

Rights of Children with Disabilities in Post-Communist Romania

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Abstract

This research project explores the current human rights situation of children with disabilities in post-communist Romania, as well as the historical context of the country and its response to disability rights issues. It analyzes the historical and political perspectives of one of the world's most repressive regimes until 1990, which led to current challenges regarding disability rights. Despite national legislation, reforms, and international conventions that Romania has signed, people with disabilities still face many challenges – particularly children confined in mental institutions and orphanages. The communist regime and religious factors contributed to the lack of proper institutional framework and law enforcement within Romania, resulting in a discriminatory mentality that persons with disabilities are subjected to on a regular basis.

Non-discrimination is one of the main principles in international human rights law. Human rights are rights inherent to all human beings regardless of nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. Everybody is equally entitled to human rights without discrimination. This principle is present in all the major human rights treaties and provides the central theme for some of the international human rights conventions, such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on Rights of Persons with Disabilities. These rights are all interrelated, interdependent, and inseparable (Office of the High Commissioner for Human Rights, n.d.). The principle of non-discrimination is supplemented by the

principle of equality, as stated in Article 1 of the Universal Declaration of Human Rights: “All human beings are born free and equal in dignity and rights” (United Nations General Assembly, 1948).

Romania continues to struggle with upholding the principle of non-discrimination – in relation to disability rights and other human rights concerns. Despite international efforts to protect and ensure these rights, the Romanian government fails to adopt the proper legislative mechanisms to enforce them. Romania has signed on to several international and European human rights conventions; however, there are ongoing violations that its citizens, particularly persons with disabilities, are subjected to. According to a 2012 human rights report issued by the U.S. Embassy in Romania, major human rights problems are regularly related to violated principles of non-discrimination and disability rights; for instance, police mistreatment and harassment of Roma ethnic minorities, widespread anti-Semitism, inadequate assistance to persons with disabilities and neglect within institutions, and discrimination based on sexual identity (Embassy of the United States, 2012).

One of Romania’s major human rights problems remains the torture and ill treatment of persons with disabilities, particularly children confined in mental institutions and orphanages. Despite international conventions and national reforms, persons with disabilities face immense challenges and abuses within Romanian society. Romania’s communist history and widespread social discrimination limits the freedoms of persons with disabilities, which are guaranteed under international law. Negative social attitudes regarding disability stem from Romania’s past politics (including the way communism regarded disability) and orthodox religious traditions (which regards disability as a sin or a curse). Until recently – especially since it joined the European Union – Romania disregarded the rights of persons with disabilities. Today, the country continues to struggle with challenges to disability rights and freedom from discrimination.

Disability and International Human Rights Law

Although the rights of persons with disabilities have been addressed by international human rights law, discrimination and rights abuses persist worldwide. Approximately one billion individuals with disabilities struggle to achieve access to education and employment, for the right to live in the community instead of being institutionalized, to express their sexuality and have children, and to enjoy political and cultural participation. Individuals with physical and mental disabilities often face increased violence and discrimination, yet they remain invisible in their communities (Human Rights Watch, n.d).

Disability rights are grounded in a human rights framework based on the United Nations Charter, the Universal Declaration of Human Rights, international covenants on human rights, and related human rights instruments. The principle of the right to equality, addressed throughout the normative standards set out by such international human rights mechanisms, is the foundation of disability rights. Under all the international treaties, persons with disabilities are entitled to exercise their civil, political, social, economic, and cultural rights on an equal basis with everyone else. The full participation and contributions of persons with disabilities benefit society by enhancing its well-being and progress. In order for the rights of persons with disabilities to be further realized, contemporary international law has increasingly recognized the need for all states to incorporate human rights standards into their national legislation (United Nations Enable, n.d.).

The Convention on the Rights of Persons with Disabilities and its Optional Protocol was adopted on 13 December 2006 at the United Nations Headquarters in New York, and was opened for signature on 30 March 2007. The Convention addresses a broad category of persons with disabilities and restates that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. It clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have to be made for persons with disabilities. Some of these provisions provide disabled persons with the opportunity to effectively exercise their rights in areas where they have been

violated, and where their protection must be reinforced (United Nations, 2006). Although the means chosen to promote full realization of economic, social and cultural rights of persons with disabilities may differ among countries, there is no country exempt from the need for improved policies and laws for individuals with disabilities.

Communism and Disability in Romania

In many of Europe's formerly communist countries, lack of proper enforcement mechanisms and widespread social discrimination challenge disability rights. In Romania's recent past, for instance, children (both typical and those with disabilities) suffered horrific human rights violations in state orphanages. After the televised execution of dictator Nicolae Ceausescu in December 1989, the public was exposed to the tragedies occurring in the numerous state-run facilities. As a result of the socioeconomic policies imposed by the Ceausescu regime that infringed on reproductive rights and limited the availability of medical and social services, almost 100,000 children were placed in orphanages. The limited staff, unsanitary conditions, and lack of basic social services (education, treatment/therapy) resulted in high rates of developmental disabilities, infectious diseases such as HIV, and high mortality rates (Morrison, 2004).

Ceausescu's 24-year regime started in 1965 with the goal of industrializing the country by increasing the labor force. His approaches were fear-based; he created a new state security force ("securitate") and implemented pro-natalist policies that included the abolition of abortion and the suppression of the import of contraceptives, making them illegal. Additionally, income was taxed up to 20 percent if people remained without children, regardless of whether they were married. To encourage women to have more children, financial benefits were increased with each birth. However, medical services and preventive healthcare were poor and accessible only through bribery. The money received for every birth did not adequately cover the costs of child support, and by mid-1980s rations on milk,

bread, and sugar were imposed. As a result, Romania had the highest maternal mortality rate in Southern and Eastern Europe combined, which contributed to an increase in orphaned children who were exposed to a greater risk for institutionalization. Furthermore, oral antibiotics were not available; medications and vitamins were administered through needles, which were reused. Both children and adults were placed face down on a table while the needle, blunted from re-usage, was inserted in the neck. Facilities and information regarding HIV testing were not available and – with needle re-usage, unscreened blood, and multiple injections – the possibility for transmission increased, particularly for the infants and children (Morrison, 2004).

Institutionalized care tends to take place in societies where social services and support are not provided, and this was certainly the case in Romania. The process for institutionalization was administered by the Ministry of Education, which assigned children either to a regular orphanage if the child was “normal” or to a “dystrophic center” if the child was “disabled”. The criterion for placement was whether the child could walk, talk, and masticate by the age of three. The children who were already in an orphanage were rarely spoken to and almost never picked up; therefore, they were not reaching normal developmental levels due to poor muscle development and lack of proper coordination. As a result, many of these children were misdiagnosed as disabled and sent to an orphanage for the “irrecoverables”. Children with minor handicaps or visible physical differences, such as having large ears or having crossed eyes, were also considered disabled. Additionally, due to discrimination against the Roma (commonly known as the gypsies), a large percentage of these ethnic minority children were placed in the orphanage system. Because of their ethnicity, they were as likely as children with disabilities to be sent to dystrophic centers (Morrison, 2004).

Ceausescu’s policies to encourage population growth were directly responsible for increasing numbers of children with developmental and congenital disabilities. Because it was illegal for women to have abortions or use contraception, many of them resorted to other methods to terminate their

pregnancies. They would take hot baths, move furniture around, or even undertake more desperate measures. For instance, some methods involved using a “pipe” (*sonda* in Romanian, like a derrick in English used for drilling oil), a thin medical catheter used to fill the uterus with different liquids such as alcohol, water, distilled water, tea, or plants such as stork’s bill and oleander. These liquids were supposed to dislocate the fetus and induce an abortion. Generally, educated women used distilled water or alcohol and the undereducated used plants. Even a young doctor, the wife of a famous actor, died after using a soap and water mixture (Baban, 1999). In many cases, these methods failed to induce an abortion but did affect the womb development of the fetus – leading to a variety of disabilities. These risks were combined with food scarcity as a result of strict economic policies, depriving mothers of adequate nutrition. This resulted in malnourished mothers having low birthweight babies with a high risk of death. Babies who did survive were exposed to high risks for childhood illnesses and disabling conditions such as mental retardation, behavioral disorders, cerebral palsy, and other disorders of the nervous system such as impairment of vision and deafness (Morrison, 2004).

The communist regime fell apart before social and educational services and support systems were implemented to accommodate the growing number of children in the orphanage system. Consequently, Romania is now experiencing high juvenile delinquency rates because former residents of the orphanages have become street children involved in prostitution, theft, and substance abuse. The number of orphans, as well as rates of HIV, are the results of the political and demographic mismanagement of the Ceausescu regime. In fact, by 1996 Romania had the highest number of HIV-positive children in Europe. The communist regime delegitimized children and created a category of unwanted human beings, infringing their capacities to reach their fullest potential. It regarded disabled people as an economic drawback and not productive to the society – particularly to the great labor force Ceausescu was trying to create. “As subtle as an invisible army, Ceausescu’s regime put women’s bodies under siege and captured their children” (Morrison, 2004, p. 179).

Legislative and Institutional Frameworks

After the 1989 revolution that marked the fall of the communist regime, Romania started paying attention to human rights issues and adopting legislation aimed at protecting basic rights. Romania signed and ratified the UN Convention on the Rights of the Child in 1990 by law 18/1190. The rights stipulated in the Convention concern all children, including the disabled. Articles 23, 24, and 25 specifically target children with disabilities and stipulate obligations regarding adapted special and medical care and institutional and family placement. Additionally, in 1990 Romania also signed and ratified the UN Convention against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment, and its Optional Protocol was signed in 2002. In 1994, Romania also ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (UNICEF Romania, 2006). With respect to the rights of persons with disabilities, Romania signed the UN Convention on the Rights of Persons with Disabilities in 2007 and finally ratified it in November 2010 by law no. 221/2010. However, the Optional Protocol to the CRPD was not ratified. The Protocol would have enabled victims of alleged EU non-compliance to take their complaint to the UN Committee on the Rights of Persons with Disabilities (Institute for Public Policy, 2011).

At the national level, the Romanian government adopted a series of normative documents for the protection and monitoring of children's rights, particularly the rights of children with disabilities. Some of these laws include: law 272/2004 on the protection and promotion of the rights of child; government decision 1437/2004 on organization and operation of the child protection commission; order no. 12709/2002 and 18/2003 on the criteria and methodology used to establish handicap levels for children and apply specialized care methods. Additionally, the government adopted several laws regarding mental health and protection of persons with disabilities: law no 487/2002 on mental health and protection of people with mental disorders; law no. 95/2006 on healthcare reform; government emergency ordinance 102/1999 on specialized care and employment of persons with disabilities;

government decision 862/2006 on organization and operation of the Ministry of Public Health; Public Health Ministerial order no. 372/2006 on implementation standards of law no. 478/2002; and Public Health Ministerial order no. 373/2005 on the establishment and functioning of the National Center for Mental Health within the National Institute for Health Research and Development in Bucharest (UNICEF Romania, 2006). One of the main motivations for adopting such legislation was national interest, since Romania was looking forward to attain EU membership. On the other hand, these steps also showed that the Romanian government became more aware of the country's pressing issues and was willing to adopt mechanisms to address rights abuses.

Laws related to the rights and care of children and young people with disabilities are carried out by institutions working at both state and local levels. At the central state level, the National Authority for Children's Rights Protection has overall jurisdiction to monitor and respect principles stated in the UN Convention on the Rights of Child and Law no. 272/2004. The Authority conducts periodic evaluations of services and monitors programs, projects, policies of public authorities, and private organizations that implement children's rights. Other institutions include: the National Authority for Persons with Handicap, which reports to the Ministry of Labor, Social Solidarity and Family and manages the central protection and promotion of persons with disability; the Ministry of Public Health; the special commission of the Ministry of Public Health the focuses on psychiatric and pediatric psychiatric care; the Ministry of Education; and The People Ombudsman, which is an extrajudicial body that specializes in defending and monitoring individual cases regarding the rights of children, family, young people, retired people, and persons with disability (UNICEF Romania, 2006).

At the local level, the County Council provides and finances welfare and child protection services with the president overseeing the General Departments for Social Care and Child Protection (GDSCCP). GDSCCPs are state-run institutions based in each city district that have overall child-care responsibilities, especially concerning children with disabilities. The Child Protection Commission is supposed to promote

the rights of the child in everything it does, such as: taking specialized care measures for children without family, establishing the level of handicap and providing educational access, and monitoring measures-related decisions. Other institutions specializing in child protection at the local level are the Social Care Public Services, the Guardianship Authority, and the County Public Health Authority (UNICEF Romania, 2006).

Social Perceptions of Disability

Social perceptions of disability remain problematic in Romania. According to a 2010 research study, the general perspectives of Romanian people on disability were negative (although social workers who regularly interacted with persons with disabilities had more positive perceptions). Negative perceptions ran across Romanian society in the study, showing no significant difference based on profession or age of the participants. Only 3 percent of respondents expressed a positive view toward people with disabilities, while 97 percent showed negative attitudes. Approximately 89 percent of the participants said they would commit suicide if they suffered from a disability; 65 percent admitted that Romanians mock people with disabilities; 86 percent said that Romanians treat disabled persons “badly”; and only 3 percent proposed hypothetical measures to ensure protection and increase the quality of life for persons with disability. Almost 100 percent of the participants acknowledged that the attitudes towards persons with disability are negative, and that people rarely show interest in the issue except to sometimes contribute to charity – and such giving was regularly associated with building a positive image for the giver, not for actually helping those with disabilities. Most people believed that Romania will take a very long time to change, especially since the economic situation is unstable and the main obstacle in integrating persons with disability lies in the old-fashioned, communist mentality of everyday people (Stamatin, 2010).

A common view in Romania is that people with disabilities lack capacities on all levels. For example, if a person suffers from a physical disability, it is assumed that he or she also has mental or emotional incapacities. If the person suffers from a cognitive disability, it is assumed that the person's physical integrity is also affected, or that he/she also suffers from emotional instability. The general belief among Romanians is that being born with a disability is more easily endured than acquiring a disability after suffering an accident or illness. This is based on the assumption that if someone grows up facing prejudices, stereotypes and discrimination daily, the person becomes less vulnerable to the negative attitudes of society. On the other hand, there is the belief that if one acquires a disability later in life, the person will adapt with great difficulty to the new condition. Most respondents in the 2010 study believed that if they were to acquire a disability, they would consider suicide because they did not believe they could face their new challenges. These admissions reflect negative social attitudes towards people with disabilities in Romania (Stamatin, 2010).

These negative social perceptions and widespread lack of knowledge related to disability are influenced by former communist policies and attitudes, as well as current reinforcement. Before the 1990s, most Romanians only witnessed disability in interactions with street beggars. The phenomenon of begging, especially among children with disabilities and "street children," reached alarming levels in Romania due to harsh economic factors. Even today, many beggars – even those who are pretending to have disabilities – exhibit disabilities to receive money from people passing on the street. The media is another major factor that reinforces the negative social perceptions on disability; many television shows portray persons with disabilities in desperate situations, thus inducing subliminal messages among the population. Some of the messages appeal to the emotional state of the viewer and call for charity, pity, and compassion towards disabled people. This ultimately has a negative impact because it negates the idea that people with disabilities have capacities and should be treated with respect. As long as the cases selected by producers continue to be presented from a "humanitarian" perspective, Romanians

will keep considering people with disabilities as victims in need of financial aid – much like street beggars – and being dependent on others (Stamatin, 2010).

Religion and religious beliefs also contribute to this negative perception. After the fall of the Ceausescu regime, state support for religion was enthusiastically welcomed by a large majority of the population. After many decades of religious repression, the turn towards renewed religious vitality “was radical but somewhat expected” (Popoviciu et al., 2013, p.2). State-supported religion means that central or local governments pay for church personnel and that religion is part of public school curriculum. Orthodox churches are built using both public money and private donations, and public displays of religious symbols are present in many state institutions. The Church’s responses to suffering and disease are diverse, but the Orthodox Christian usually views them as consequences of sin – first Adam’s and then one’s own. The Orthodox Church teaches that humanity sinned by misusing its freedom; therefore, the appropriate relationship with God, fellow human beings, the self, and the rest of the created world was violated (Popoviciu et al., 2013).

Current Human Rights Abuses

The fall of communism in 1989 revealed the shocking conditions in which many children lived in the country’s orphanages: young children in straightjackets, groups of mentally disturbed adolescents spending their days in bleak, silent rooms, babies nearly starving to death (ABC News, 2000). Today, these conditions are far from over; according to a Mental Disability Rights International (MDRI) report, children are still detained in adult facilities in conditions that are dangerous and life threatening. In February 2006, MDRI found 65 infants – with and without disabilities – in an institution for children in the city of Timisoara. Children were tied to cribs, wrapped head to toe in sheets used as full-body restraints, with open wounds and bed sores all over their bodies. Many were malnourished and near death; MDRI found teenagers so thin that they looked like they were three or four years old. Their

skinny arms and legs were twisted into contorted positions from disuse and atrophy; their eyes were deeply sunken into their skulls, and they stared blankly while ribs and other bones jutted out from their skin. Staffing was so low that children never left their cribs, making them psychologically and developmentally disabled as a result. Staff informed MDRI investigators that some children who could have easily been adopted were stuck in the facility only because they lacked identity papers (Ahern et al., 2006, p. ii).

Recent televised news coverage also exposed human rights abuses in Romania. In May 2013, a Romanian television network broadcasted footage filmed in May 2013 and in December 2011/January 2012, documenting the abuse and neglect of 57 young adults with disabilities. The young people were forced to live in a government-run social care institution in one of the districts in Bucharest. The footage showed residents being tied to their beds, and a former employee was recorded saying that residents were kept in the dark all day with window blinds shut, physically and verbally abused by staff, and forced by nurses. Two female residents had recently died of pneumonia in the institution after allegedly being denied emergency medical care, and the Romanian government had prohibited outsiders from entering the institution. In response to the TV footage, the Director of the General Directorate of Social Work and Child Protection of Local Council of District 2 issued a May 27 statement accusing human rights NGOs of “damaging the reputation of Romania’s institutions.” In the statement he announced that he would “deprive the residents of their legal capacity by placing them under state guardianship” (Mental Disability Advocacy Center, 2013).

These events further reinforce the fact that, despite international and domestic laws, there is little enforcement of human rights norms related to the care, rehabilitation, and assistance of persons with disabilities – especially children. Small children are placed in institutions with teenagers and young adults, as well as untrained staff, endangering mental and emotional development. There are no rehabilitation plans currently in place for Romania’s institutionalized children and there are no measures

taken to protect disabled children from violence and abuse in specialized care institutions. According to a UNICEF Romania (2006) study, institutionalized children are at risk of physical violence (abusive physical punishment, confinement), sexual abuse and exploitation, psychological threat (verbal abuse, bullying, harassment, humiliation), infringement of one's integrity (denied access to education, therapeutic and behavioral programs), financial abuse (seizure of goods), and neglect, abandonment and privation both physical and emotional. To make matters worse, institutionalized children who turn 18 are no longer under the care of childcare authorities, leaving them vulnerable to homelessness and crime among street kids (UNICEF Romania, 2006).

Recommendations and Conclusions

There are several possible recommendations that could improve the lives of children and young adults with disabilities and contribute to their effective integration in Romanian society. The government must cooperate with NGOs to provide sustained support, through technical and financial assistance, in order to develop integrated community services for disabled children. Additionally, it needs to develop training and education programs for staff working in specialized institutions, as well as take legal measures against those committing abuses. The government should support the organization and implementation of educational and media campaigns, and training sessions meant to alter discriminatory attitudes towards disability. Police and judicial staff need to go through training programs on how to take testimonies from people with various disabilities and investigate abuses thoroughly. Other recommendations include monitoring the application of legislation regarding child abuse, developing and putting in practice measures to prevent abusive treatment and arbitrary detention of children, and creating alternatives to institutionalization of youth leaving childcare (UNICEF Romania, 2006).

Ceausescu's legacy has left a scarred society that still discriminates against people with disabilities, stripping them of their human dignity and rightful place in Romanian society. Religion, communism, and harsh economic factors have all contributed to the discriminatory and negative attitudes regarding disability. Romania reformed its national legislation and has tried to implement several international laws regarding disability rights, due in part to its newfound membership to the European Union. Despite these efforts, however, stigma and human rights challenges persist. These challenges are the byproducts of an ineffective law enforcement mechanism, affected by the discriminatory mentality of Romanian society. Less bureaucracy and more educational and training programs could change these views, thereby shifting perceptions and awareness to meet the needs of persons with disabilities. The real solutions for promoting effective law enforcement lie in the implementation of these programs among social workers and within other public institutions.

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