Chapter 10
The Limits of Confidentiality and of the Right to Privacy: A Bioethical Approach of Social Work

Elena Unguru
University of Oradea, Romania

ABSTRACT

Social work acts at within the public and private fields. From an ethical point of view, the first one is governed by the society’s right to information and the social worker’s obligation for transparency. The second one is the beneficiary’s right to private life and the social worker’s obligation of confidentiality. The two sets of competing rights and obligations define the dual nature of social work to act both in the public sphere, as well as the private one. Starting from the case of Tarasoff, the American instances stated that the obligation of the therapist to protect the possible victims is a priority to that of confidentiality. The current chapter follows the meaning of this obligation in the practice of social work, as well as the clarification of the importance and limits of applicability of the principle of confidentiality in social work.

INTRODUCTION

The bioethical perspective on social work focuses on the way in which the process of assistance is interfered by a series of particular ethical principles, their reconstruction starting from the particularities of the social intervention. A series of values social work is based on, such as equity, justice, autonomy are found as such in bioethics, since there is a clear connection between social work and the welfare professions in the area of health care. The particularities of the field of social work makes certain
central elements in clinical ethics become peripheral, or even questionable in the
ethics of social work. The chapter below aims to discuss the limits of applying
values: the right to private life, trust and confidentiality in the welfarist area. The
framework of the discussion considers the inherent limits of confidentiality generated
by the controversial Tarasoff case.

BACKGROUND: THEORETICAL PERSPECTIVES ON THE
RIGHT TO PRIVATE LIFE, CONFIDENTIALITY AND TRUST

The three values, right to private life, trust and confidentiality are a working triangle
in the ethics of helping professions. By customizing the applicability of the values,
we can shape a bioethical analysis of social work as social practice.

CONFIDENTIALITY IN SOCIAL WORK

Confidentiality is usually seen as a key principle in the relationship between the social
worker and the beneficiary (Collingridge, Miller & Bowles, 2008), since it leads
to the construction of a relationship of trust between the two parts. Biestek (1957)
considers confidentiality to be an essential principle for any helping profession,
including social work. Confidentiality was defined by him as keeping the secret
of information regarding the client, that the social worker has obtained during
the professional meetings with beneficiaries. Confidentiality was understood as
a decisive element in the development of the beneficiary social worker, based on
trust (Frunza, 2011).

Confidentiality refers to the information obtained in privileged conversations,
and generally refers to the communication that emerges within the counselling
dimensions of social practice (Lasky & Riva, 2006). In social work, many of the
services are based precisely on communicating the information on the beneficiary
(see the situation of social benefits, of the advocacy in favour of the beneficiary or
the group of beneficiaries, the need for positive discrimination of different categories
of beneficiaries, etc.). In this situation, through the beneficiary's agreement to
participate in programs of social intervention, we presume the agreement to disclose
information that are strictly necessary for the success of the intervention (Frunza,
2012). It is preferable that on the onset of the intervention, there is a contract of
providing social services that would expressly contain informed consent from the
beneficiary regarding the intervention and its limitations, implicitly the limitations
of confidentiality and the type of information that will be disclosed for developing
the intervention.
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