

“CHILDREN'S RIGHTS IN PANDEMIC TIMES?” – GERMANY'S HANDLING OF CHILDREN'S RIGHTS DURING THE PANDEMIC PUT TO THE TEST

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Abstract. Children are the age group least at risk of getting infected with COVID-19. However, children are (or have been) the hardest hit by almost all Corona public health measures. This article examines how in Germany, since the beginning of the Corona pandemic, there have been serious human rights violations concerning children and young people in areas such as, elementary protection, care and participation rights. Furthermore, various (omitted) government measures have contributed to the increase in child poverty.

Keywords: children; youth; children's rights; child poverty; children's policy; Corona pandemic; government action; participation; Germany; social work

*“In everything we were never priority one and we still aren't today”,
says student representative Colin Haubrich
Lenhardt, 2022*

Introduction

Looking back on almost three years of the global COVID-19 pandemic, research has shown that children and adolescents were the least vulnerable of all age groups to COVID-19, but were hit hardest by almost all Corona measures. The pandemic and the way it has been dealt with pose new and old challenges to society and the state, but also to social work, especially with regard to children's rights and the protection of children. Since the beginning of the Corona pandemic in Germany, fundamental protection, care and participation rights of children and young people have been violated by the public health measures. In addition, various (omitted) government measures have contributed to the increase in child poverty.

With regard to the measures taken by the German federal government to contain the Covid 19 pandemic numerous politicians, journalists and scientists have been conveying a narrative for almost three years that corresponds to a "dogma of no alternatives". This led to various violations of children's rights.

The following sections will demonstrate that the approach to countering the pandemic was, and has been, by no means without alternatives. Taking into account current studies and public statements, it will be discussed that the government's child policy was not characterized and underpinned by children's rights and child justice, but by instrumentalization and capital conformism. For example, the student Colin Haubrich said during a news interview: "No matter whether air filters, free FFP2 masks or Corona tests: School has always been a place where we said: 'Come on, we can put these things back'" (Lenhardt 2022).

Against the background that the government's treatment of children and adolescents during the pandemic, especially if one considers the context of the biopsychosocial framework, endangered the well-being of children. Furthermore, the federal government's measures were in violation of the UN Convention on the Rights of the Child as well as of the German Act VIII on Child and Youth Welfare. This poses several challenges for social workers, as they might have become complicit in the violation of children's rights in their social services provisions in the context of public health measures.

Children during the pandemic

Day-care centres, schools and child and youth welfare facilities, sports and leisure facilities were the first institutions to be closed in the course of the pandemic. This took place on March 2020 in wake of the federal German government evoking the Corona emergency act. Schools and daycare centres, such as kindergartens, were among those facilities to reopen last. This led to massive disruptions in children's lives, as measures not only restricted the right to education (Articles 28 and 29: right to education) and opportunities for play and leisure (Article 31 UNCRC: right to rest and leisure, play and recreation), but also distanced them from friends, relatives and other people they could trust. In addition, there were fears of their own infection and illness as well as the fear of infecting others. Children and adolescents were also burdened by the fear that relatives could fall ill and even die.

As part of the government's measures to contain the pandemic, many families suffered considerable economic losses. Due to the unforeseeable and foreseeable development of the pandemic and its consequences, great uncertainty as well as fears for the future and existence spread in families, which continues to have an effect on children and young people. Due to existential fears and the isolation of families, as well as additional burdens and excessive demands, for example through homeschooling, as a result of the corona measures, family tensions and conflicts increasingly arose, as well as a significant increase in domestic violence.

While multiple stressors for children and families increased throughout the pandemic which led to negative outcomes in their social determinants of health, access to trusted adults psychosocial support services was considerably restricted

or non-existent, and thus the right to protection (Article 19 UNCRC: Right to Protection) was only inadequately guaranteed.

The measures to contain the pandemic did not take into consideration the concerns and “best interests” of children. According to the UN Convention on the Rights of the Child, the government should have prioritized (Article 12 UNCRC) to hear and consult children, which should have been taken into account seriously in the government’s decision making processes. However, children were not treated as legal subjects, but rather as objects!

Would there have been alternatives in the government's actions?

As already mentioned, since the beginning of the pandemic, many politicians, journalists and scientists have conveyed a narrative of “no alternatives” to the measures taken by the federal government. In contrast to this, virologist Christian Drosten, who also advises the federal government, said in a news outlet: “We, i.e. the scientists involved, have not said at all that the schools must be closed. Other claims are false. (...) That must have been the discussion dynamic of this Minister Presidents' Conference after we had left the room. Who pushed that, I don't know. I was not there. I can only say clearly: this was a purely political decision, it was not recommended by the scientific community” (Drosten, 2021). Drosten goes on to say: “One could also have said that the schools would remain open, but we would enforce really tough home office criteria in the service sector. We take the economy to task, not the schools” (Drosten 2021).

These statements by the chief virologist of the Berlin Charité Christian Drosten impressively suggest that the Corona policy of the federal government did not take into account the concerns and rights of children as well as the effects of the adopted Corona measures for children, but was supposedly guided by the interests of the economy and capital conformism.

Findings on the biopsychosocial consequences of Corona and pandemic policy in the light of the federal government's policy on children.

Studies showed early on the negative correlations between the psychosocial consequences of Corona for children and the government's pandemic policy. For example, one study by the Federal Institute for Population Research illustrates that “as a result of the pandemic and the associated school closures, the health-related quality of life deteriorates considerably for 1.7 million 11- to 17-year-olds” (Bujard et al. 2021, p. 72). Furthermore, a recent report by the Robert Koch Institute, which summarizes numerous results from studies conducted last year, describes that the “frequency of anxiety symptoms among children and adolescents [...] increased from 15 to 24 % after the first lockdown last spring. More than 40 % of eleven to 17 year olds have the impression of a reduced quality of life. Mental health problems among 7 to 17 year olds have increased from 18 % to about 31 %” (Vorgimmler 2021, p. 2).

Peter Hanack writes in an article in the *Frankfurter Rundschau* on 6 January 2022: “Be it due to closed day-care centres or schools, the restrictions in youth work, in sports, in almost all leisure activities. Studies show an increase in psychosocial problems and physical inactivity with a simultaneous increase in digital communication. Stress, loneliness and fear of the future are some of the consequences. There is already talk of the ‘slowed down’ generation” (Kluntz 2022, p.111). These studies underscore the negative effect of the German Corona policies on the social determinants of health for children, they also, while less explicitly, demonstrate how children's human rights have been violated, such as the right to development, the right to health, the right to education, the right to leisure and play, and the right to social participation.

Almost at the same time as Hanack's article, Federal Health Minister Karl Lauterbach doubted that there could be a direct link between the lockdown and mental health consequences, especially among children and adolescents (Kluntz 2022, p.112). Thus, in the ARD programme “Hart aber fair” on 10 January 2022, Lauterbach rejected the accusation that the internationally comparatively strict measures of the German corona policy were responsible for the increase in mental health issues and illnesses in Germany, especially among children, and denied the findings of numerous scientific studies that prove a negative correlation. Lauterbach said: “You have to be careful there, from my point of view the studies do not give that. [...] I believe that a large part of these problems is simply due to the terrible pandemic, but that this cannot simply be blamed on the lockdown that we practised, which was necessary at the time.” (Kluntz 2022, p. 111)

Even though a link between the Corona measures and the negative consequences for children and adolescents in particular has been repeatedly rejected by the government, the report of the inter-ministerial working group on the health impact of Corona on children and adolescents in 2021 makes it clear that “children and adolescents [...] have a low risk of severe COVID-19 illness and resulting hospital admissions. However, the social restrictions of the pandemic place a particularly heavy burden on young people – especially those who already grew up in difficult conditions before the pandemic”¹. This report underscores that the federal government was aware of the negative effects of the pandemic and, importantly, its pandemic measures. However, it should also be noted that only effects on children are mentioned, but not that there are also blatant violations of children's rights for which the government is partly responsible.

On 02 November 2022, Federal Minister for Family Affairs Lisa Paus stated in a statement: “Children have already suffered considerably in the pandemic – often less from the virus itself than from the consequences of the containment measures. I am particularly shocked that socially disadvantaged children and adolescents, of all people, are particularly hard hit and that so many children and adolescents show psychological distress”². The Federal Minister of Health, Karl Lauterbach,

also admits with regard to the results of the Corona-KiTa study, “that the day-care centres were not the drivers of the pandemic. Rather, the infection rates among children under five years of age were lower than those of school children and significantly lower than the incidence rates in private households. “Thus, one must say – according to the knowledge of today – that the day-care centre closures would not have been necessary at the beginning of the pandemic”³. Paus goes on to say that the best interests of the child must be given top priority in the future, as this is about the developmental opportunities of children and young people and about equality of opportunity in our country. The fact that the primary consideration of the best interests of the child (Art. 3 UN CRC) and the right to life and development (Art. 6 UN CRC) are children's rights and have thus been valid in Germany for 30 years remains unmentioned!

Interim conclusion

It should be noted that social restrictions may have been necessary for containment, but it should not be denied that the social restrictions for children and young people were not imposed by the pandemic itself, but were decided in a distinctive manner by the government, the Minister President's Conference and the state parliaments. The concerns and rights of children were neither taken into account, nor the aggravation of the living situation for already disadvantaged children and families, resulting in precarious living conditions. The Corona measures and the government's failure to take children's rights into account also violated Article 2 of the UNCRC, the right of the child to live without discrimination, and Articles 26 and 27 of the UNCRC, the right to social security and an adequate standard of living. Children's rights have been valid law in Germany for 30 years and are still largely unknown both in society and among professionals in the social services sector and child-related professions.

State action within the framework of the Corona policy makes it clear that children are still not perceived and respected in society as absolute legal subjects, but are still dependent on the well-being and will of adults in a world geared by adults to their needs. On the occasion of the 20th anniversary of the UN Convention on the Rights of the Child, Lothar Krappmann said: “Many voices, especially from the governing parties at the time, said that this is a convention for the developing countries. We want to be part of it, even though international cooperation is urged on this point, but in our country, and this is also stated in the memorandum that the government produced for the Bundestag at the time, these standards apply to us and we have fulfilled them. And it took some time until it became clear that there are not only individual cases in which children are abused or exploited, but that there is a problem in society to respect children as young people in society, with their rights” (Leitner 2009). Unfortunately, this statement is still as relevant today as it was 33 years ago.

Using human rights as a reference and analytical framework for social work, it has become clear thus far that the federal government's Corona policy contributed largely to the "utilization-oriented objectification of children, which does not ask about the subjective needs of children and young people – even beyond daycare centres and schools - and thus leaves them unconsidered, especially those interests of socially disadvantaged and vulnerable children. Furthermore, the failure of a federally obligatory priority child welfare check is to be criticised, as well as the denial of children's rights such as participation, education and health, and the intensification of poverty risks without compensation. Surprisingly, even government documents admit to these minimal conclusions at least indirectly themselves" (Klundert 2022, p. 114).

One has to ask what this says about the character of a society that, 33 years after the adoption of the UN Convention on the Rights of the Child, still does not perceive and respect its children as legal subjects, but as objects of governance, and parental and state care.

Sweeping in front of one's own door

Social work that adhere to being a 'human rights-based profession' is committed to guaranteeing and protecting human rights, including children's rights. The UN understands social work as a human rights profession because, on the one hand, social workers are in contact with vulnerable groups and persons while, on the other hand, they are in a position and at risk of violating the human rights of their addressees in the course of their professional activities, interventions, and services – UN 1997, para. 39. In other words, social workers have the task to empowering people, groups, and communities, and, on the other hand, to practice in ever changing legal and societal structures.

In his book "The Right of the Child to Respect", Janusz Korczak posed the justified question: "How will the child be able to live tomorrow if we do not enable him to live a conscious, responsible life today?" (Korczak 2002, p. 44). In the course of the pandemic, children became objects of state action. They experienced themselves as "powerless" and at the mercy of the will and welfare of adults. What are they to learn from these experiences for a conscious, responsible life tomorrow? Kate D. Wiggin stated soberly in 1892: "The child is the creature of circumstances" (Wiggin 1892, p. 5). In the context of the Corona pandemic, which brought many long-standing structural problems relentlessly into the public eye and intensified them, children experienced themselves as the powerless objects of both social circumstances and state power. They experienced that their needs and rights were not respected and guaranteed. I ask again: What does this say about the character of a society?

Based on the understanding that social work is committed to human and children's rights and is both a product and a driver of social processes, we need to

ask how social work lived up to its claim during the pandemic? Where was social work when children and young people were struggling to claim their right to be heard and to have a say in the Corona measures and Corona education policy? Where was social work's voice within larger social and political discourses?

“We never really followed up on this whole time,” student spokesperson Haubrich looks back. “What can we actively do now to improve mental health, for example? That the pressure to perform and take grades in schools is no longer so high?” (Lenhardt 2022).

The experiences of the Corona pandemic and the relentless exposure of societal grievances and social inequality offer an excellent opportunity to critically reflect on one's own understanding of children's human rights and the implications of children's rights for professional social work practice, both in direct social work and structural social work, and to utilize children's rights to assess, evaluate and implement social work interventions. In order to develop a children's rights practice, pioneers such as Eglantyne Jebb, Kate D. Wiggin and Janusz Korczak as well as their pedagogical work can provide practical impulses and food for thought. Human and children's rights are both a vision and a standard – a standard that is already valid today, which must be implemented and fought for every day, both politically and in social work, due its fragility in pandemic times.

NOTES

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