

## CHILD NEGLECT

D TUDORAN, Angela BOGLUȚ  
Universitatea din Oradea  
tudorandan@ymail.com

**Abstract** In this paper we want to attract the attention of parents, guardians and teachers, what effects they may produce on children, inappropriate manifestations of adults regarding neglect or abuse on children. „Neglect is a silent and merciless killing of the human spirit „ (Daro and McCarth, 1991). The forms of ill-treatment which fail to ensure biological needs may endanger their physical, emotional, cognitive and social development that fall into the category of neglect. When we talk about neglect, we believe that the person responsible for the child (children) omits gestures necessary for proper development of the child. Neglect can be episodic or chronic, the first being less serious, calling it a contextual, it disappears when the risk factors that led to the neglect disappear (divorce). The second is dramatic because it affects disadvantaged families which do not have the resources (material, emotional, intellectual, etc.). In this case there is the phenomenon of intergenerational transmission, placing a child as a result of serious neglect does not solve the problem, they remain with serious complications in adulthood. Physical neglect leads to the underdevelopment of children (malnutrition and mental underdevelopment). Then, if the child does not have adequate food, clothing, shelter, supervision and protection, affection, raising brothers in a pyramidal form, etc. ; both physical and mental birth and maturity malformations will appear proceed, and in adulthood he will proceed the same , as he was brought up. Cultural, emotional or abandonment depression, are just some of the forms of neglect. Some may be intentional (alcoholic parents, mentally ill, jealousy, physical maltreatment) or others unintended (work overtime, lack of affectivity due to parental absence). All lead to the neglect of children. By this warning, we want to be better, to take care of our children, to be affective and give all you can for a good education.

**Key words:** *biological needs, development, educational needs emotional needs, neglect.*

„Neglecting the child represents a silent and ruthless killing of the human spirit”.  
DARO AND MCCARTHY, 1991.

It treatments types whereby ensuring biological, emotional and educational needs of the child are omitted putting the child's physical, emotional and social development is a category of neglect.

Concisely, we talk about *neglect* when the person that cares for the child fails to give him the gestures necessary for his good development.

Neglect can be *chronically or rare*.

- *Rare or contextual* neglect is less serious because it appears when the risk factors that lead to the apparition of neglect have disappeared (ex. Parental separation).

- *Chronically* neglect is more dramatic because it affects disadvantaged families which lack resources (affective, intellectual, educational, financial etc.). Often, in these cases, we see the intergenerational transmission of the phenomenon. Placing a child as a result of grave neglect doesn't solve the problem because it can cause another problem. For OXLEY (1999), „the hope bearing child can regenerate at the trauma his parents lived”. Because they feel they are in danger, parent cannot identify his needs and abuse him.

### **Types of neglect:**

Physical neglect and the safety of the child:

- Insufficient care which leads to underdevelopment of the children (not motivated by organic causes), malnutrition and mental underdevelopment,
- neglecting the child's nutrition,

- neglecting proper clothing,
- lack of an adequate housing, neglect of some safety furnishings for safe living conditions,
- neglecting to monitor and protect,
- medical neglect
- hygiene neglect.

**Neglecting the child's education and cultural deprivation**

- not enrolling the child in a proper educational configuration,
- neglecting the special needs education of the child,
- orienting the child towards other activities (ex. Taking care of the brother, of animals etc.),
- Not protecting the child from bad influences.

**Emotionally neglecting the child**

- In his own family
- Of the child that is in a form of protection outside his biological family (state facilities, placement, adoption or custody).

**Temporary or definite abandonment of the child**

- Expulsion from the home during day or night time or lack of interest towards the missing child (situations that contribute to the street children phenomenon),
- letting the child unsupervised for long periods of time,
- abandoning the child to another person, hospital or in a state facility and lack of interest towards the child.

Severe neglect doesn't only harm the emotional sphere of the child, but his physical development. Sometimes neglect can have much more serious consequences than the physical abuse. We know the fact that lack of proper nutrition affects the development of the brain and especially those at very tender ages.

The neglected child's situation can be similar to a 5 year old doll which is left „to sleep”. It receives lots of care and attention as long as it is „new”, but afterwards is left alone. It can happen that the child is again the center of attention when the parents themselves need the child. Lots of neglected children take on the role of an adult from a tender age in order to compensate for what their parents haven't offered them. They need to take care of themselves and of both of their parents.

Another type of emotional neglect without the necessary involvement of physical neglect is that one in which the parents are incapable of engaging in an emotional relationship with their own child and are trying to compensate this by satisfying his material needs in an exaggerated way.

**Preventing child abuse**

To prevent it means to act in such a manner that the probability of a new event to happen be reduced and the human and social consequences to be limited (Selosse, 1991). Prevention of abuse = development of measures taken in order to fight against the appearance and development of this phenomenon.

There are three levels of applying prevention:

- Primary prevention offers services to the population in general and targets diminishing the prevalence or the return of abuse. Makes avoiding some risk situations possible through information, knowledge levels and through sensibilizing the problem.
- Secondary prevention- creates services oriented towards the groups which present a high risk in becoming victims of abuse or aggressors. There is avoidance of the development of the phenomenon, by early tracings and by treating first symptoms.

- Tertiary prevention offers services to victims of abuse or aggressors in order to diminish the recurrence of abuse or its consequences. The focus is on the environment in order to try to eliminate the conditions that favor or maintain abuse.

#### **Resilience and abuse**

The term „resilience”, used in the past only for metals, was introduced in the past few years in human studies.

Thru the humanistic point of view, resilience is the capacity of a person or a group to develop and continue to develop in the future, in spite of destabilizing events, of difficult life events and sometimes severe trauma.

To retain the **double character** of resilience: resistance to destructive factors, on one hand and building a dignified existence on the other hand.

**Trauma and destabilizing events:** deportation, wars, natural catastrophes, physical, mental and social trauma. **Abuse** fits in the category of destabilizing events.

Stress resilience varies in time and is partly dependent on life circumstances. Children can be identified as being vulnerable (or with a low resilience) at the beginning of childhood are not necessarily sentenced for life. In reverse, even if they are described as having good coping mechanisms (coping) even though they manifest a high degree of competences, the mode of adjustment for resilient children, their type of competence can vary considerably.

*Barbarin (1994), about resilience when he refers to the capacity to cope as good as possible in the light of difficult situations, to confront unorganized life conditions, to survive and to develop, in spite of limited resources and a disadvantaged environment.*

In other words, resilience is *the tendency that a child, an adult or family has to rebound and resume its usual activities, preserving its mental health.*

#### **Protection factors (resilience) for the abused child:**

- Biological, mental and social-affective characteristics of the child (health level, temperament, self-esteem, development level);

- Traits of the parents, family environment and parent-child interaction (discipline, support etc.). In the case of the abuse child in the family, a special protection factor is the existence of a person that can stimulate the child and to represent an affective resource for the child, a support (ex. The grandmother, the social worker, the teacher etc.).

- Social environment characteristics (available resources, social support etc.).

#### **The counselor and the child abuse problem**

Alongside other professionals who work with children, the counselor, through his activities can intervene in an active way in this issue by:

##### *a. Primary prevention of the abuse:*

- Elaboration and implementation of educational life programmes which are addressing children and teens that has as objectives apart from prevention of abuse, educating for the role of future parents and sexual education;

- tackling at parent-teacher meetings of themes for sensibilizing and informing them about child abuse prevention.

In this sense it may be required the support of other professionals from the social-health area: medical staff, psychologist, school counselors, social assistances from the school offices of psychopedagogical assistance, the Service for promoting health (County Sanitary Office), County Office for the Protection of Children's Rights, which can be contacted directly or through the help of the County Psychopedagogical Assistance Center.

##### *b. Referrals to specialized services*

„To signal the situation of an abused child is to protect him”!

In order to find a suitable solution for a risk situation and/or abuse first of all it needs

to be signaled to the competent services. Frequently, a number of cases are signaled or signaled to late only when the consequences on the child are already severe or even irreversible.

*Who can and who should signal?*

- Anyone can signal: a family member, a neighbor and especially teachers and other medical-social professionals.

*To whom?*

- Specialized services.

Parental counseling is done by professionals and can help parents in avoiding neglecting their children. Such a free service is offered by the **Save the Children organization** in its **Parental Counseling** centers situated in 5 cities around the country: Bucharest, Iasi, Timisoara, Suceava and Targu Mures.

#### **Laws regarding child protection**

International conventions

a) Convention on the Rights of the Child

Protection of the child from the birth against any form of abuse or exploitation from its family or adults represents one of the points stipulated in the Convention on the Rights of the Child, signed on the 20.11.1989 and ratified by Romania on the 25.09.1990, by law no.18/1990.

We consider as useful the recording of a number of articles representative in the area of child abuse:

**Art.19.** The child has the right to be protected against physical and mental violence and against abuse.

**Art.32.** Any child has the right to be protected against economic exploitation and against heavy work which can damage or impede the child's education or health.

**Art.34.** Any child has the right to protection against sexual exploitation and sexual abuse, including prostitution and pornography.

Signing the United Nations Convention regarding child rights meant the adherence the most important international document which contains provisions regarding the achievement of the interest and rights of the child.

Starting with the year 1990, Romania has signed and ratified the most important international conventions in the area of child protection.

- In **1992**, by law no. 101/1992, Romania has adhered to the **European Convention on the judicial status of children born out of wedlock**, which has been concluded in *Strasbourg in 1975*. The Convention includes, provisions regarding:

- Lineage to the mother and the father of the child born out of wedlock,
- Parental obligations towards the child born out of wedlock,
- Rights of the child born out of wedlock.

- The same year, Romania has adhered to the **Hague Convention from the 25th of October 1980** on the civil aspects of international child abduction, which follows to protect the child on an international level, by:

- Tracing a displaced or detained child,
- Ensuring the voluntary return of the child or the facilitation of amiable solutions,
- Exchange of information, if it proves useful, regarding the social status of the child,
- Facilitating the opening of a judicial or administrative procedure, meant to obtain the return of the child, and if the case to allow the organizing or exerting visiting rights,

- Obtainment of judicial assistance,
- Safe return of the child.

- By law 15 from the 23rd of March 1993, Romania has adhered to the **European Convention for child adoptions**, concluded at *Strasbourg on the 24<sup>th</sup> of April 1967*, for accepting some common principles and practices meant to allow the promotion of adopted children welfare. Adherence to this Convention has been done by Romania with some reserves. So, if in the convention, the minimum and maximum age of the adopter is 21, respectively 35 years, in the Romanian legislation the minimum age is 18 years, without imposing any maximum age.

- By law no.84/1994 the **Convention on the protection of children and cooperation in international adoptions matters** concluded at *Hague*, in 1993. This convention is based on the following principles:

- For the development of his personality, the child has to grow in a familiar environment, in a happy, loving and understanding climate;
- Each state has to take measures to maintain the child in the family of origin.
- International adoption can present an advantage in offering a permanent family for the child that cannot be permanently adopted in his country of origin;
- Guaranteeing that international adoptions are done in the superior interest of the child by respecting its fundamental rights, as well as preventing the sale and traffic of children.

**National legislation** (ȘERBAN IONESCU, 2001) Regulations regarding child protection after 1990:

- First law has appeared after 1990 **Law no. 138/1990**, which from the desire to ensure child protection, a child in a difficult situation and to support parents in crisis, *has eliminated the possibility for the Commission for child protection to force parents, in whenever possible, to provide for the protected child*, breaking the dispositions of the Family Code referring to the obligation related to providing for the child. In such conditions, an indirect encouragement for child abandonment by his family has been created and the acquittal of the legal obligation to support him.

- **New Romanian Constitution**, adopted in 1991 contains provisions that expressly refer to the „protection of children and youngsters”, by which a special protection and assistance regime is ensured in realizing their rights (state allowance for children, aid for handicapped and sick children); the free development of human personality is guaranteed, minor exploitation is forbidden or using them in activities which may put their life or moral development in danger, forbidding to hire children under 14 years etc.

- Adopting **Law no. 61/1991** regarding the *sanctioning of the acts that break some social cohabitation norms* establishes sanctions for the parents that do not fulfill in a satisfactory manner their parental rights.

- For ensuring the respect of the UN Convention regarding children’s rights as well as the Romanian Constitution law no. 53/1992 was adopted regarding the special **protection of persons with disabilities**.

- In 1999, by Governments Urgent Ordinance no 102 the above mentioned law was abrogated and a new regulation was adopted instead.

- For the purpose of sanctioning parents which abandon their children **Law no. 47/1993** regarding the **judicial declaration regarding child abandonment** was adopted.

- By **Government Decision nr. 972/1995** the **National Action Plan in favor of the child** was adopted by which the most important action directions are established:

- Applying the UN Convention’s recommendations regarding the rights of the child;

- Following the impact of economic transition on children and taking adequate measures in order to protect them;
- Promoting research in the area of abuse and child neglect;
- Development of family education and social services for helping families in difficult situations;
- Continuing the improvement of national legislation in order to ensure that the child's interests are protected etc.

- The protection activity of a child that is in a difficult situation was regulated by Urgent Ordinance no. 26/1997 approved by **Law no. 108/1998** which abolishes Law 3/1970 and sets the base of a **new protection system**.

- For the scope of unitary coordination of resident children Governments Decision no. 625/2000 for the approval of ***The National Strategy for Reforming the child protection system*** for the 2000-2003 period and Government Decision no.261/2000 for ***institutional reorganizing, hospital wards and other units for special protection of children***.

#### **Protection of the abused and neglected child**

##### **Criminal sanctions**

The abused child protection is done by the general legislation in the field which provides coercive measures by the Penal Code, adopted in 1968, completed and modified. Main offences which refer to the abused child are:

- Family abandonment, banishing or leaving them helpless, exposing the child to moral, physical suffering, not paying the child support by those who are obligated to do so,
- Ill treatments against the minor – child endangerment by measures and treatments of any kind of physical, intellectual or moral development of the minor, by the parents or legal guardian,
- Non-compliance with the measures regarding custody of the minor with consists in detaining of a child by a parent without the consent of the other parent,
- Endangering a disabled person – abandonment, banishing or leaving a child helpless;
- Sexual intercourse with a minor;
- Seduction, is the deed according to which by promising to marry a female younger than 18 years is determined to have sexual intercourse;
- Sexual corruption consists in acts with an obscene character committed against a minor or in the presence of a minor.

##### **Notice, procedures, competence**

Who can make the notification?

Any person, professional or not, authorities which have taken notice of the existence of this phenomenon or if there is any presumption that a child has its rights injured.

*The notice is a civic duty and not just one imposed expressly by the law.*

Whom is the referral made out to?

- Specialized public service for child protection, social service of any municipality;
- Municipality (in the rural area);
- County Police Inspectorate, local police stations;
- District Attorney's Office;
- Medical units;
- Educational units;
- Family doctor,
- Head of the institution where the abuse took place etc.

All institutions listed must notify the *specialized public services or the Police Inspectorates* which have competence in taking immediate measures – child protection and

prosecutions. Child protection public service evaluates, proposes measures to be taken which are determined by the *Commission for Child Protection*.

In case of aggression in the family who endangers the child's integrity, the child is removed from that environment and entrusted to the *emergency services*, on the period of investigations. During this period both the child and the family are counseled. Simultaneously, the police begin investigations to determine the aggressor and the degree of guilt.

In all cases where the child has reached the age of 10 years, it is heard in the presence of a legal representative, during criminal investigations. The hearing before the court is *in closed session* to protect the child.

If minors are the abusers, child protection is ensured through mandatory legal assistance throughout the prosecution and judgment.

What measures can be taken?

- Keeping the child in the family and its supervision by specialized public service;
- Family type protection - custody or foster family, trusted to a person or caregiver,
- Custody or placement in specialized public services or authorized private bodies,
- For the aggressor the measures are those under the criminal law;
- Ideally, the abuser is to be removed from that environment, but at the moment we do not have an appropriate legislative framework and most often it requires removing the child from the family environment.

**Family law sanctions:**

**Deprivation of parental rights**, governed by art. 109-112 of the *Family Code* is the most severe measure of family law and can be taken against the parent who exercises parental rights or fulfills its obligations contrary to their purpose, resulting in the loss of these rights.

**Deprivation of parental rights is pronounced by the court if the child's health or physical development is endangered by:**

- The abusive exercise of parental rights,
- Child abandonment,
- Abusive behavior or gross negligence in fulfilling parental obligations,
- Maintenance refusal,
- Lack of supervision,
- Immoral conduct of parent.

Deprivation of parental rights does not exempt the parent of duty to the child's maintenance and in the conditions established by the Board of Guardians or the Commission for Child Protection; the parent may keep personal contact with the child.

Parents can regain parental rights on the basis of a judgment, if the circumstances that justified the sanction ceased and the minor's interests are no longer endangered.

**Judicial declaration of abandonment**

The child that is in a care institution or cared for by a person other than the parent may be declared abandoned by the court if the parents were not interested in it for more than 6 months. Judicial declaration of abandonment is of the court's competence. The court may decide to give back parental rights if the conditions that lead to the abandonment have stopped and the revocation is in the best interest of the child, unless the child was adopted.

**Sanctions**

For facts with low social danger sanctions are foreseen. According to Law 61/1991, constitutes a contravention relating to parental care:

- Expression of disinterest in taking attitudes by parents or persons entrusted with a minor, the measures necessary to prevent the acts of vagrancy, begging or prostitution,
- Providing alcohol to a minor for consumption in a public place,

- Exhortation, in any form, of minors to commit offenses,
- Expulsion of children from the family residence.

**Authorities involved in child protection**

1970 - Central Commission for the Protection of Minors - the Ministry of Labor

1991 - Romanian Committee for Adoptions - the Ministry of Health

1993 - National Committee for Child Protection

1997 - Department for Child Protection (DCP) - takes over the tasks of the National Committee for Child Protection and the Romanian Committee for Adoptions

1997 - County Departments are established for the protection of Children - first specialized public services for child protection and the Ombudsman institution

1999 - National Agency for Protection of Child Rights (NAPCR) - a specialized body of the central government, by reorganizing DCP and to take on actives from the State Secretariat for Persons with Disabilities, Ministry of Health and Ministry of National Education

2001 - National Authority for Child Protection and Adoption (NACPA) - established by the Emergency Ordinance No.12 / 26 January 2001 - replaces NAPCR. It is the only central body which deals only with the problem of the child. It coordinates at national level the application regarding the reformation of child protection.

NACPA collaborates with the other ministerial services which have responsibilities in the area of child protection:

- Ministry of Health
- Ministry of National Education
- Ministry of Labor and Social Solidarity
- State Secretariat for Persons with Disabilities
- Ministry of the Interior
- Ministry of Justice
- Ombudsman

The Ombudsman institution regulated by the Law no.35 / 1997 supplements the system of democratic institutions characteristic to a law state, is the main extrajudicial mechanism for the protection of human rights in relations of the citizen with public authorities.

By law, the Ombudsman is independent from any public authority, which is the essential condition of its credibility and effectiveness. Within this institution there is a specialized department for the protection of children's rights.

In accordance with the mentioned law, "claims may be made by any person, without distinction of nationality, age, gender, political affiliation or religious beliefs." Thus, any child who can write can address the Ombudsman directly. The verbally obtained information from children or other persons are sources for own initiative.

**Local authorities**

- General Department for the Protection of Children's Rights
- Commission for Child Protection - specialized body of the County Council
- Social services in the municipalities of the city
- Rural municipalities
- County Department of Public Health
- School Inspectorate
- State Inspectorate for Persons with Disabilities
- General Directorate of Labor and Social Protection
- County Police Inspectorate
- The courts.



General Directorates for Child Protection are public institutions of the county with legal personality, subordinated to the County Council. Creating these services at local level constitutes the decentralized activity of the local communities that are more and more involved in child protection activities.

The main actions of this service are:

- Coordination at county level of activities to implement the Government Strategy in child protection;
- Monitoring the respect of children's rights;
- Identification of children in need of special protection measures;
- Support of alternative family protection types.

Within each Directorate operates a service for the abused, neglected child which ensures:

- Psychological, social and legal counseling,
- Helping children to cope with emotional and cognitive experiences,
- Change of mentality regarding the exercise of parental rights and obligations as well as the interaction between parents and children,
- taking the necessary protection measures for neglected and abused children,
- referral to the competent bodies to take punitive measures for parents or legal guardians who mistreat children.

#### **Perspectives in child protection**

By *Government Decision no. 625/2000* the National Strategy child protection system was adopted for 2000-2003. The principles underlying the activity of child protection, which converge towards the European integration of Romania, are:

- *The best interests of the child principle* (in all decisions taken precedence have the interests of the child);
- *The principle of non-discrimination and equal opportunities* – respecting children's rights set out in the UN Convention, regardless of race, color, sex, language, religion, political affiliation, ethnicity etc.
- *Multisectoral and interdisciplinary intervention principles* - multi-institutional coordinated intervention;
- *The principle of decentralization* - the establishment and development of child protection services at Community level;
- *The principle of partnership* - cooperation with decentralized public structures, specialized public services, NGOs, international organizations, etc.

Today the question is about the usefulness of establishing a code for Children and for a Children's Ombudsman.

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