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Current Developments in the Field of Sexual and Reproductive Health and Rights in the FRG

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Abstract:

Responsibility for efforts concerning sexual and reproductive health and rights (SRHR) in Germany lies in the hands of various federal ministries. Measures to protect and promote sexual and reproductive integrity are implemented on the basis of laws and funding programmes. Worthy of note here - especially with regard to sex education and prevention - is the *Federal Centre for Health Education - die Bundeszentrale für gesundheitliche Aufklärung (BZgA)*, which is mandated, among other things, via the *Pregnancy Conflict Act - das Schwangerschaftskonfliktgesetz (SchKG)*, to develop and disseminate appropriate measures for sex education and family planning with the participation of the federal states and pregnancy counselling facilities (Bremer/Winkelmann 2012: 98; BZgA 2021). Furthermore, in addition to the *Federal Ministry for Family Affairs, Senior Citizens, Women and Youth - the Bundesministerium für Familie, Seniorinnen, Frauen und Jugend (BMFSFJ)* and the *Federal Ministry of Health - the Bundesministerium für Gesundheit (BMG)*, the *Federal Ministry of Education and Research - das Bundesministerium für Bildung und Forschung (BMBF)* and the *Federal Ministry of Justice - das Bundesministerium für Justiz (BMJ)* also play a key role in the continuous improvement of sexual and reproductive health and rights and have tendered relevant funding lines in recent years. Due to Germany's federal structure, the respective state ministries also bear responsibility for implementing the national strategy and can enact supplementary regulations. In the following, central developments and projects in the field of SRHR - focussing on the thematic priorities of pregnancy counselling / pregnancy conflict counselling, sexual education and prevention of sexualised violence - are briefly outlined.

1. Related policy context: Which national challenges and priorities are addressed by the good practice/policy?

Abortions have been regulated under the *German Criminal Code – das Strafgesetzbuch (StGB)* for more than 150 years. With regard to the avoidance of unwanted pregnancies, but also the psychosocial care accompanying abortions, the *Pregnancy Conflict Act - das Schwangerschaftskonfliktgesetz (SchKG)* has stipulated

for 30 years that: "Every woman and every man has the right [...] to be informed and advised anonymously on request by a counselling centre designated for this purpose in matters of sex education, contraception and family planning as well as in all matters directly or indirectly affecting a pregnancy" (SchKG, § 2, para.1). On the basis of the *Act on Assistance to Avoid and Cope with Conflicts in Pregnancy*, the *Federal Centre for Health Education - die Bundeszentrale für gesundheitliche Aufklärung (BZgA)*, is mandated to provide evidence-based and target-group specific information material on contraception and sex education free of charge.

In the event of a threat to the life or health of the pregnant woman as a result of the pregnancy, as well as a pregnancy which has arisen as a result of a criminal offence, abortions are in principle exempt from punishment. If pregnant women require an abortion for other reasons, they must first attend a counselling session at a recognised pregnancy conflict counselling centre and can have the abortion procedure performed by a doctor before the end of the 12th. week of pregnancy after a subsequent three-day period of reflection. Both the legal requirements concerning the termination of a pregnancy and a general entitlement to counselling on questions concerning sexuality, contraception and family planning are the basis of a dense counselling centre landscape.

The *Federal Centre for Health Education (BZgA)* conducts research in collaboration with universities and other research institutions, in order to better understand the vehicles and avenues for prioritising high-quality evidence-based information on contraception over misinformation campaigns. This also includes a focus on the use of social media channels and online encyclopaedia to reach different target groups, bearing in mind their respective behaviour when consuming information sources.

Children and adolescents are among the central target groups regarding the provision of information and the strengthening of sexual self-determination. In 1968, the *Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany – die Ständige Konferenz der Kultusminister der Länder in der BRD (KMK)* issued its first recommendations on interdisciplinary sex education in schools. In 1977, the Federal Constitutional Court ruled on the legality of sex education in schools with compulsory participation (Article 7, Paragraph 1 of the Basic Law) (cf. Hilgers et al. 2004). Since then, at different times, the individual federal states have developed their own, legally non-binding guidelines and framework curricula for school-based sex education along the lines of the state-specific sex education approach as well as fixing the focus of the content. It is still not possible to assume that educational professionals are sufficiently qualified (cf. Urban et al. 2022), although there was a great wave of revelations in 2010 and numerous former pupils disclosed sexual assaults they had experienced in church and in both independent and state-run institutions, thus triggering far-reaching social changes in the perception of the topic. In addition to schools as high-risk places, other pedagogical facilities and other educational institutions as well as the family environment of children and adolescents also came into focus as potential danger areas. On the recommendation of the *Round Table on Child Sexual Abuse - der Runde Tisch Sexueller Kindesmissbrauch*, which was convened to evaluate the overall situation, extensive

measures have been taken since then to protect children and young people from assaults. In addition to the establishment of institutional protection concepts and the training of responsible professionals, the focus is now on the development of appropriate educational programmes and materials through research (Round Table 2011). To date, the *BMBF* has initiated three funding lines for research in the context of sexualised violence and has funded more than 42 research projects (BMBF 2022: 2). In addition to the generation of reliable data, the areas of theory-practice transfer and the participation of the actors and target groups involved are an integral part of the research projects.

The *Act on Assistance to Avoid and Cope with Conflicts in Pregnancy* provides the legal basis for advocacy, education and counselling around the topic of sex education. School-based sex education is mandatory for all school forms in Germany. Schools are therefore the central point for the imparting of knowledge about sexuality and contraception, that aims to reach all children and young people (Scharmanski/Hessling, 2021).

Just like young people themselves, teachers and other school staff as well as parents and carers can receive information material targeting different age-groups online as well as in printed formats free of charge. Brochures and other information material can be used in sex education modules in all school forms and grades.

Additionally, out-of-school sex education is provided by experts in about 1,300 counselling centres throughout the country (Böhm/Wienholz 2022). Counselling centres are run by faith-based organisations or NGOs that specifically provide services related to sex education and sexual and reproductive health and rights. Medical specialists also play an important role in sex education and contraception counselling.

BZgA, in its role as a *WHO* collaboration centre on sexual and reproductive health and rights, has developed standards for sex education in Europe that provide guidelines on age group- specific materials for sex education for practitioners in all countries for the *WHO European Region* (Bundeszentrale für gesundheitliche Aufklärung 2011).

2. Political debate

A major civil society and professional policy debate that has gained visibility in the media in recent years is the criminal law regulation on abortion. One of the criticisms levelled at it is that reproductive justice can only be ensured through access to safe and legal abortion options. However, stigmatisation and burdens result from the criminal law framework, not only for unintentionally pregnant women; in the past, medical professionals were also affected by the regulations of §219a *StGB* (Paragraph 219a of the German Criminal Code). The paragraph forbade doctors to publicly inform patients about abortions or to mention this service as an offer on their websites. It was not until 07/2022 that this paragraph was abolished by the current federal government.

In addition, the federal government is currently setting up a commission on reproductive self-determination and reproductive medicine, the aim of which is to examine, among other things, whether abortion can be regulated outside the *StGB*.

In order to record the psychosocial situation and support needs of women who are unintentionally pregnant as well as the required medical and psychosocial care more precisely on the basis of current empirical data, the *Federal Ministry of Health (BMG)* has been funding the joint project *ELSA: Experiences and Living Conditions of Unintentionally Pregnant Women. Counselling and Care Services*¹. This project also collects data on the regional distribution of medical care, as the number of gynaecologists who perform abortions in the first trimester in their own practice has been steadily decreasing for several years now, and unintentionally pregnant women sometimes have to travel up to 150 km for the procedure². In order to secure better provision of abortion care, the inclusion of abortion in the training and further education of doctors is of paramount importance. Since the beginning of the Covid 19 pandemic, there has also been a growing debate about the extent to which the possibility of conducting pregnancy conflict counselling by telephone or video should be made permanent as an additional service offered by the counselling centres, in order to take into account, the increasingly digitalised lifeworlds of those seeking advice (Böhm/Wienholz 2022).

With regard to the guaranteeing of sexual and reproductive rights, the prevention of sexualised violence and, thus, in particular the protection of children and young people as well as women* against sexual assault is an important topic.

In order to bundle knowledge and activities, the office of the *Independent Commissioner for Child Sexual Abuse (UBSKM)* was established in 2011, which is now permanently established and has been held by *Kerstin Claus* since 2022. The *UBSKM* is supported in her efforts by qualified staff and is advised by a *Council of Affected Persons* (working staff of the *UBSKM* 2022).

In the context of the prevention of sexualised violence, there is a broad political debate, especially on the continuation of preventive measures and the structural anchoring of institutional protection concepts. The federal structure of the Federal Republic of Germany and the associated educational sovereignty of the 16 federal states have so far made it difficult for educational institutions to implement a protection concept across the board. Due to increasing social pressure and the *UBSKM* campaign: *School against Sexual Violence – Schule gegen sexuelle Gewalt*, which all the federal states have joined, a positive development can be noted in this regard. For example, the federal states have already implemented a wide range of measures. In addition to addressing the question of whether there is still a need for a nationwide

¹ <https://www.bundesgesundheitsministerium.de/ministerium/ressortforschung-1/handlungsfelder/forschungsschwerpunkte/ungewollte-schwangerschaft.html>; www.elsa-studie.de.

² Cf. <https://taz.de/Schwangerschaftsabbruch-in-Deutschland/!5571091/>

obligation, the degree to which the *Länder* should be equipped with specialised counselling centres for sexualised violence should be examined. These centres are intended to help institutions create a protection concept, but - all over the country - they currently lack sufficient personnel and time resources.

In recent years, there have been some important amendments to the area of German criminal law, which, for example, now considers the sexual abuse of children as a crime (no longer as a misdemeanour) and provides for a significantly higher sentence for convicted perpetrators, as well as amended statutes of limitations with regard to the offence of producing depictions of abuse.

In addition to developments concerning the protection of children and young people in educational contexts, efforts to come to terms with the past are a central part of society's way of dealing with the issue. The *Commission for Coming to Terms with Past Injustice*, which was established in 2016, not only uncovers past injustices; it recognizes the suffering that those affected have experienced (UBSKM working group 2022). In particular, it also examines structures that have facilitated sexualised violence and prevented it from being brought to light, and draws conclusions, necessary for the preventive measures which are currently required.

3. Examples of good practice

The monitoring of *youth sexuality*, which has been conducted by the *BZgA* at regular intervals since 1980, provides knowledge about the attitudes and behaviour of adolescents and their parents as well as young adults in the area of sexuality and contraception (Scharmanski/Hessling 2022). The main topics are sex education in schools and in the parental home, first sexual experiences as well as contraceptive knowledge and experiences. In addition to a high degree of acceptance of contraceptives, the results also show the great importance attached to digital media and, above all, to teachers as important sources of information and reference persons in sexuality-related questions in adolescence. From an institutional point of view, the importance of digital sex educational programmes has also grown - at the latest - since the beginning of the pandemic (cf. Böhm/Wienholz 2022). The *BZgA's Loveline* programme for adolescents and *Liebesleben* for (young) adults as well as the Instagram and TikTok channels of *pro familia* Berlin in the social media sector are good examples of successful practice.

The federal initiative 'School against Sexual Violence,' which was initiated by the *UBSKM* in 2016, can be described as good practice in the field of prevention against sexualised violence (UBSKM working group o.J. (a)). By 2018, all of the federal states had been persuaded to participate, which resulted in targeted measures by each federal state. According to the specific needs and resources of each *Land*, the *Länder* decide on their own activities to educate and train school professionals and to establish preventive measures in education (e.g. in the form of the play *Trau dich!* or the rental of the *PETZE Institute's* prevention exhibitions).

An equally valuable offer is the *Sexual Abuse Help Line*, a contact point for children and young people affected by sexualised violence, but also for relatives and educational professionals. Specially trained counsellors with comprehensive expertise provide anonymous counselling to those seeking advice and, if necessary, refer them to regional actors in the help network (UBSKM working group o.J. (b)).

The *Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ)* also supports various projects that contribute to ensuring sexual and reproductive health by providing low-threshold support and support for specific target groups. For example, from May 2019 to April 2022, the *HeLB: Helfen. Pilot. Beraten – the Help. Pilot. Advise* model project was run, in which pregnancy and pregnancy conflict counselling was not only available in the counselling centres, but also on an outreach basis and digitally (cf. Schyma 2022). For successful networking between professionals, initiatives and migrant organisations, the *Expert Dialogue Network – das Fachdialognetz* for pregnant, refugee women was also funded from 2016 to 2019 and is currently being continued by the *Pro Familia Landesverband Sachsen* (cf. pro familia Landesverband Sachsen, o.D., o.S.). The *biko model project* was also implemented from 2016 to 2019. In this project, women who received state benefits or had a low income and were older than 20 years could have the costs for prescription contraceptives reimbursed. The women could also get advice on contraceptives and all related questions - also with the help of video interpreters (cf. pro familia 2019: 4). Currently the practice of a reimbursement of the costs for contraceptives only exists in certain parts of Germany; there is no nationwide regulation for people over 21 years of age.

The possibility of a *confidential birth* is unlimited and legally anchored. This gives pregnant women the opportunity to give birth anonymously and then place the child in the care of the state. The offer of the *Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ)* is mainly designed for pregnant women in severe emergencies and is also anchored in the *SchKG (§25) – The Pregnancy Conflict Act (Paragraph 25)*.

4. Aspects of transferability

In particular, the efforts described by France to structurally anchor sex education and sexual self-determination programmes can provide valuable impulses for Germany. Throughout the *EU*, schools are the places where the majority of adolescents are reached by educational professionals and where they can benefit from sex education, the prevention of sexualised violence and the strengthening of sexual self-determination. This makes it all the more important - in addition to the provision of sufficient resources - to professionalise the educational staff who are entrusted with the relevant tasks in the institutions on a daily basis.

The provision of contraceptives free of charge to all persons under 25, which has been implemented in Belgium, should be a trend-setting and fundamental task of the state (ideally for all those wishing to use them). In Germany, only very special success stories have been recorded so far.

5. Conclusions and recommendations

On a national level, the commencement of work by the *Commission on Reproductive Self-Determination and Reproductive Medicine - die Kommission zur reproduktiven Selbstbestimmung und Fortpflanzungsmedizin* (Bundesregierung 2021: 92), which has the task of examining the possible regulation of abortion outside the reaches of the German Criminal Code - StGB, can initiate changes. Thus, the commission could benefit from international impulses and contribute to destigmatising unwanted pregnancies and abortions in the long term - combined with maintaining and expanding the existing psychosocial counselling network.

In the area of professional training, there is a need for an extensive range of further and advanced training in the context of *SRHR*, not only to demonstrate professional competences, but also to establish quality standards. For this, it is necessary to firmly anchor the topic of *SRHR* in the curricula of courses of study in social work, education, teaching and human medicine. Curricula tailored to the subject have been developed in recent years, e.g. within the framework of the network of junior professorships or the research project *SeBiLe - Sexual Education for the Teaching Profession - Sexuelle Bildung für das Lehramt* within the framework of the *BMBF* funding line: *Sexual Violence in Pedagogical Contexts*. These should be consolidated and used. Some university locations already offer specialisations in sex education in their Bachelor's degree programmes in social work (e.g. *Frankfurt University of Applied Sciences*) or specialised Master's degree programmes (e.g. *Merseburg University of Applied Sciences*). The *Society for Sex Education (die Gesellschaft für Sexualpädagogik, gsp)* is also trying to establish quality standards. As a professional association, it now issues the quality seal for sex educators (*gsp*), introduced in 2008, to almost 400 members.

With regard to sex education as well as the prevention of sexualised violence, it is necessary to recognize, in particular, the key role of schools in implementing and imparting knowledge about the *SRHR*. It must be acknowledged that educational institutions, in particular, are still not safe spaces per se. A nationwide and structurally anchored implementation of institutional protection concepts might be one way of dealing with this fact. To make this possible, not only educational and recreational institutions, but also accompanying specialised agencies would have to have sufficient resources to engage in such a process. In addition to the professionalisation of pedagogical experts at all levels, an international exchange of experience on the implementation of effective preventive measures can provide new impulses to protect children and young people from sexualised violence in the best possible way. The efforts of all countries to come to terms with the past cannot merely be a starting point for the participation of those affected. More importantly, in an international exchange - including practical perspectives - the insights gained and the conclusions drawn from them can and should flow into the further development and updating of concepts, programmes and materials in order to create spaces for long-term dialogue and ensure successful theory-practice transfer processes.

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