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Carmen SAVIN, Elena TOADER, Gheorghe G. BALAN,
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Reporting Child Abuse and Neglect in Pediatric Dentistry

Carmen SAVIN[1], Elena TOADER[2], Gheorghe G. BALAN[3], Laura Maria GAVRILA[4], Adriana BALAN[5]

Abstract

Child abuse refers to the actions or non-actions which, mediated or immediately, affect the physical or psychic integrity of an infant, and negatively influence his normal physical, emotional and social development. Neglect represents the willful failure of either parent or tutor to assure to the child access to a healthcare system, thus jeopardizing his growth and evolution. In the field of pediatric dentistry, both abuse and neglect ultimately lead to complex dento-facial disabilities, with long-term consequences. The pediatric dentist is expected to establish complex professional medical relations, based on clearly-defined deontological principles, continuously targeting child superior interest. In this way, the dental practitioner may identify quite various situations which, according to the fundamental principle of a medical good action, require the involvement, in the medical relation, of a third responsible person. Accordingly, child's superior interest will represent a priority, granting all his rights to life and health, as well as - if such be the case - his special protection. When potentially or really dangerous situations for child security and well-being are to be faced, the medical staff is obliged to announce the specialized structures of child assistance and protection; in such cases, the secondary principles on professional medical confidentiality and interdiction of making public the professional medical secret should be left aside. Such type of intervention in the physician-patient relation is characterized by both risks and advantages, most of them derived from the promptness with which the general and even forceful methods for protection of children in a civilized community are to be applied.

Keywords: child abuse, mandatory reporting, confidentiality, disclosure.

[1] Gr. T. Popa University of Medicine and Pharmacy, Faculty of Dental Medicine, Iasi, ROMANIA. E-mail: savin.carmen@gmail.com

[2] Gr. T. Popa University of Medicine and Pharmacy, Faculty of Medicine, Iasi, ROMANIA. E-mail: elena.toader@yahoo.com

[3] Gr. T. Popa University of Medicine and Pharmacy, Faculty of Medicine, Iasi, ROMANIA. E-mail: balan.gheo@yahoo.com (corresponding author)

4 Gr. T. Popa University of Medicine and Pharmacy, Faculty of Medicine, Iasi, ROMANIA. E-mail: laura_maria_g06@yahoo.com

5 Gr. T. Popa University of Medicine and Pharmacy, Faculty of Medicine, Iasi, ROMANIA. E-mail: drbalanumfiasi@yahoo.com

Introduction

The literature of the field, along with numerous normative juridical acts of internal and international right, refers to slightly different concepts when defining the concept of child abuse and neglect. The multitude of definition variants possible in such cases may be nevertheless structured into two main categories. Broadly speaking (a position agreed upon by part of the authors of the present study), the subject of child abuse includes all actions or non-actions through which an child is subject to treatment not accepted within a certain cultural zone, in a certain moment of time (Andreasen & Andreasen, 1994). Individualization of abuses is therefore subordinated to some basic socio-cultural, chronologically-variable principles, establishing neither precise qualification of the abuser – be he a parent, an adult stranger or another child – nor specific special - temporal circumstances, abusive actions possibly occurring in the family, in the society, in schools or in other education institutions, etc. (Welbury *et al.,* 2012).

On the other hand, neglect involves failure of an adult person to assure the child basic care for his or her oral health, thus affecting or only endangering his general health condition and physiological development (Harris *et al.,* 2009). According to a narrower perspective, the terms of abuse and neglect should be subjected to certain qualifications or to more subtle interpretations, agreed upon by fewer authors of the field, and even more importantly by the numerous normative regulations now in force, on the protection of child's rights. Therefore, according to the Romanian legislation, the topic of abuse upon a child refers to any voluntary action of a person assumed to be responsible, trustworthy and having authority on him, through which child's life, his physical, mental, spiritual, moral or social development, his bodily integrity, physical or psychic health condition are endangered . Similar views are to be met, too, in the legislations of other states, such as the United States of America, at international level child protection against abuse or neglect being regulated by the UN Convention upon child's rights. Equally, Romanian legislation stipulates that neglect involves the either voluntary or involuntary omission, from the part of a person responsible for growing, looking after and educating a child, of taking any measures assumed by such a responsible position, which might endanger the life, physical or psychic, mental, spiritual, moral or social development, the bodily integrity and the physical or psychic health condition of a child. Quite curiously, the American Academy of Pediatric Dentistry considers neglect as referring to the voluntary actions of the responsible adult whose consequence is child's being deprived of a minimum standard of oral and general well-being. One should thus observe that, unlike the context (involving the term neglect) in which analytical ability is mainly aimed at establishing the guilt of the responsible adult, the range of abuse actions generates a complex system of causal relations. Special attention should be paid to the high versatility of the lesional patterns – which may be identified

both in hyper acute stage and when they are already manifested as dental and general disabilities or as psycho-pathological diseases. The signs of abuse may be very easily mistaken with those of an accident, which recommends an especially cautious and minute examination of the patient, the dentist being expected to compare the identified morphological pattern with a multitude of possible physio-pathological processes, while always maintaining serious causal suspicions. This process is characterized by a large etiopathogenic and morphological variability, in which equally important are prevention, detection, therapeutical (physical and psychological) approach, legal intervention and, last but not least, social perception.

The investigated topic of the historical and chronological variability of social perception upon abuse actions becomes more and more difficultly approached once known that the spectrum of lesions of medical interest raises serious problems related to their early detection and therapeutical management. Along the history, the social attitudes manifested towards children have been amazingly diverse, starting from the ancient ritualic slaughter, to punitive, exploitation or incest cases, from exorcizations up to medical experiments with crippling consequences; however, the legal norms for children protection, even if relatively recent, are constantly improving and extending; thus, from a medical and legal perspective, one may chronologically mention the description of the beaten child syndrome, in 1962, by Kempe et al., followed, around the 80'ies, by the utilization of the term of Non-Accidental Injury (NAI), nowadays considered as only one of the cases of general abuse on children (Welbury *et al.*, 2012). Consequently, involved here are four distinct pathological categories, namely: physical abuse, sexual abuse, emotional abuse and neglect, all of them showing plenomorphic manifestations in the field of pediatric dentistry and special impact on the subsequent oral and general health condition of the subjects. It is exactly these consequences – potentially detrimental for victim's physical and psychic condition, and usually quite difficult to be objectively quantified – that call for a rapid response from the part of the practitioner and of the whole dental medicine team, expected to understand and solve the specific needs of the patient, in an equally therapeutical and social manner, even by invoking – if necessary – the coercitive intervention of the authorities, for assuring special protection.

Detection and report of child abuse and neglect

Transgression from the - nowadays wholly unacceptable - practices applied to children in various moments of history, when the bad treatments to which infants were usually subjected – now viewed as non-accidental traumatisms and, therefore, morally blamed – were still far from being unanimously incriminated as infringements of the law, up to the settlement and acceptance of the modern topics

of child abuse and neglect, shows that the society of today manifests an especially large range of attitudes and positions on the delicate topic of children rights and obligations. Accordingly, principles once judged and appreciated exclusively by parents, or even tacitly considered as acceptable forms of punishment, are nowadays carefully varied, the legislative institutions of the modern states showing an ever-increased interest as to the juridical condition of children. Were child abuse and neglect always viewed as blamable practices or was this attitude manifested only in a certain historical moment? Are our human values subjected to continuous modifications, are the moral norms liable to adaptations, as in the case of our juridical regulations? One thing is for certain, namely that the society of today imposes precise standards on the rights of the infants, thus generating the idea of general responsibility for their life, survival and development. Consequently, protection of children becomes a social problem, while the responsibility for bringing it to life is a solidary one, the state being expected to assure a corresponding normative background, on observing the common international values, and making efficient the – sometimes exhaustive – protection of the child, by a legal selective intervention of its authorities, a situation justified by the *parens patriae* doctrine (Post, 2004). In this way, child's main interest is continuously had in view, even if, in certain situations, parental and family authority is restricted. However, application of this legal practice assumes the involvement of special surveillance forces – an assertion still requiring serious updating. Furthermore, an important obstacle for children exposed to domestic violence seeking help and reporting violence is the lack ability to recognize domestic violence and problems connected with discovering violence outside the privacy of the family circle, as there are low levels of social information about the possibilities of seeking help and reporting violence.

Simply, general vigilance has a preventive role; however establishment of official, efficient legal key factors for the detection and sanctioning of the socially-dangerous actions requires a special legal expression. In this way, there appears the so-called action of mandatory reporting. Even if a new concept in numerous legislative systems, in the Romanian legal system, item 91 line (1) of Law no. 272/2004 on the protection and promotion of child rights makes mention of mandatory reporting, an action through which any person who, by the nature of his profession or occupation, works directly with a child and has certain suspicions on infant's possible abuse or neglect is obliged to announce the public service of social assistance or the general direction of social assistance and child protection within the territory of which the case had been identified. Consequently, reporting is a legal obligation, which implies a specific result, with a qualified holder, who – if passive – may be subjected to disciplinary liability, the fact being legally qualified by item 134, line (1) of the Law and sanctioned as a severe disciplinary infringement. One may also observe that reporting of the cases of child abuse and neglect is subordinated to a subjective situation – namely the suspicion for the

occurrence of such a guilty context, a suspicion which, even if based on certain objective lesional contexts with medico-legal significance, still remains a subjective attitude of the physician having announced the situation, especially in cases in which the morpho-pathological pattern is not specific to either abuse or neglect. However, the legal obligation of mandatory reporting should not assume restriction of the alleged doer's right of being considered innocent until proven guilty. A teleological interpretation of the juridical norm established by item 91 line (1) of the Law evidences the preventive character of the norm; the reporting obligation aims at assuring general prevention, in the society, against some socially dangerous actions which, by their nature, may be precociously identified by certain persons (a fortiori by the dentist, too), who have contacts with the possible victims. As a consequence, a series of frequent threatening, related to the accomplishment of mandatory reporting, may be identified. Apart from the objective and subjective limits of suspecting abuse or neglect actions, the literature of the field criticizes the emergency of still other factors that might prevent intervention, such as: an adult reticent to any possible involvement (Dhooper, Rosye, & Wolfe, 1991), in spite of the obvious consequences, ignorance from the part of the physician (Besharov, 1982), the reciprocal confidence established between the physician and the family – most frequently the persons committing abuse or neglect being the parents – a situation usually determined by doctor's material interest in cultivating a solid physician-patient relation (Badger, 1989) and, last but not least, an especially important aspect for the topic of the present study, referring to the moral medical limits and to the interest for observing privacy.

In such cases, the physician may be considered as an enemy, while his intervention is viewed as a "non-profitable" one, on both short- and long-term, so that all these potential situations, together with a possible timely rehabilitation of the doer, on also considering the distrust in the apparently intricate character of the intervention, may prevent or delay too much the detection, correction and, consequently, the secondary and tertiary prophylaxis of the abuse and neglect cases. Equally, one should not ignore the fact that reporting, followed by a long socio-juridical process, frequently with important consequences, carries in itself both advantages and disadvantages. Therefore, at least theoretically, a system mainly targeted on solving the risk factors related to family abuse or neglect cases should be created, in more severe situations a gradual, timely detection of the involved pathological context being absolutely necessary, along with melioration of the consequences of medical, social and psychological nature, and finally, if such be the case, entailing the juridical (frequently penal) responsibility of the doers. The promptness of such a system may be assured by cooperative action – initially developed within a medical team, subsequently involving social workers, after which the participation of psychotherapists, foster parents/care givers, or units assuring special protection for children, along with other state authorities, like police or the district attorney, is required. Criminal investigations might be

necessary. Consequently, an optimum intervention favorite communication among the representatives of different versatile professional systems creates a system of common social and moral values in the community, underlying and finally intensifying the social perception of such regretful pathological cases. More than that, an early detection of some otherwise ignored psycho-pathological situations might be rendered possible, while assuring their monitoring and suitable therapy; in this way, a significant epidemiological data base will be created, counterbalancing the blanks of the medical literature (Cameron & Widmer, 2011) on the pathological context here discussed. Otherwise, no intervention is risk-free, as both abuse and neglect are usually (and deliberately) hidden. Precocious suspicion, the only means permitting detection, is rendered difficult by an intricate methodological algorithm, as well as by the well-established ethical and social values of the physician (Conte, 1987). The ability to separate the benign from the malignant cases is therefore deeply altered. The intervention occurs within a space in which the abused person – by its special relation with the abuser - tries to defend the latter; procedurally, this means that, frequently, due to his young age and also to the social and psychological context, the abused or neglected child cannot be an ideal witness (Post, 2004).

The juridical programs for the punishment of abusers or of careless parents are therefore quite complicated, in most cases leading to family scission, foster care for victims, the separation off the natural family being frequently a long-term one. Such intervention principles frequently induce, even if psycho-therapeutically measures are taken, psychological consequences difficult to estimate. More than that, child's social security which, at best, remains to be cared for by only one parent, is the more affected the more frequent are the situations in which the patients belong to socio-economically or racial vulnerable groups. The aspects related to foster care or legal support depend on the specific legislative system, while the procedures involved in such situations are still under continuous change. One should also observe that the absence of an operative statistical system meant at describing the evolution of such pathological cases prevents any conclusion on the expected efficiency of possible interventions – namely, reduced incidence and prevalence of abuse and neglect, to the same extent to which nobody can assert whether the supporting, therapeutical or even punitive measures have really induced a significantly lower criminal relapse among abusers or negligent parents. Therefore, the conclusion to be drawn – at least for the moment – is that both the risks and the benefits of any intervention are equivocal, once they depend on the training of the specialists involved, on the legal means assuring an interdisciplinary collaboration, on heterogeneous procedural norms, and absence of well-established patterns of intervention – all these rendering such measures even more difficult. Facing an – if not reserved, at least conservative - social moral still restricts the success of an obviously laborious initiative. In spite of all these, there remains the must that all children have the right to a suitable family environment,

to protection and sustainable development while, at institutional level, the utilitarian vision should always be centered on child's superior interest. Nevertheless, risks persist as recent study states that foster parents are prone to developing high levels of emotional distress (anxiety, depression, and anger), burnout syndrome, or dangerous parenting behavior (low involvement, negative parenting, poor monitoring/supervision, inconsistent discipline, corporal punishments, and o-thers), through this affecting the daily lives of foster children and failing in providing them a healthier living environment.

Ethical conflicts caused by mandatory reporting of abuse and neglect

Up to now, a survey on the aspects related to the obligation of the pediatric dentist to report any suspicion of abuse or neglect raises several questions – fully justified for any practitioner – on the necessity of reporting in the context of a system of values in which medical confidentiality is especially important. More than that, the practitioner may face real difficulties in pre-establishing a specific physician-patient relation in which the patient – in this case, the legal repre-sentative of the minor – should be informed as to the legal limits of confidentiality. Per se, such an action may put an end to the medical act, to the detriment of the patient, subsequently susceptible (in cases of both abuse and neglect) to a really dangerous and continued conduct. That is why the literature of the field makes mention of the fact that, frequently, settlement of a medical relation is substan-tiated in the absence of any previous information, which might generate – at least potentially - several medical litigations (Sieger, 1982). Mention should be also made of the fact that the consequences of an intervention create problems for the dentist practitioner, up to affecting his gains. In this respect, an utilitarian vision evidences that reporting may bring about multiple drawbacks as to the medical action (lack of adherence), material gain (loss of a stable patient or of potential patients), image (quite frequently, in a less informed group, the physician being considered guilty for the apparently negative consequences of the intervention) or even to his health condition and physical integrity (possible violent parents). Therefore, a series of conflicts of ethical nature, with which the dentist may be confronted during any potential intervention, might appear.

The legislation in this field suggests - even if insufficiently - solutions for some of these complex ethical problems, on leaving aside large part of the previously mentioned aspects, considered as part of practitioner's responsibility. As to the problem of confidentiality, this has been always viewed as bearing special interest for bioethics. The literature provides numerous hypotheses which explain the social context within which the principle of medical confidentiality was formulated, stress being laid on the fact that the doctor-patient relation represents a type of social liaison based on variable communication; unlike other

social relations, in which qualification of the aspects related to communication is left to the involved parts, the doctor-patient relation assumes a privileged communication, characterized by a different, both social and juridical regime. Consequently, by the nature of the medical act – indestructibly assuming transmission of intimate data - confidentiality is not only an ethical requirement, it becomes a legal obligation, with a complex juridical motivation, involving not only protection of the right to private life but especially safeguarding of specific social and professional relations, in which the exchange of information is essential. In this respect, the Romanian law stipulates that any disregard, from the part of the medico-sanitary staff, of the confidentiality of data about the patient and of the confidentiality of the medical action, entails disciplinary, contravention or even penal responsibility, according to the legal regulations in force. This deontological and legal principle of medical confidentiality is characterized by a series of exceptions, the juridical origin of which is the Law on the rights of the patient itself, which permits delivery of information specific to the medical act when this constitutes a special legal requirement, when such a situation may positively influence the diagnosis, the treatment or the medical care. Item 37 of Law no. 46/2003 on the rights of the patient (M. Of. 51 of January 29, 2003), the legal norm being subsequently corroborated with the legal dispositions established by item 196 – Criminal Code, states that unlawful disclosure of data by the person to whom they had been entrusted, or who was informed, by virtue of his profession or function, if this action might be prejudicial for anybody, is punished by prison from 3 months to 2 years or with penalty; deontological, the dispositions of the penal law are completed with those of the Code of Medical Deontology of March 30, 2012 of the College of Physicians of Romania, M. Of. No. 298 of May 7, 2012, Chapter III, The professional secret and the access to data on one's health condition, items 17-20. One may therefore observe that the classical ethical principles and values on the autonomy of both doctor and patient, on the utilitarian vision regarding improvement of the medical relations by preserving confidentiality at any cost are put in opposition to the urgent actual situations, viewed by both the internal and the international legislation as acquiring the value of principles, such as, for example, collective safety and citizen's security, protection of child's superior interest, protection of the labor relations or of the interests of the opposing parties in the process of health assurance (Post, 2004). In such a context, the medical practitioner is frequently facing ethical dilemmas. Nevertheless, be it either an utilitarian argument assuring child's superior protection or a lawful rigor, the intervention in cases of suspicioned abuse or neglect appears as an undisputable social reality. However, the legal stipulations fail to propose a decisional algorithm applicable to the medical act, mainly in pediatric domains, when an external intervention is attempted at.

In this respect, the literature discusses a series of characteristic cases, in which medical communication with the parents should be censored, to the interest of the

child, such as: when communication might endanger safety of the abused patient, alter a criminal inquiry, when a (possibly collective) sexual abuse in the family is suspected, or when a false pathological context is put forward by violent or abusive parents and, last but not least, in any situation in which discussion of the respective problem between the physician and the family might considerably delay reporting (Welbury, Duggal, & Hosey, 2012). Such specific situations should be correlated with the deontological principles on a correct obtaining of informed consent, also referring – as already mentioned – to the destination of the information with personal character included in the medical report (which, in pediatric, is a tripartite one). In most cases, it is the parent or the legal representative that gives the informed consent, on the basis of the professional presentation of the medical case, the abused victim agreeing to the previously established medical report; the process assumes permanent consideration, from the part of the involved parts, of child's superior interest – the only justification of an external interference in the doctor-patient relation being exactly a possible threatening of child's superior interest. However, a thorough analysis of the real situation, along with evaluation of infant's power of judgement, permits to the child thought as possessing a mature attitude, suitable to the importance of the medical decision, to express his personal consent upon the medical act, which actually sanctions his capacity of ascertaining his own superior interest. Even more justified is to accept patient's informed consent when intimate, sexual aspects, problems including hypothetical sexual abuse, sexually-transmitted diseases etc., are at stake. Especially important among all above-mentioned perspectives is that, principally, an early detection, following a correct suspicion on possible abuse or neglect cases, is based on a suitable medical paternalism and an all-embracing utilitarian conception vs a situation to be faced. In suspected cases of abuse or neglect, the practitioner should have a benevolent action, trying to maintain the autonomy of the infant as much as possible, without making worse his situation, without excluding an – at least preventive – intervention. For such a line of conduct, undoubtedly, the physician is gratefully invested with both ethical and legal power (Post, 2004).

Practical conduct rules when facing cases of alleged abuse or neglect

A conceptual bioethical and juridical analysis on the reporting of abuse and neglect cases suspected by the pediatric dentist is manifested in current practice by a precocious, correct and conscious intervention from the part of the doctor. Especially important - when a hypothetical abuse or neglect case is suspected - is the inter-professional consultation. Discussion with an experimented and experienced colleague, with one of the fellows coordinators of the professional activities or, if necessary, with the representatives of the professional organization, should always accompany any formal reporting (Gore, 2001). That is why, the

authors of the present study propose the following algorithm, applicable in cases of suspected abuse or neglect (Harris, Sidebotham, & Welbury, 2006): (a) a general and oral clinical examination, on carefully observing any possible lesional patterns specific to abuse or neglect, and also any non-specific clinic sign for the evoked pathogenic mechanism, the active involvement of the minor patient in the anamnestic process, while maintaining a neutral attitude, expected to facilitate medical communication with child's legal representatives; (b) discussion of the case with colleagues, superiors, professional organization or realization of an inter-clinical consultation; (c) selection of the possible intervention methods (direct telephonic lines) and identification of the local institutions responsible for child protection (in Romania, the General Directions of Social Assistance and Child Protection); (d) when the case under analysis is still viewed as suspect, an immediate intervention is required, filling in of complete clinical documents, possible information of the professional superiors and an exact reporting to the institutions in charge, yet without informing the patient, his parents or legal representative – if such a measure might affect the condition of the abused or neglected patient. This should be followed by the establishment of a subsequent professional relation with the interviewing organ, by the recognition of the situation discovered and of the results of the inquiry from its part, along with the elaboration of a program of clinical monitoring of the patient; (e) if analysis of the clinical situation and the professional consultations reduce or eliminate suspicions, no immediate intervention would be necessary, any longer, the recommended measures to be taken in such cases including long-term continuation of the medical relation, monitoring of the patient, keeping in the archives of a complete medical record and, if necessary, discussion with the family general practitioner, with the school doctor or with other physicians that had treated the patient, for an inter-clinic consultation. According to such a decisional medical algorithm, any suspected abuse or neglect will receive all the attention from the part of the dentist treating the child, while also permitting long-term monitoring and prophylaxis of the nosologic factors identified. In this way, the professional organizations would be urged to seriously consider the necessary implementation of a guide of medical practice, whereas any intervention from the part of the local organizations for child protection should be facilitated by direct urgency telephonic lines and by the initiation and organization of joint programs of professional training, similar with those developed for pediatricians. Nevertheless, potentially dangerous consequences of such proper conduct should be monitored. As recent studies suggest, placement center institutionalization is characterized by worse outcomes in what child neglect and persistence of abuse is concerned, the institutionalized children having the least favorable psychological and behavioral outcomes because of possible exposure to high levels of privation, neglect, and/or abuse within the institutions and/or surrounding schools and neighborhoods. Programs such as the recently developed Programme of Intervention for Prevention of Institutionalization (P.I.P.P.I.) which aim at dealing with the problem that an institutionalized

child could face even when proper professional conduct is driven should include also dental practitioners. As the authors state, the P.I.P.P.I., seems to be able to prevent out-of-the-home child placement while simultaneously responding to problems connected to poor parenting that may lead to child neglect, by improving child development, parenting skills and sense of responsible decision making (Serbati, Ius, & Milani, 2016).

Conclusions

Child abuse and neglect is a constant social and medical reality not only in Romania but in both well or lower developed countries. Pediatricians and pediatric dentists are practitioners that encounter professional exposure to such cases that very often remain unreported. This is why medically they should be aware that abuse frequently results in dental or oral injuries which can be confirmed by laboratory findings. Forensically, injuries of the mouth or teeth may give precious clues regarding the timing and nature of the abuse, as well as the identity of the abuser. Whenever there are questions and doubts about the true cause of oral and dental injury pattern, the practitioner should consult with pediatric dentists specialized in forensic dentistry and exposure to abuse should be assessed. It is accepted by the vast majority of pediatricians and social workers that such investigations are needed especially when they lead to legal actions against parents or other responsible adults. Children may be removed from their homes and families and may be institutionalized or placed in foster care. Parents may have judicially their custodial rights suspended or denied, and may face criminal charges.

Future research should seek to determine if coordinated and well designed action should be incorporated in international guidelines for detection and report of child abuse and neglect. Furthermore, various types of training for medical practitioners and social workers can lead to better professional practices. Researchers, policy-makers, and practitioners should use the rich international evidence based data in order to assess implications of child abuse and neglect and to investigate the possibility of improving foster care and institutionalization outcomes for children separated from their families. Most of the individuals who work with children must always balance their ethical and moral obligation mainly towards children but also towards parents and the society – therefore, even if such standards of care may be variable, legal standards should be constantly met in order to provide optimal protection and nurturance.

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