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The school system in West Germany

by Hermann Avenarius

Paper delivered at a seminar "Window to Europe"
organized by the National Council for
Upper Secondary Education in Norway
23 May 1990 in Oslo

I will talk about the school system in general, not so much about upper secondary schools. This area will be covered by my colleague Wolfgang Mitter. I speak only about the situation in West Germany. Education in the German Democratic Republic and its future development in a united Germany are not included. Here again Mr. Mitter is by far better an expert in this field than me. Restricting my lecture to schools in the Federal Republic of Germany does not mean that I have to accomplish easy a task. As you may know, school in West Germany is not the responsibility of the Federal Government, but of the individual Länder, ie, separate states or provinces. Consequently, there are, in the strict sense of the word, eleven school systems. However, the differences between them are not so great as to render a summary impossible. This will, of course, entail some simplification, which may make the system appear less complex than it actually is.

Let me start by sketching the school and school administration structures. This approach may seem somewhat tedious, but is nevertheless necessary as background.

The state (ie, the land) does not have a monopoly on schooling; indeed, the right to private schooling is constitutionally guaranteed. However, in 1988 only 530,000 of 9.1 million schoolchildren (ie, 6 %) attended private schools - most of which, in passing, are Catholic institutions. Besides "Freie Waldorfschulen" (Steiner schools) are at present more and more established and gaining recognition.

Schooling is compulsory between the ages of 6 and 18, either in a state school or a recognized private school. Primary schooling (classes 1 to 4) has become a kind of comprehensive education after the 1918 revolution; so it is uniform. After this, depending on the childrens' ability and their parents' preference, they go on to either the Hauptschule (Secondary Modern School, classes 5 to 9 or 10), the Realschule (Intermediate School, a technically oriented type of semi-academic school, classes 5 to 10) or the Gymnasium (Grammar School, classes 5 to 13). In some Länder these different types of school have occasionally been combined in one school, the Gesamtschule (Comprehensive School); there are two types: the integrated and the cooperative (= additive) comprehensive school. In a few Länder classes 5 and 6 are organized as a loosely structured unit - the so-called Orientierungsstufe (Orientation Level) - intended to smooth the transition to secondary schooling. On completing Hauptschule or Realschule most pupils go on to three years of vocational or technical training, a 'dual system' comprising an apprenticeship or traineeship and part-time Berufsschule (vocational or technical school). But they can also attend a full-time vocational school. Gymnasium pupils take a school-leaving examination, the Abitur, which also serves as a general university-entrance examination.

Most state schools are Christian communal schools: though not bound by a particular creed, their educational philosophy is rooted in Christian cultural traditions. Religious instruction in the respective confession is compulsory, though children may be exempted from it at their parents' request, or on their own, if they are over 13.

State schools are caught between the state and the district administration, the latter comprising autonomous municipalities and rural districts. The state is responsible for pedagogical matters, ie, the curriculum, school-leaving examinations and educational structures as a whole, and most of all for the staffing of teachers and headmasters. The

district administration (which is not an education authority) takes care of everything pertaining to material and local management; this includes construction, administration and organization of the individual schools. The eminent constitutional jurist of the Weimar period, Gerhard Anschütz, coined a classic expression for this division of competence in school matters: "The municipality, as the body running the school, builds the school-house, but the master in the house is the state."

Within the state school administration there are, as a rule, three levels: the Minister of Education as the final authority, the intermediate school authorities (regional authorities) and the lower supervisory authorities at district level.

Schools are not independent administrative units. Unlike, say, universities, they do not possess any legal capacity. Rather, as institutions wholly subject to the body or institution responsible for them, they are devoid of legal capacity. The district administration is responsible for their management, but can transfer responsibility for the day-to-day running of the school to the headteacher. The district administration represents the school both in and out of court. A school does not conclude legal transactions (eg, contracts for textbooks, contracts of accommodation during school excursions, etc.) in its own name but only on behalf of the district administration, provided that the latter has not reserved this power to itself. The district is owner of all property devoted to the school; the land on which the school stands is registered in the name of the district administration. Donations to the school use to become property of the district. The district administration has disposal of property which it has devoted to the school, provided that this does not impair the school's functioning; for instance, if it has built a new school, it is free to dispose of the old property.

In fulfilling its pedagogic obligations the school is formally the lowest level of the state school administration. Hence, the school is, in principle, bound by the instructions of the state supervisory school authority. This status has been a source of frequent criticism. As early as 1954 Hellmut Becker, a post-war champion of educational reform, was complaining eloquently that schools were institutions seized with administrative ossification: 'Today the administrative position of schools is little different from that of the revenue office, the labour exchange and the local police, in marked contrast to the autonomy of the municipalities. Teachers are becoming functionaries, and schools are in danger of producing only more functionaries.' However, this criticism overlooks the fact that the law has allowed the schools considerable scope for initiative. This enables them to act relatively freely within the existing regulations, and curbs administrative excesses on the part of supervisory authorities.

Proposals to give schools a formal autonomous status have not had much success. This is particularly true of the ideas for reform proposed by the Deutscher Bildungsrat (German Educational Council), an advisory organ created in 1965 by the federal and Länder governments, and abolished a decade later. At the beginning of the 1970s the Educational Council made a number of recommendations which would have given schools greater autonomy in pedagogic and administrative matters by transferring competence in certain areas to them. These proposals were virtually ignored by the Länder parliaments and Ministries of Education.

Let me now turn to a problem which might be useful to understand better the functioning of the educational system in West Germany: Who governs the school?

Of course, no single person or body takes all decisions, neither the legislator nor the Minister nor the school authorities, neither the district administration nor the teachers' trade unions and associations (of which there are

several), neither the headteacher nor the teachers, neither the parents nor the pupils. Competences and responsibilities are divided by sphere, and within each sphere the various competences and responsibilities are enmeshed in numerous different ways. There is not one area in which one person in authority or one institution can take a binding decision without consulting others. I have chosen three examples to illustrate this: staff appointments (who decides on appointments of teachers and headteachers?), curricula (who decides what will be taught in school?) and assessment of pupils' ability (who decides, on which criteria, how and when?). Finally, I should like to say a few words about the influence of parents in the schools.

Let us start with the question of staff appointments. I think it is the most important; for, the quality of a school depends above all on the quality of its teachers. What use are even the best school reforms - be it parent involvement in school affairs, a new curriculum or a stricter system of marking - if the teachers are useless? This is especially true for Germany, for, once a teacher has been appointed it is virtually impossible to dismiss him. He is a civil servant for life, in other words: he is "on tenure", and as such is entitled during his active working life (usually until 62, at most 65) to all the benefits this status confers: a good salary with annual, linear increases, a guaranteed pension equal to 75 per cent of this salary, generous additional medical cover, at least twelve weeks annual leave, and above all, of course, the guarantee of permanent employment. So long as he does not steal a silver spoon, set fire to the school or rape the headteacher's daughter, he can sit back for the rest of his life. Disciplinary measures for chronic indolence, disinterest or lack of punctuality are at worst mild (eg, an official reprimand or a cut in salary).

As a rule, neither the school nor the district administration have any legal say in the choice and appointment of teaching staff. The decision rests with the State school authorities in each Land. This approach has obvious draw-

backs. Neither the school itself nor the district administration can improve the school's reputation by practising their own staff policy. But it also has advantages. Less attractive schools, such as those in decaying inner cities, in districts with large immigrant population, or in rural areas, do not have to fear that they will suffer on account of their locality.

I have mentioned that as a consequence of meshing competences and responsibilities within the educational system in Germany, decisions usually necessitate collaboration between authorities. This is also true for the appointment of teachers. Although officially neither the schools themselves nor the district administration are involved, the school's staff council is. This is a representative organ elected by the teachers. In principle, no teacher can be appointed, promoted or transferred without the approval of the staff council. Incidentally, this form of co-determination is not restricted to the teaching profession but is practised throughout the civil service as well as in many parts of the private sector; indeed, it is a characteristic feature of labour relations in West Germany. The great advantage of such co-determination lies in its positive contribution to peaceful labour relations in general. Yet one may not be blind to the fact that on occasion it discourages warranted flexibility in school staffing policies, above all when the transfer of teachers is in question.

Let us now turn to the second field of competence, the curriculum. Here again, no single institution has sole responsibility; there is a complicated meshing of responsible authorities. The legislator lays down the general goals of education. Although the formulation differs from Land to Land, they are all essentially the same: the school should train pupils to work diligently and consistently, to exercise critical judgement and to act independently, it should teach them liberal, democratic attitudes, tolerance and social commitment. Of course, general goals alone are not enough. Their

realization requires a concrete programme of instruction and a lot of effort on the part of the school. To this purpose the respective Ministry of Education both lays down a binding canon of subjects for each of the three types of school, and draws up curricula for each subject, which set the broad outlines of what pupils are expected to learn at each class level. The Ministry also prescribes the number of hours of instruction per subject per week. The task of drawing up the timetable for each day of the week is left to each school, in practice the headteacher or his deputy.

Let me illustrate these general statements with a practical example from Rhineland-Palatinate. The average 15-year-old is in the 9th class, regardless of whether he is at a Hauptschule, a Realschule or a Gymnasium. Let us compare the curricula at this level. All three streams have 32 class hours of instruction per week (a German class hour covers 45 minutes). Common to all are 2 hours of instruction in religion, 4 in German, 4 in the first foreign language (usually English), 4 in mathematics, 2 in history and 1 in civics as well as 3 hours of sports. The remaining twelve hours reflect the differences in the respective subject canons. A second foreign language is compulsory at Gymnasium, only voluntary at Realschule, and not offered at Hauptschule. Opportunities to take natural sciences are greatest at Realschule, to take music and fine arts greatest at Gymnasium. Polytechnics, a combination of practical and technical instruction, is offered at Hauptschule, but not at Gymnasium or Realschule. The picture would be different for, say, the 5th or 7th class; but my example should give you some idea of the curricular framework in German schools.

Although the distinction between major and minor subjects has, at least in theory, been abolished, in terms of hours of instruction certain subjects still carry greater weight: German, mathematics and foreign languages are pre-eminent.

In the senior forms at Gymnasium - that is, classes 11 to 13 - pupils have some freedom of choice. But even here certain subjects are compulsory: German, mathematics, the first foreign language and history.

Within the limits set by the state, schools and teachers are free to act as they see fit, eg, in the choice of textbooks. In Germany all textbooks are produced by private publishing houses and submitted to the Ministry of Education for official approval. The choice of textbooks for each school is a matter for the teaching staff conference (a legal body with specific responsibilities) - or at large schools for the teachers of the respective subjects. Textbooks are far more important for the type and quality of instruction than the pretty abstract curricula. They contain the "material" on which the teacher usually bases his instruction, the knowledge pupils are supposed to acquire.

Of even greater significance is the pedagogic freedom allowed each teacher. As a civil servant he is in principle subject to directives and obliged to obey regulations; but his pedagogic freedom gives him a certain scope for independent instruction and education. Pedagogic freedom is a principle which both complements the teacher's status as a civil servant and modifies it. In substance it is recognized in the school legislation of all Länder, and is taken for granted in the administration of justice.

Pedagogic freedom affects the form of instruction and education. But to interpret it solely as the teacher's freedom with respect to method and didactics would be to take both too narrow and too broad a view. Too narrow, because pedagogic freedom in our interpretation can include the freedom to choose the contents and matter of instruction. For instance, the teacher can work through one topic as an example of others which he can then omit; he can freely select from a canon of prescribed reading; he is free to leave out sections of a textbook he considers unsuitable and substitute other material he finds more appropriate to his purposes. But this interpretation is also too broad, because the teacher has to follow certain directives on method which prohibit the use of out-dated methods of instruction; it is self-evident that the teacher's freedom is also restricted by generally accepted conclusions of educational research. Pedagogic freedom is

further modified by the necessity of collaborating with other teachers at the school on a day-to-day basis, and by the reasonable endeavour of each school to maintain a certain degree of uniformity in its objectives and attitudes. Every teacher has to accept all decisions of the staff conference which have been reached properly and correctly, even if this means abandoning individual practices. On the other hand, the staff conference is obliged to allow each teacher the scope he needs to realize his pedagogic potential. To solve this clash of interests - the necessary freedom of the individual teacher, on the one hand, and the uniform organization of the school as a whole, on the other hand - requires understanding and a willingness to compromise on both sides.

At this point I should like to draw your attention to a phenomenon of which we Germans are hardly aware, but which must puzzle foreign observers: school plays a relatively minor role in the life of the average West German pupil. Children attend school half-day, ie, from 8 to 1. In the afternoon they do their homework (or perhaps not), play football at the local club or in the street, take piano lessons, practise with their rockband or busy themselves with other hobbies. Perhaps they just sit around bored. For most children school and private life are two distinct spheres. In their private lives it is often the Verein (club or society) which complements the formal German school curriculum, providing those activities that are regarded in other countries as intra- and extracurricular activities of the school. Moreover, our pupils do not wear any signs which identify them with a particular school (eg, school uniform), which may seem strange to those who still think of uniforms and parades as typically German.

Let us now turn to the third area of competence, assessment of pupils' abilities. Marks and reports play a major role in the life of every West German schoolchild. The happiness and distress of numerous children, the contentment or worry of many families, depends on the success or failure in tests and

reports. No educational or pedagogic interest, no matter how well-intentioned, can conceal the fact that schools constitute - in the words of the late sociologist Helmut Schelsky - "an apparatus for distributing opportunities in life".

Pupils' particular and general abilities are assessed by oral tests and questions during instruction and, in the more important subjects (especially German, foreign languages and mathematics), by three to four written tests per half-year. These evaluations are the basis for the marks - in every subject, including physical education, religious instruction and art - in the half-yearly reports. At the end of the school-year the teachers for each class confer and decide together on the basis of the marks in the individual subjects whether a pupil will be moved up or not. The requirement is that a pupil has demonstrated at least "sufficient" ability in all subjects (or those which count). (West German schools use a scale of grades to rate ability, four passing grades - very good, good, satisfactory and sufficient - and two non-passing grades - deficient and very deficient). Bad marks can be balanced by good (eg, a "deficient" in one subject by a "good" in another). There are no formal tests, with one exception: in some Länder children are tested on whether they are mature enough to go to school.

Successful pupils at Hauptschule, Realschule and (part-time) Berufsschule receive a school-leaving certificate without special examinations. Some Länder make exceptions to this practice. Furthermore, apprentices attending a Berufsschule are required to take an examination set by the local Chamber of Trade and Industry or the Association of Artisans. If successful, they receive a "certificate of proficiency" or a "certificate of apprenticeship".

Almost all other types of schooling end with an examination. This is true in particular of the Gymnasium and, as a rule, of the full-time Berufsschule. These examinations, eg, the Abitur at the Gymnasium are handled by the individual school and, especially, by the individual teacher, who sets

his own exams, though a school inspector may chair the examination committee; only Baden-Württemberg and Bavaria set centralized examinations. This decentralization is not without its problems, for different marking practices - more lenient at one school, stricter at another - may put pupils at an advantage or disadvantage. I personally feel this practice is unjust in the case of the Abitur, as in West Germany university admission to certain studies (eg, medicine) and the choice of university in others is largely determined by the average mark obtained in this school-leaving examination. But I must concede that my opinion is not shared by the majority of my colleagues, most of whom feel that a centralized, anonymous system of examinations is unable to measure the true abilities of pupils, and subjects them to unreasonable stress.

One peculiarity of the West German situation is the right to challenge assessments of ability in the Administrative Court - above all in the case of failure in examinations, but also if pupils are kept behind. The Courts are very cautious in cases of assessment of pupils' ability. They respect each teacher's responsibility to assess pupils. The Court does not rule on lawfulness in content but in form. It will reverse a decision on examination results or on keeping behind a pupil only if the school has disregarded generally accepted criteria of assessment, or included irrelevant considerations, or acted on false premises. Over and above this, the Court will examine the method of assessment: whether the legally prescribed procedures were observed, whether there was effective equality of opportunity and whether the pupil was fairly treated. The Court will reverse the decision of the school, if it establishes that a procedural error could have influenced the examination result.

I should like to conclude with some remarks on the role and influence of parents in school.

The state has a particular constitutional duty in respect of education, which it fulfils in the school. However, in

doing so it must respect parental rights of education. This has very important consequences. Parents alone have the authority to decide what type of school their child - in accordance with his aptitude, of course - will attend after primary school. So, positive selection rests with the parents, negative selection with the school. In practice, however, the recommendation of the teacher plays a major role in the parents' decision.

Parents may even take legal action if (through omission or commission) the school encroaches upon the educational responsibility reserved to parents alone - eg, in cases of corporal or psychological maltreatment, attempted indoctrination or intolerance in ideological or religious matters. Furthermore, parents have a right to detailed information: they must be kept informed of what goes on at school; otherwise the exercise of their educational rights could be impaired. This includes information on the child's progress and behaviour, on the contents, methods and pedagogic aspects of instruction and other school activities as well as on aspects of organization and administration. Above all, parents must be informed of matters affecting sensitive areas such as ideology, religion or ethics. In such cases parents have not only a right to information but a right to consultation and a voice in decisions.

But that is not all. Apart from individual parental rights, parents participate collectively in school decision-making, as a rule at the level of the individual class. The parents of a particular class meet in council at least once every school half-year. The class teacher and the teachers of the separate subjects inform the parents in council about the programme of instruction in the next half-year. Together they discuss curricular and extra-curricular matters, eg, planned school excursions; parents express their concerns about teachers and teaching methods, etc. The class parents' council elects a spokesperson to represent them in dealing with the head-teacher, the class teacher and subject teachers. The spokespersons for all classes together form the school's

parents' council. Its function is to present parents' views and demands ranging from the manner of instruction, the choice of textbooks and other teaching materials, equipment, school rules and regulations and the organization of the school day to holding special school events. The parents' council plays a significant role in cases of conflict and of disciplinary measures against pupils. In most Länder representatives of the parents' council attend meetings of the staff conference in an advisory capacity.

As a rule, the different parental bodies do not have any formal decision-making competences. However, headteachers and teachers will consider very carefully before taking a decision against the expressed opinion of organized parents. Incidentally, in most Länder there are also parental bodies above the school level: at district and regional as well as Land level. In Hesse and Lower Saxony certain general regulations of the Ministry of Education, eg, curricula, have to be approved by the parents' council of the Land.

To round off this picture I should mention that pupils, too, have their own representative body. From the 5th class onwards each class elects a class representative in a secret ballot. The class representatives together constitute the pupils' representative council. The class representatives and the pupils' council should contribute to the smooth running of the school, especially by helping to create an atmosphere conducive to instruction, help the school achieve its educational goals and protect the interests of pupils vis-à-vis the headteacher, teachers and the school authorities. As a rule, representatives of the pupils' council attend meetings of the staff conference in an advisory capacity.

In most Länder schools also have a parent-teacher-pupils' committee, the so-called school conference. The school conference has two sets of functions. The first concerns important questions of work and life in the school as a whole (eg, educational experiments, internal school regulations, homework, the use of classrooms and other facilities and

safety on the way to and from school). The second group of functions concerns the fate of individual persons (serious situations of conflict and severe disciplinary measures against pupils, eg, expulsion). The school conference is usually so constituted that teachers are in the majority. In the Berufsschule the school conference also includes representatives of employers' and employees' associations.

Now, I am not sure whether your understanding of the structures of school government in West Germany is any clearer. But about one thing I am certain: the system is neither simple nor transparent. Various bodies and institutions have responsibility, much of it shared, much of it intertwined. One phenomenon, however, is striking: the educational system is more legislated, more closely enmeshed in a web of legal provisions than anywhere else in the world. This legal web is supposed to serve, and above all strengthen, the position of pupils and parents. As far as disciplinary measures are concerned, the Courts, in particular the Federal Constitutional Court and the Federal Administrative Court, have made it quite clear that the pupil's basic rights are guaranteed even towards the school, such as the right to freedom of expression. Restrictions on freedom - disciplinary measures, for instance - must be anchored in law. Over and above this, all essential decisions affecting the school system must be taken by the legislator.

Such administration of justice has not been without consequence. The Länder parliaments seem to derive particular satisfaction from legislating on educational matters; the Ministries of Education keep pace with numerous additional regulations. This flood of norms is doing to the school system what has long become reality in other fields, eg, in social law. The 'Verrechtlichung' of schools by a multitude of rules and regulations may be inevitable. But I venture to doubt whether it will improve the ability of schools to fulfil their pedagogic duties.

Had I delivered this paper 10 or even 15 years ago, I would have had to mention new trends and prospects regarding some of the points I have dealt with. At that time the educational reforms in the air ultimately aimed at the state's withdrawal from schooling. It was thought that release from the bonds of state control would renew the schools and enable them to produce new and better people, a new and better society. These expectations have not been fulfilled, the time of great designs for the future is past. Educational policies play only a marginal role in West Germany now. Many functionaries of trade unions and associations as well as some teachers bemoan this development. I am not so sure myself. Perhaps the lack of public interest, this peace and quiet, is just what the schools need to regenerate themselves and gain new vitality.