

Neo-Corporatism in flux: Taking stock of public private partnerships in German local governance arrangements

(Folie)

Dear Colleagues,

My paper summarizes some results of the CINEFOGO Work package “Partnerships – New Forms of Governance” which we have organized at Muenster University in 2007. In this context we carried out several case studies of public private partnerships with involvement of third sector organizations in the Münsterland region. My colleague Astrid Sauermann also produced an educational film for the CINEFOGO network which presents the case studies in detail. If you are interested you can download it on our website.

In my presentation today I would like to focus on just one aspect of the paper. And this is the transfer of risk from state actors to the third sector which is currently taking place in Germany. The leading assumptions of my current research on local governance arrangements in Germany is that in the course of Europeanization, Globalization and Marketization the German state is trying to dismantle its two central

concepts of state action: neo-corporatism and subsidiarity which have backed the relationship between state and the third sector in Germany for many decades.

In this sense Public Private Partnerships are instruments to make the safety net for the third sector derived from a very narrow interpretation of the principle of subsidiarity more wide meshed. In other words: What is currently taking place in Germany is a change of paradigms concerning the dictums of societal organization in Germany.

Of course I am aware that I cannot show this just from a little number of case studies. But I would like to deliver a starting point for further research on this topic and therefore our case studies are suitable. So my leading question for today is: **(Folie)** How does the instrument of public private partnerships between state and third sector tangent to the established arrangements of local governance in Germany?

To do so I have structured my presentation as following:

(Folie) I will start with a brief description of the interpretation of the principle of subsidiarity in Germany and its application to the Third sector. In a second step I will briefly introduce two case studies which

nicely proof my assumptions. Finally I will develop some questions for further research.

(Folie 3) Let me start with the first question: What is subsidiarity and how is it interpreted in Germany?

Traditionally the principle of subsidiarity derives from the Catholic social doctrine. **(Folie)** In 1931, it was officially inaugurated in the Social Encyclical “Quadragesimo anno” by Pope Pius XI pointing out that whatever the individual or small communities like families or local communities are able to achieve on their own should not be done by higher-ranking institutions. Larger units should only intervene when the smaller units are not able to deal with their tasks on their own and wherever it is possible the larger unit should support the smaller ones achieving affairs on their own. After the Second World War a very narrow interpretation of the principle of subsidiarity was developed when the state gave preference to the third sector in its welfare policies. This meant that the involvement of the third sector in social service delivery was incorporated into the social and welfare laws of the country underlining that government should abstain from providing social services as long as an organization of the so called

Free Welfare Associations is able to provide the services.

Additionally, government was and still is obliged to support the third sector financially, while at the same time, they are acknowledged as independent corporate actors, involved in many policy fields. In other words: The state served as a warrantor for third sector activities by guaranteeing financing on the one hand and entrust the third sector with many tasks on the other. This holds particularly true for the policy sector of health care, social services, but also youth politics and development aid where a small number of privileged organizations (the so called Free Welfare Associations) are responsible for the services. They are nearly completely financed by state subsidies. Nevertheless we must not ignore that the state has snapped up this warrantor position for third sector activities in nearly every policy field even in those third sectors which are at a first glance rather remote from state interests. You will hardly find a leisure organization in Germany which is not partly getting funded by state subsidies. Almost every local association be it an association for pigeon breeding, be it a soccer club or a Christian boy scout group receives grants. **(Folie)** Several studies like for instance the Johns Hopkins

Study impressively proof how the state is involved in the financing of the German third sector over years. **(Folie)** We can describe this interpretation of subsidiarity with the metaphor of an octopus who took over the responsibility by serving as a warrantor and financier of third sector activities. Starting in the early sixties of the last century with health and other services the octopus took over more and more policy fields over years up until the early 1990s **(Folie)**.

Then the octopus got exhausted by the threats of globalization, marketizations and the rapidly increasing indebtedness of the state in particular of the local municipalities. In other words we can discover a growth to the limits like Peter Flora has described the limitations of the modern welfare state. That is why the state is interested in a re-arrangement of the dictums of societal organization at the moment **(Folie)**. (By the way: Unfortunately I was not able to draw an octopus with empty trouser pockets so that I had to use this picture). The state and in particular local municipalities does not pursue a policy any longer that is based on a self-concept of a funding state which makes possible third sector activities by generously allocating subsidies to associations and other organizations from the third sector. While the

co-operation between state and third sector in the field of welfare production is legally appointed, the co-operation between state and third sector in many other fields of activity are not protected by law for instance in the fields of sports, culture, recreation but also local public transport and many others. These are optional state activities which can be easily reduced in times of limited budgets. And it is obvious that in particular local municipalities are trying to reduce their involvement here. At the same time they are interested in keeping alive the activities of the third sector which gains oftentimes strong societal support. In this context the term public private partnership has gained momentum in Germany in recent years. These new forms of partnerships are used for re-arranging local governance by transferring the risk to the third sector.

With the two following case studies of local public private partnerships I would like to proof this. **(Folie)** The question is: How is the state trying to let him of the hook?

The first case study was carried out in Schwerte-Ergste a city of 50,000 inhabitants in southern Westfalia. **(Folie)** After the town closed a public open air bath in the late 1990s because of its

threatening budget deficit the citizens of Schwerte collected more than 10,000 signatures and by petitioning for a referendum they managed to get the pool reopened. But the local municipality clearly pointed out that it was not able any longer to cover the costs of operation. That is why the body responsible for the pool was now no longer the local municipality but rather a specially founded public benefit limited corporation active citizens founded for operating the bath. In return the city leased the bath and the ground to the public benefit limited corporation for a symbolic rent. A contract was disposed which clearly regulates the duties of the public benefit limited corporation and obliged the town to pay a small annual rent for the school swimming. This contract with the town gives security to the third organization, but the limited corporation bears all of the business risks. There is no doubt that the bath will be closed when the public benefit organization is getting bankrupt.

The public benefit limited corporation has been successfully running the civic pool for more ten years now and are often presented by politicians as a reference example for successful public private partnerships on the local level. The co-operation between town and

the public benefit limited corporation clearly fulfils all criteria of a public private partnership A service of use for the public which has been supplied by the local municipality before has been transferred to a private operator. There has taken place an allocation of risks and a detailed contract has been declared which clearly regulates the duties of both parties. We could label it as an Operation and Management type of a public private partnership. In this case study the voluntary work is of great importance for the operation of the bath. The total sum can only be approximately estimated. As the chairman points out it must be about 70,000 – 80,000 Euro a year that they do not have to pay since all pool attendants work voluntary. They also do the reparation work on their own as long as they are qualified for this.

Currently the public benefit limited corporation is able to hold up the operation of the bath without problems. Nevertheless there will be perspectively a big challenge for the NPO: A public bath needs every 15 to 20 years a new circulations pump which costs about 300,000 Euro. Otherwise the bath is loosing its operations licence. This investment will be necessary in the upcoming years and at the moment the association does not know how to finance it. There is no doubt that

the local municipality will discontinue the public partnership in case the NPO is not able to allocate new resources.

This case study is a nice example of a public private partnership as a tool for successfully transferring the risk for an activity to a third sector organization. The association bears all the risk of this model and there are many critics who think that the state is giving up his responsibility for the services of public interest. Nevertheless this form of partnership was the only possibility to keep the service alive.

(Folie) Without voluntary engagement the wheels would also be standing still in Kevealaer, a small city of pilgrimage near the German Dutch border with 25,000 inhabitants where we did our second case study. In the idyllic place there is a public bus network but the municipality in the early years of the decade were not able any longer to offer all bus lines. And the other buses went quite rarely and covered only limited distances. That was not sufficient for the residents of Kevelaer any more. When the bus routes were altered in 2002 a civic voluntary bus association was established. Henceforth the association has been running its own bus line, together with the public services.

Today four civic buses run between the surrounding villages, which are also badly connected by public transport. A different civic bus association is responsible for each civic bus. According to the German Passenger Transport Act only transport companies are allowed to run local traffic routes. Therefore the public services took on the responsibility of the scheme. They also bear the financial risk for instance for insurances and maintenance of the busses. Here the civic bus differs from other partnership projects, whose hallmark is that the total risks are transferred onto the private partner. A contract was concluded between the partners - town council, public services, and bus associations - that guarantees for ten years that the public authority maintains the busses and is covering the insurances. It also codifies a small subsidy for the operation from the town.

In return the associations are responsible for the management of the bus service. The contract regulates a minimum supply of daily rides which have to be offered by the associations. They compile the timetables and recruit drivers, who are unsalaried workers.

For the local authority the civic bus service is an important voluntary contribution of the citizens to improve the local public traffic system.

The executive officer points out that in times of a cutback of public subsidies there was no other option. Since no private company would be able to organize local public transport in such a sparsely populated region profitably the voluntary associations were the only remaining chance to keep the service alive. So we can see again, how the state tries to get rid in this example from activities he was responsible for in former times.

I would like to conclude my presentation by developing some questions which might be interesting for further research and which we could discuss in our discussion.

(Folie) The exploratory case studies presented in the paper are focussing on several forms of public private partnerships under involvement of third sector organizations by transferring the risk of management to them. From the perspective of the local governments these co-operations have for sure several advantages. They can initiate voluntary work and save money at the same time. Oftentimes municipalities can keep alive their services which they would have to close otherwise. At the same time critique can be formulated: From a democratic perspective these forms of governance are on the one hand

good examples of participative governance. However on the other hand the state is signing contracts with its new partners that are bounding him for such a long time that no representative government is getting out of these contracts. It has to be also mentioned that those contracts do not have a plan B for situations when the association is getting bankrupt. From the perspective of the third sector associations those new forms of governance have several chances. They get there own buildings and grounds and can operate them independently. They also profit from the cooperation with the state because of the long duration of the contracts and the planning reliability which is arising from this. At the same time the associations have to be very cautious not to loose their voluntary standards. It can be shown that in all analysed associations of the case studies that there are conflicts within the members about the professionalization of the organisations.

Without any doubt the transfer of risk is a change of paradigm in the relations between state and third sector in Germany. And in a time in which the cooperation between the state and the third sector increasingly changes, public private partnerships will be established more and more.

This is why further research on public private partnerships should focus on the following questions:

(Folie) How is the transfer of risk from the state to the third sector and the re-arrangement of the principle of subsidiarity in Germany is influencing the activities of the third sector? And if it is influencing it: What are the options and limitations of public private partnerships under involvement of third sector organisations in local governance arrangements? Finally the questions gains momentum what implications are arising from these partnerships for the organizations. How do they deal with the risk transfer and can they really achieve a reduction of costs for the public authorities?

I hope that I will be able to answer some of these questions in upcoming conferences. For the moment I thank you for your attention and I would like some of my questions with you **(Folie)**.