

***Incongruous demands – inside child protection and  
education***

**Miriam K. Damrow**

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## **Incongruous demands – inside child protection and education**

As an institution (and organization) school has been entrusted by the law with a remarkably preventive function that possibly collides with the educational task: How much protection can and must a school provide and what is the relation between the sphere of protection and the sphere of education sphere like, if school as an institution school is inherently characterized by antinomies like closeness and distance, extension and reduction (and several others)? This appears to be relevant especially against the background of the sexuality of children, a particularly sensitive issue: How much sexuality may children have at school, how does the (mostly drafted as being non-sexual) institution school handle the occurrence and reality of sexuality? How can child protection requirements be adequately guaranteed while processes of sexual education of children are taking place at school?

### **Introduction**

Since the law on Federal child protection went into effect in 2012, the requirements on pedagogical institutions have intensified in a paradoxical way. For many institutions (preschool, school and many other non-formal educational institutions and organisations) the German Federal Child Protection Act has ascribed more preventive responsibility to them. However, several tensions arise which will be discussed in this article.

### **Education and antinomies**

Pedagogical institutions follow the functional logics in which they are embedded, but they also produce and reproduce those logics. Functional logics might be differentiated into logics of action and logics of validity.

Schools (and other educational institutions) can be described as institutions with a normative approach, evoking and reproducing these normative claims and logics which often result in ambiguous and ambivalent functions. These functions often appear as conflicting and contradictory resources. Particularly in the German education system, schools represent an institution with rigid norms, regulations and functions, affected by the dynamic aspects of structures and thus might reflect these conflicting and contradictory aspects. Child protection might thus be understood as being at the core of these ambiguous aspects. Reasons for this might be located in societal change processes such as the reflexive modernization (Beck, Giddens & Lash 1994), in school change processes (such as professionalization of school staff) as well as in structures and processes of childhood. Schools and their staff are challenged by these processes and often react by justifying and defending the underlying principles of functions and logic. Justifying and defending the effective principles often leads to antinomies perceived as tensions in the professional life of school staff. Antinomies can be described as fundamental and apparently unresolvable contradictions. Professionals are asked to act accordingly on such antinomies, which can be located and / or identified in ambivalent / ambiguous categories or pedagogical principles. Particularly in the education sciences antinomies constitute the field in which professionals act, thus teachers face the fact that antinomies can only be balanced but not resolved. Teachers therefore are required to reflect on their professional interactions. Balancing the antinomies means recognizing and reflecting on the incongruous demands since these demands cannot be solved, avoided, neglected or ignored (more precisely, they still exist even if professionals chose to ignore the antinomies) (Braeu 2015, 137). The antinomies, defined by Helsper (2004, 55) as (social and societal) tensions of parents, of children (and many others could be listed here) that frame educational actions. Thus, teaching staff might find themselves in situations which are incongruous by nature: they need to position themselves between irreconcilable ends of educational attitudes. One of the attitudes often referred to represents the balance between distance and proximity: one cannot act out of both at the same time (Schloemer Kemper 2011, 299).

Educational actions can be characterised as interactive cycles of actions and reactions. Both actors (children and educators) contribute to the cycle. Of course, many conditions (structures and

processes of these interactions such as hierarchies, cultures, roles, norms etc.) affect and underpin (or in some cases, undermine) this educational cycle. This interactive educational agency of actors presupposes a continuous positioning in between the poles that often contradict each other. While all positions can be seen as legitimate, they cannot all be taken together: teachers decide on one position in one situation – but they also might decide for the opposite position when a different child is concerned. This constant (re-)positioning can be characterised as an ongoing process for teachers, which requires teachers' engagement.

While teachers in the German education system are confronted with the antinomies mentioned above and need to balance the conflicting positions, this conflict (of taking up one position while negating the other option or position) intensifies the inherent tensions where child protection is concerned. Child protection in schools is fundamental for ensuring children's wellbeing while being at school (and in many cases beyond their time at school). Teachers are confronted with child protection in many ways: firstly, children might tell their teachers about abuse at home (by family members, neighbours, parental friends etc.), they might report neglect, violence at home and many other events which endanger their wellbeing. Teachers need professional knowledge on how to react. Secondly, children might tell their teachers about colleagues' misbehaviour against children (themselves or other children), which again represents professional challenges for teachers. Thirdly, teachers themselves might be challenged to ensure child protection.

Furthermore, different judicial positions might hinder teachers in reacting in professional ways: following the UN Convention of the Rights of the Child, children are individuals aged under 18. Within the German law, children are split into groups by age: children under 14, youth between 14 and 18 and young adults.

Child protection in school is supported by the Federal Child Protection Act which has come into effect in 2012. Due to the fact that education at school is compulsory in Germany, every child has to attend school. This means that teachers are in ongoing contact with "their" children for several years. They are in a position where they can judge (by observing a child's development) how children are doing. This is valid for many educational institutions but attending preschool and non-formal educational institutions is voluntary.

In order to support teachers and correspondingly, schools, the Independent Commissioner (IC) of the German Government for Child Sexual Abuse Issues has launched a web portal for schools: Schools against Sexual Violence. This initiative of the IC in collaboration with all 16 culture ministries of the federal states has already supported more more than 30,000 schools by providing technical support. Furthermore, the initiative of the IC and the 16 federal states' ministries of culture aim at empowering schools to „... develop concepts to protect against sexual violence and to integrate these into everyday school life. The aim is to break down insecurities and, by means of prevention and intervention measures, better protect girls and boys and offer them rapid assistance“ (UBSKM 2021). The Independent Commissioner emphasizes that there is no standardized protection concept. So, every single school has to plan and to implement its unique school protection concept. While doing so, different local and regional conditions are to be taken into account by the respective school. This non-standardized procedure (in structures and processes) might have unintended consequences. Schools as educational institutions might position themselves in a way where antinomies could come into effect. This is of special relevance where protecting children from sexual violence is concerned.

### **Educational institutions – caught in traps?**

Educational institutions are in a unique position for ensuring children's wellbeing. As mentioned before, many children (where kindergarten and similar preschool institutions are concerned) and all children (where school as a compulsory educational institution is concerned) attend institutions of education in which children's wellbeing and child protection rank highly or very highly in relevance for the educational professions. However, particularly in schools, other norms (such as comparable and comparative outcomes) rank very highly as well and might contradict each other where children's wellbeing and child protection are concerned. Research shows that children suffering from sexual abuse, violence or neglect might show symptoms of a post-traumatic stress disorder at school (Goldbeck 2015). Depending on age and gender of the respective child, children often signal problems in their personal lives in different ways (social withdrawal, suicidal attempts, aggressive behaviour, sadness etc.). It is seen as part of the profes-

sional work of teachers and other educational staff to recognize reasons of behavioural changes in children and to act accordingly. Yet, teachers can only act accordingly toward the children if preconditions on the teachers' side are met. These preconditions refer to professional knowledge (in terms of child protection, children's wellbeing, children's development, children's social and family background and so on). Special attention is needed where children's sexuality is concerned: firstly, children are sexual human beings and may act out ways of sexual behaviour which might be inappropriate in some cases and under certain circumstances. Secondly, children need knowledge about their sexual development and this might set teachers in conflicting demands: from an education policy point of view, school is the institution where sexuality education takes place. However, some parents and families might feel uneasy about teachers telling their children about human sexuality (or sexualities) and it might as well be the case that the children feel uneasy about their teachers telling them about what interests, confuses or concerns them. It is not always clear how teachers perceive tasks of telling children about human sexual development. In case teachers feel rather overwhelmed or insecure or the like, they might avoid talking about sexualities. This reaction, this behaviour of teachers, however, neglects children's needs of education and in the end, teachers' denial of education might lead to antinomies. Teachers considering children's need of (sexual) education might deny families' rights of private education. Again, teachers are set into acting within antinomies.

Another problem may arise for educational institutions where child protection is concerned. Professional educational staff is required by law to hand in a Criminal Records Bureau (CRB) check. While in the UK special attention is given to transgender issues, different rules apply in Germany. The CRB check in Germany can be taken as a basis check or a check on a higher level. For school teachers and kindergarten staff a higher CRB check applies in Germany. This way, educational staff is screened for violent acts against children. Yet, only educational staff with a (proven) history of e.g., child sexual abuse can be found via the CRB check. Teachers, kindergarten staff and other educational staff without a record of violence against children will remain invisible. Such offending educational staff puts children at risk of being endangered. This could result in a structural antinomy that children are endangered in educational institutions perceived and thought of

as safe space for children and youngsters. The 2010 media scandal on the Odenwald school, the Canisius college (and many other educational institutions as well) has proven that educational safe place institutions turned out to be a traumatizing nightmare for many children.

In order to avoid this in the future, the initiative „schools against sexual violence“ has come into effect initiated by the Independent Commissioner. However, every participating school is required to develop its unique protection concept. A protection concept shows (more or less in details) how to prevent e.g., child sexual abuse. As no standard exists for protection concepts, it remains unclear whether protection concepts actually work as intended. In single cases, children might (again) experience sexual violence although a protection concept has been installed within the respective school. For the children concerned, this may lead to a doubled trap: they had to experience sexual abuse in an education certified as a safe space.

From a logical point of view, this would lead to teachers mistrusting their protection concept, mistrusting their colleagues, mistrusting the processes (of evaluation, of reporting etc.) in order to ensure children's wellbeing and child protection. But if teachers are to mistrust their protection concept this would lead to the question what a school protection concept is worth. On the other side, if teachers are to trust their institutional protection concept this may lead to overlooking victimized children and thus contributing to persisting child sexual abuse. This way, teachers and other educational staff might cover offenders without knowing. Either way, educational institutions seem to be caught in a trap of antinomies.

### **Education or protection?**

The trap outlined so far consequently leads to a question of education or protection. It seems that educational institutions can either ensure education or protection. This (rather structural and / or functional) antinomy opens up further unfolding antinomies. Beyond the antinomy of education or protection the antinomy of protection / prevention can be discovered. It could be asked whether (and to what extent) child protection can be ensured in terms of prevention, especially where the prevention of child sexual abuse is concerned. This refers to a slightly paradoxical situation in

which teachers and other educational staff in educational institutions need to exclude prevention in order to ensure child protection. Prevention of child sexual abuse can be considered as efforts by adults to make sure that children will not come into a sexually abusive situation or context. This, however, includes education of children and adults about child sexual abuse and about prevention strategies. Preventing child sexual abuse is a task to be carried out by adults, not by children. The responsibility for prevention is to be taken on by adults, not by children: children are (by definition) not responsible for preventing the sexual misbehaviour of adults. Yet, children need to know what child sexual abuse consists of in order to be able to disclose if they are in an abusive situation. This way, education can be understood as prevention (or, at least, as a part of prevention). Sexually abusive situations / context may be found not only in family combinations but also in educational institutions as well. Teachers and other professional educational staff now need to consider the potentially protective institution school as potentially harmful but intentionally protective for children. Then, teachers are demanded to carry out prevention in their home institution by educating children.

Summing up, this leads to an antinomy of education or protection in which professional educational staff is challenged as fulfilling tasks as teaching children in class, teaching children about prevention, acting on preventing child sexual abuse and at the very same time, protecting children.

Drawing from the above-mentioned antinomies it can be concluded that child protection in education (or, more precisely, in educational institutions such as preschools, e.g. kindergarten or schools) is characterized by incongruous demands.

### **Beyond the trap?**

All in all, the antinomies discussed so far lead to the necessity of considering “loopholes” out of the trap. Ways beyond the trap outlined above would go along the lines of lifting the burden from school teachers and other educational staff by protecting children. This could be done, among others, by including external staff into the evaluation of the protection concept, by developing intersubjective standards for this evaluation, by including external staff from supervisory school authorities, by including multi-professional



staff, or by internal evaluation (e.g. what do the respective children think about their school protection concept). There might be ways of including families into school protection concepts worth exploring as well. Additionally, missing links to further refinements of educational institutions' protection concepts would point to different systems. One way could be including staff from health services, too.

While it could be argued that there are very good reasons to insist that every school faces unique conditions and thus needs to develop and implement its own and unique protection concept, the antinomies outlined so far give reasons to review this position. It would be in the interests of all individuals concerned to advance hitherto existing protection concepts in school and other educational institutions.

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