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Child protection - a subject of clinical sociology

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Abstract

Our study aims to analyze the relationships between intervention and prevention in a child protection system which is considered to be new (the fundamental and secondary legislation that supports it is effective as of January 1st 2005) and its reconsideration from the perspective of the child's resilience (assisted or unassisted).

The study highlights the fact that the current system of child protection in Romania contains within itself the premises of continuation of maltreatment of the child on whom a measure of special protection has been adopted. At the moment, this system does not have the resources to allow an approach centred on the resources belonging to the individual and to the community in order to overcome the traumatizing events, without highlighting through the re-traumatizing experience created by separating the child in difficulty from the hostile environment.

Keywords: intervention in child protection; prevention for the child's protection;

Introduction

This article is an excerpt from a more extensive study covering a full analysis of the phenomenon of clinical intervention in child protection in Romania. We demonstrated in another work (Bucur E ., 2011, p. 97, 103) that in cases of violence against children, intervention goes beyond the categories of prevention and it performs separation measures from the initial environment without interfering on it (the measure of placement and placement of emergency). We also showed that the current system of child protection in Romania contains in itself certain assumptions of maltreatment of the child that is beneficiary of special safeguard or being in need, needs a national system of social support. Currently, this system lacks resources to enable an individual centered approach

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and community resources to overcome traumatic events without emphasize the separation created by the children in need of hostile environment. Given that other professionals have raised similar issues more or less officially, the new welfare law⁴ seemed to be unifying and solving solution for the inconsistencies or contradictions in various administrative acts that regulate the activity of various areas of social action.

To evaluate the performance of Romanian legislation, we turned to the analysis of double perspective: discursive and textual, assuming the following considerations as its foundation:

- Discourses are "practices which form the objects of which I speak" (Foucault, 1972, p.49)
- According to S. Mills (1997, see John Muncie, in Jupp, V., 2010, p.20), by interacting with text structures we interpret experience we are already at hand and, in doing so, those structures lend solidity and a normality beyond which we would be hard to move;
- For social scientists, the main attraction of discourse analysis lies in its ability to reveal its formation, loaded with meaning, constructed and represented institutions and individual subjects by specific configurations of knowledge (1994, see John Muncie, in Jupp, V., 2010, p.20); the more interesting becomes discursive and textual analysis of regulatory and administrative provisions which seek to rule them.
- Referring to textual analysis, Derrida and other poststructuralist writers have pointed out that the texts tend to be more or less inconsistent and they think interpretative task involves disclosure of such inconsistencies and incoherence (our emphasis). Or, from our point of view, the researcher who proceeds to clinical analysis of a social phenomenon as the child protection in Romania should describe precisely these inconsistencies and incoherence of legislative text, as well as any differences that may occur in synchronization with the simultaneous development of needs and how to respond to them immediately.

While the old law⁵ provided in Article 1 that "it regulates the organization, operation and financing of national social assistance system in Romania", the new law provides the same article that dealt only with "the general organization, operation and financing of national social assistance system in Romania"... We can noted from the very beginning a restriction of the semantic field of the subject matter covered (while the old law – also imperfect – regulated the organization, operation and financing of the national social assistance system itself, the new law only covers the general organization, etc.).

⁴ Law no. 292/2011 of social work - published in the Official Gazette of Romania, Part I, no. 905, of December 20, 2011

⁵ Law no. 47 of March 8, 2006 on the national social assistance published in the Official Gazette no. 239 of March 16, 2006

Law 47/2006 provides in Article 7 that "(1) The right to social assistance is guaranteed (our emphasis), for all Romanian citizens who have domicile or residence in Romania, without any discrimination." (2) Citizens of other countries and stateless persons and any other person who has obtained a form of protection and has his domicile or residence in Romania are entitled to social assistance, according to the Romanian legislation and agreements and treaties to which Romania is a party." We note that if citizens of other countries have the right to social assistance, according to the Romanian legislation and the agreements and treaties to which Romania is a party to all Romanian citizens who have residence in Romania, without any discrimination, the right to welfare is guaranteed.

Law 292/2011 stipulates in Article 4 that "(1) All Romanian citizens who live in Romania, have domicile or residence in Romania, citizens of Member States of the European Union, the European Economic Area and the Swiss Confederation citizens and foreigners and stateless that residence in Romania are entitled to social assistance, according to the Romanian legislation and the European Union regulations and agreements and treaties to which Romania is a party ". We can notice that (following the entry of Romania into the European Union?) Romanian citizens are entitled to social assistance, under Romanian law, etc., but the right to social assistance is not guaranteed or insured without any discrimination.

It is remarkable that the new law seeks to define unified notions and concepts used in social assistance, far richer than the previous law. Most of these definitions are taken and adapted from other administrative acts and other definitions of terms and concepts that have not yet gone out of use from have disappeared. Thus we can notice that the Decision no. 1175 of 29 September 2005 approving the National Strategy for protection, integration and social inclusion of persons with disabilities in the period 2006-2013, at point II Terminology, social need is defined as " all the requirements necessary for every person in order to ensure the life for social integration and improve the quality of life ", while in Law 292 it is defined as "all the requirements necessary to ensure every person's living conditions strictly necessary in order to ensure social participation or, as appropriate, social integration". Again we can notice a restriction of citizen's welfare semantic fields used by the law once by limiting strictly necessary conditions of life and again by excluding the legal text of improving quality of life.

Also, we must see that in the same Ordinance of Government previously mentioned there were distinct definitions for disability, handicap and disabled, as follows: "A) A handicap means the loss or the limitation of opportunities for a person to participate in the life of the community at an equivalent level to other members. It describes the interaction between person and environment. The purpose of this definition is to focus attention on deficiencies in the environment and organized systems of society that prevent people with handicap to participate on equal terms; b) The persons with disabilities are those people whom social environment, inadequate to their physical, sensorial, physical and / or mental associated deficiencies completely prevent or limit their access to equal opportunities in society, requiring protective measures in support of integration and inclusion social; c) Disability is a general term for any loss or significant deviations of the body functions and structures, difficulties in the execution of individual activities and problems through

involvement in life situations, according to the International Classification of Functioning, Disability and Health."

Knowing the language tends to eliminate the term of "disability" and "disabled person" as such terms bear an infamous label, the Romanian government of 2011 found solutions to define them in agreement with the general trend, but again in a reductionist style. Thus "deficiency is a result of a loss or abnormality of body structure or of a physiological function and disability is a general term for impairments, activity limitations and participation restrictions in the context of the interaction between the individual who has a problem, and contextual factors where he lives, meaning environmental and personal factors". We note the difference between the elegant definition of disability of the 2005 Government Decree considering that the purpose of the definition was to "focus attention to deficiencies in the environment and organized systems of society that prevent people with disabilities to participate on an equal level" and the law of 2011 which transferred the deficiency directly to the individual considering it as a "consequence of a loss or abnormality of body structure or of a physiological function." What may go unnoticed is the fact that the previous strategy considered to focus the attention of the political factors on the environmental deficiencies and organized systems of society that prevent people with disabilities to participate on equal terms, which implicitly meant accountability to adapt housing and transportation to the disabled person! Also, by removing the definition of disabled person, we believe that they actually wanted to remove the term "social environment, inadequate to physical, sensorial, psychical and / or mental deficiencies associated," the phrase "requiring protective measures to support integration and social inclusion", which again assumes makers realize the social adaptation's responsibility and providing protective measures. And this list could go on, but most negatively affects the quality of social protection in general, and particularly that relating to child.

Next we point out the obvious inconsistencies or contradictions contained in the text of the new law. Thus Article 35, paragraph 2 provides that "groups and communities in situations of difficulty benefit from social services, community action programs aimed at preventing and combating the risk of marginalization and social exclusion, approved by the local / county councils" without further bringing into question the obligation of drawing up these programs for all groups and communities in need. Consequently, what happens to these groups and communities in need where local / county councils did not bother to approve the decision of the community action programs aimed at preventing and combating the risk of marginalization and social exclusion?

Article 42, paragraph 2 provides that "social services can serve beneficiaries from several counties, in which case the establishment, organization and their financing are based on a partnership agreement that is approved by decisions of local councils and local partners," which means that, in the absence of partnership agreements approved by decisions of county or local board, the access to these services as highly specialized as they may be is restricted to the residents of that local communities. This comes in contradiction with the provisions of Ordinance no. 68 of august 28, 2003 on social services (OG 68/2003) which states that these services can be contracted fee and also settled by local authorities for the number of virtual users who can't justify the establishment of such service or where the fund's creation does not exist. Again a restriction to an act approved

by a law by the Romanian Parliament and the new law is not repealed and do not change.

In Section 4, *The process of granting social services*, Article 43 provides that "(1) Social services are provided at the request of the person, if applicable, of the legal representative and of the office and, (2) The request for granting social services addresses to the public social service subordinate local public authorities; (3) The request for granting social services may also be made directly to a private provider of social services, in which case, if a contract for the provision of services is concluded, the supplier is obliged to inform in writing administrative-territorial authority in whose jurisdiction the recipient's service have the domicile or residence. Translated into other terms, this means that if a parent wanting to go to work abroad signs the service contract as a legal representative with a private provider of social services, the child is institutionalized without going the Child Protection Commission or the competent courts. And as a consequence of the fact that the supplier is obliged to inform in writing administrative-territorial authority in whose jurisdiction the recipient's service have the domicile or residence, he will receive from local authorities a minimum value of the minor's maintenance for a long period of time (cf. GD no. 23/2010 on the approval of cost standards for social services).

By eluding the authorities in child protection, this last point attracts private providers of social services at a time that are more and more pressure on contraction (privatization) of social services has the gift opens the way for massive institutionalized children in Romania, much more than we have imagined the old time Emergency Ordinance No. 26 of 9 June 1997 on the protection of children in difficulty. In Article 54, paragraph 2 provides that: "The living minimum limit is expressed in lei providing basic needs such as food, clothing, personal hygiene, maintenance and cleaning of the house and it is calculated relative to the poverty line according to the methodology used in the Member States of the European Union." But the social policies in Romania ignore for a long time the minimum "basket" and "monthly basket". We commend the attention of the new law for homeless, victims of trafficking and persons deprived of liberty (Article 56-64).

But in Section 2 *Child and family social assistance*, we note that instead of operate necessary corrections to the *Law no. 274/21 of June 2004 on the protection and promotion of child's rights*, we witness again restrictions of the minimum rights and strengthening of dangerous tendencies in the child protection system. Thus Article 65 section 3 provides that "The exercise of rights and fulfillment of parental duties should provide material and spiritual welfare of the child, especially by providing care and maintaining personal relations with him, ensuring his growth, education and maintenance" and Article 70 provides that "(1) A child temporarily or permanently deprived of parental protection has the right to alternative care which consists of establishing guardianship, special protection measures and adoption. (2) The special protection is to establish the placement and provision of social services for the care and development of children up to the full capacity to exercise it, accompanied by social benefits provided by law." If the Law 272/2004 where intervention could be interpreted as clear long-term trend towards institutionalization in 2011 Romanian law provides undoubtedly the interpretation that "special protection is to establish the placement and provision of social services for the

care and development children up to the full capacity to exercise it." This new text seems to finally close a chapter of family reintegration work for welfare of children in need, as the measures and social services information and counseling, therapy and mediation for parents take place only before the separation (Article 70, paragraph 3: "Decisions to separate the child from his parents or limit the exercise of parental rights is necessarily preceded by social services information and counseling, therapy and mediation for parents". The articles of law at least questionable in terms of the provisions of the European welfare state continue. But one of the provisions that we consider likely to permanently deteriorate Romanian social assistance system is in Article 122, paragraph 2: "Local public administration authorities employ social workers or contract their services in order to perform activities referred to in paragraph (1), with respecting the report of a social worker at a maximum of 300 recipients." Since the Article 119 provides that "local government authorities and all public social service providers are required to organize and provide social services and to plan their development, but according to the identified needs of people in the community, assumed priorities, available resources and respecting the most effective cost / benefit ", it is clear that the social worker's workload will cover maximum permitted by law and not a minimum who does not exist!

To get the exact size of this aberration we propose a simple calculation. A social worker is required to reassess the psychosocial situation of each beneficiary at least 3 months, and each review should be completed by a revaluation report and update of service plans. At best, we can consider that the visit and drafting documents for a single case would take between 2 and 4 hours, meaning (in 300 cases) a workload between 600 and 1,200 hours per quarter just for reassessment.

That social worker has, however, new cases whose initial assessment and drafting of all documents (including the decision of the mayor for approval of services plan) can take between 8 and 16 hours. If we estimate a happy case of only 5 new cases per month we have consumed time between 40 and 80 hours per month and between 120 and 240 hours per quarter assigned for new cases. Added to the time allocated for work revaluation, it results a quarterly service obligations between 720 and 1340 hours, if we don't take into account current and other routine tasks.

This happens while the working time on a quarter of a social worker is 8 hours / day x 21 days / month x 3 months = 504 hours per quarter. All the considerations above lead to the conclusion that welfare law has many inconsistencies and incoherencies which enrich the interpretative nature, and through this expansion, likely to increase entropy in the child protection system. As a result, social welfare legislation should be clarified by assuming a theoretical position as the starting basis and then, based on established theoretical foundation to fit the best the present context through open debate among specialists in the field, to state the normative text in order to present a coherent and simultaneous convergence in synchrony with development needs and how to respond to them immediately.

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