of power/knowledge. It is, however, a power/knowledge to be deployed against older people's voices rather than for their emancipation.

Indeed, once older people are established as a socially significant object of power/knowledge, managerial techniques deem it necessary find the 'truth' about their care needs; to analyse, describe and to understand. The focus towards elder abuse takes place in a wider process in which attention is being directed towards individual bodies and control of 'ageing populations'. The individual is part of a machinery of power, a power that creates the body, isolates it, explores it, breaks it down and rearranges it. A knowledge of the body therefore requires a mechanism of discipline; that is, a machinery of power that is part of the managerial production of knowledge (Powell 1998). Discipline was the 'political anatomy of detail' (Armstrong 1983), that is to say older people become known and understood as a series of useable bodies which could be manipulated, trained, corrected, controlled and to legitimise the managerial profession. The outcome was to be a cumulation of increasingly detailed observations that simultaneously and inescapably produce knowledge of older people.

6 Conclusion

This paper has explored a disturbing constellation of factors in community care. It has been argued that the 'discovery' of elder abuse has lent coherence to a number of nascent tendencies in this policy that reinforce each other. These tendencies include an increased moralism toward informal care and a move toward indirect monitoring of the locative sites of such care. The development of a surveillance culture helps stabilise community care policy at a time of considerable underlying uncertainty. Such uncertainty has arisen from the changing structure of informal care and of specific services.

The neo-liberal strategy, to socialise care, has become an extension of the techniques of observation, monitoring and control into community settings. A new system for the surveillance of informal carers has replaced the idealistic dream of freedom with an extension of constraint.

Indeed, the shift in the focus of assessment contains a number of alignments. First, assessment decisions seem to be taking place within an existing discourse on abuse rather than user need. Whilst 'need' is given a recognition, the dominant decisions to be made would seem to concern risk of elder abuse. Second, the focus of monitoring seems to have moved from the performance of elements of the purchased package of care to the 'conduct of conduct' (Foucault 1991) of older people and informal carers. Third, parallels with child protection are clearly alluded to through at-risk registers and the value of records as evidence.

Following Foucault's (1977, 1991) analysis of the relationship between power and knowledge, this change can be seen as the development of a matrix in which to speak seriously about the support of informal care, the employment of discourses of surveillance and abuse would have to be entailed. It serves to reconfigure power relations during a period of flux and 'makes sense' of a previously disjointed policy formulation. Elder abuse has thus filled a vacuum at the centre of community care policy with potentially harmful consequences for the users of those services as support entails surveillance and consent contains the threat of coercion. The powerful language of surveillance offers a form of universalism to social policy, which as Williams (1992) has pointed out, has been subject to 'fragmentation, change and uncertainty and contradiction' (1992: 200). Rather than recognising patterns of social diversity all are now equal under the monitor of community care. Under such conditions, discourses such as 'care' and 'user' have worn out their analytical usefulness except as a rhetorical disguise for those with power.

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