

Participation of Children and Youth in the Care Planning Process – German experiences

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In our presentation we will highlight one of the central rights of the United Nations Convention on the Rights of the Child, which is the right to participate in each and everything that concerns oneself. We will show in detail the regulations as well as the practice of securing this right in the care planning process.

The national legal basis for this right is the Child and Youth Services Act (KJHG). In this act the whole range of child and youth services is regulated; it addresses provisions of nursery care, youth work, socio-educational provisions, how to shape socio-educational services, their planning, responsibilities, finances and the co-operation between statutory service agencies and NGOs, as well as the participation of the addressees. As we focus on the socio-educational provisions, there is a special aspect that we would like to highlight when talking about children's rights: first of all, this group of services is mainly intended for those parents whose educational competences need to be strengthened.

Over the course of several years we have gathered empirical data on the participation of addressees using socio-educational services, hence also the care planning process, which is a necessary part of finding and providing an appropriate socio-educational service.

The Child and Youth Services Act is enforced since 1990; it contains a good number of regulations that specify options of addressee participation in the decision-making of the statutory youth offices, demand or emphasize it as good professional practice. Specifically during the care planning process the rights for addressees' participation are safeguarded: an insufficient participation can constitute the rare case in which a judge could even overrule the care planning process decision. Insofar, at first sight, it appears that the right to participate, as demanded and guaranteed by the UN Convention on the Rights of the Child, is realised on the legislative level regarding German child and youth services. However, there are limitations. The participation of children and youth is restricted inasmuch as the legal basis explicitly considers an addressee's individual competences as the yardstick against which the scope of possible participation is determined. The law specifies:

„In accordance with personal maturity and development children and young persons are to be involved in all decisions of statutory youth services concerning them.“ § 8 (1) KJHG.

This regulation resembles article 12 of the UN Convention on the Rights of the Child. However, in order to actually put the right to participate into practice, we deem it to be more sensible if there

would be more emphasis on the ‘how to’ and not the ‘whether or not’ of participation. The mentioning of children’s competences in the wording of this law should not be understood as a limitation of participation rights, but must be considered an appeal to develop appropriate forms of participation. We will get back to this aspect later.

Also, when looking at legal regulations of other European countries it reveals in which areas German regulations need adjustments. In the Netherlands both a complaint management system as well as co-determination committees on the level of child and youth service institutions are legally anchored (cf. van Santen 2006). In contrast, in the German Child and Youth Services Act such provisions are not regulated. The lack of a compulsory system of dealing with complaints weakens the position of the children considerably, because in socio-educational services they are confronted with the undertakings of institutions. A number of these regulations in socio-educational services; express the operating logic of institutions. In the relationship between two persons regulations would be handled more flexibly, more appropriate to the situation at hand. To ensure that children – or more generally speaking addressees of institutional services – carry out their participation rights, institutionally secured ways are necessary to express criticism and requests for changes. It shouldn’t be that criticism is not articulated, because children fear that their directly expressed criticism may incur negative consequences for them. Such a procedure of dealing with complaints or criticism should also be established in the German care planning process. However, it’s still a long way towards structurally ensuring participation rights in the care planning process considering, for example, children and adults are often refused to take along a trusted third party for support in the care planning process. Also, the wish to develop the care plan with another staff member, because a trusting relationship between addressee and staff member couldn’t be established, is often rejected as being unreasonable.

So, we can conclude a first result: the participation of children is ensured through the German Child and Youth Services Act, but especially considering institutions there is room for improvement, for example, for provisions like a legally safeguarded co-determination committee as well as a complaint management system.

The legal regulations are one of the central prerequisites for putting participation into practice. But how can it be realised in daily practice? What does its implementation mean for the complex negotiation situation of the care planning process, or in the daily work of a residential care facility?

The varying capabilities of the different addressees pose one of the challenges. The younger the children, the more difficult it is for the youth service staff member to find out about the needs and expectations of the child. In addition, the situations are often very complex. Conflicts between

parents and children, differing assessments of the situation, reservations against the youth office, hopes for swift help: all these mean enormous expectations for the professional youth service staff to support the participation of children and youth. All these aspects express the particular challenges that the professional youth service personnel faces. They are not an excuse to limit participation opportunities for children and youth. Participation should not be a question of age and whether or not to have children and youth participate, but rather a question of 'how to' have them participate. Several aspects have shown to be decisive for successful participation:

One aspect is to inform children and youth – which sounds easier than it actually is. It requires a good understanding on part of the professionals as to what the level of comprehension of those children and youth is. One-time explanations about their rights and options for help often do not suffice. For example, for children and youth it is difficult to understand how decisions are made in an institution, if the decision-making procedures haven't been explained to them in an understandable way. Children and youth often do not see a starting-point to bring forward their wishes and concerns and thus do not demand participation: professional staff, in turn, interpret this behaviour not as helplessness but as lack of interest. Therefore, it is – amongst other things – important that youth offices provide special information material for families, parents as well as children and youth that is appropriate language-wise and understandable to the respective group of addressees. So far, only half of the German youth offices make such information material available to parents. This is even less so the case for children and youth. The results of our surveys also indicate that children and youth service professionals could be more aware about passing along necessary information in a way that it is understandable to each addressee.

Furthermore, a relationship of trust between addressee and children and youth service staff is decisive. Especially in the area of socio-educational provisions the relationship with the professional is a critical prerequisite for the addressee to feel that he or she can influence what's happening in the care planning process. This includes the professional staff's willingness to include the addressee's perspective, consider his or her ideas for changes, to inform him or her about the process's progress, etc. Here it also often becomes apparent that the professionals lack the proficiency to shape situations in a way that children can participate.

One could list a great number of individual requirements that would contribute to the participation of children and youth. However, these remain of limited effect as long as participation is not supported on all levels. That means that not only the youth service staff would have to acknowledge their professional role in supporting participation, but also the environment has to be

conducive to participation. For example, it is hard to imagine that participation in the care planning process would be fulfilled when professionals have hardly any latitude in decision-making. Because then they essentially have neither a mandate to negotiate, nor the possibility to consider the wishes and concerns of their addressees. In such a case it is hard to imagine that those same staff members would encourage children and youth to actively engage themselves, while perceiving their own autonomy as confined.

It is not a surprising result of the survey that participation of children and youth does have a chance if the pursuit to participate on all levels of an institution is an important part of an organization's culture, and if possibilities are sought to anchor participation in all parts of the organisation. The significance of an organization's culture can be demonstrated better when taking residential care as an example rather than the care planning process. It needs a culture of participation to provide the necessary atmosphere for children and youth to feel understood. Such an atmosphere is created daily when participation is not reduced to just single events, e.g., the common assembly, but comes to life in small, every-day things like a personal conversation or the joint preparation and conduct of a group meeting. Of course, this needs to be reflected also in the care institution's organizational structure, recognizable from inside as well as outside. Having one kitchen for several groups is an example of how structures can hinder participation. Such a setting makes it very difficult for the individual group and individual children to realise their preferences regarding the menu or mealtimes. This often spurs conflicts. The children mostly learn from such conflicts to subordinate themselves, and that expressing wishes and interests is bothersome.

Even though these aspects of an all-encompassing participation culture seem to require a lot, the practical experiences also show that even small steps are worthwhile for inducing change processes in one's own institution.

Touching the last aspect of our presentation we will talk about a special obstacle on the way to more participation, which is the professional identity of youth service staff. Because in a very simplified way the question is how can experts of youth services work justify their expert role when in the course of a shared decision-making the addressee has large, if not the largest, influence on the final result? Or to put it more abstract: in a setting of consistent addressee participation the question of professional identity is a new one. This is not a question limited to the field of social work. The immense difficulties of arriving at more participation – which can also be observed in the educational and health care sectors – are partly due to the concept of professional identities that are linked to a traditional expert model. Two examples from different sectors illustrate the relationship between professional identity and the willingness to seriously engage in addressee

participation:

School: Participation at schools often fails when children want to take part in the conduct of classroom lessons and the decision when to learn what. For many teachers it seems unthinkable that children have influence on the way contents are learned, because their professionalism consists of exactly this: structuring and preparing the contents so that children can learn optimally.

Health care system: Physicians who invested many years in their education find patients who question their medical advice or even diagnosis as bothersome. After all, it is the doctors that have this kind of ‚secret knowledge‘. Plus, they exert certain rituals to reinforce their role as experts.

With the empirical data of our study we can show that many professional children and youth service employees define their expert role such that they know what’s good for the families. In their opinion asking the parents and children for their own strategies for improving their life situation is unnecessary, because the family members’ strategies have obviously failed so far. For example, an employee of a youth office said in an interview that she doesn’t understand why the care planning process would have to be so extensive since she knows after a few minutes what kind of help the family or the child, respectively, will need. After all she’s got many years of experience.

One of our hypotheses is that the lower the public image of a professional group is the stronger it will defend their expert status. What ‘being an expert’ means resonates with the prevalent public image. This incurs that the professional identity is based on the presumption of knowing what’s good for others and not – which would be much better to enhance participation – to help the addressees finding out for themselves what’s best for them. The professional identity stems from the conviction and experience that one’s own intervention contributes substantially to the improvement of the life situation. This is not supportive to participation.

It seems there is still a long way to go until the concept of empowerment will be experienced as identity-building to children and youth service professionals. Until then demanding more participation from these professionals will continue to be perceived as a threat to their professional identity.

At this point it becomes apparent again, how important it is not only to demand and to urge the adoption of the UN Convention of the Rights of the Child into national law, but also to adapt the training of children and youth service professionals accordingly.

Recapitulating we can state: the legal framework for wide-spread participation of children – despite certain aspects of improvement – does exist. But a culture of participation is still missing in children and youth service institutions, the methodological competences of children and youth

service professionals of involving children is still only poorly developed. Furthermore, societal expectation as well as self-determination of experts makes it harder to realise participation rights in the daily practice of the care planning process and the socio-educational children and youth services.

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