

KORCZAK-CRC Seminar, Geneva, June 6th 2009

Working paper

By Waltraut KERBER-GANSE, International Federation of Social Workers,
and Joop BERDING, Dutch Korczak Association (JKSN), University of LEIDEN,
Depart. of Education, City of THE HAGUE

To all those who belong to different Korczak Associations

You may remember that long ago I passed via email to all of you a working paper that I wrote in order to find a common platform for all of us and I asked you all to take part in this co-operation and exchange among those who refer to Korczak. It was Joop Berding who answered and I answered him. He proposed that we should pass this paper to you all, hoping that there might be one or the other who might feel inspired to take part in this forum of preparing the International Seminar. Thus I today want to send just the beginning of this kind of exchange to all of you. Please, give your comments and additional thoughts in order to find out whether there might be a common message from Korczak Associations in spite of the fact that we all have our own thoughts, questions, feelings and experiences with regard to Korczak. I think that it might be useful to exchange such ideas.

Thus, I want to compose these papers as following.

A Working Paper for Korczakians taking part in the International Seminar in Geneva on 6 June 2009

Waltraut, January 2009

So far as I have learned there is one most relevant reason that Korczak got lost in the international debate on children's rights. His work was not translated to English (I am not quite sure how much into French) or more exactly: the first translation into English language was edited in 1969 in US and is more or less unknown by children's rights activists. I read a lot of writings concerning the history of children's rights without any reference to Korczak!

Thus one needs a new translation and edition of at least selected works and one needs publicity for this. It was Friedhelm Beiner in Mannheim who proposed to help for the selection of internationally interesting writings of Korczak with regard to children's rights. Meanwhile I had a talk with Thomas Hammarberg, together with Marta Ciesielska in Warsaw, and he would support such translation although not financially but morally in his role as Commissioner for Human Rights of the European Council. I am myself very much impressed how sincerely he is devoted to Korczak and how deeply he was enlightened by Korczak during the period of his active participation in the drafting of the Convention.

You will not wonder that I confess to be convinced that one should learn from Korczak's thinking and practice. But I am as well convinced that one has to learn from the Convention. Thus one should be able to look at the Convention informed and taught by

Korczak but vice versa: one should be able to look at Korczak informed and taught by the Convention! You know that the Convention is much broader and highly more differentiated than Korczak ever could have been! But we have to take into account that the Convention is an international treaty within international law and thus is addressed to State Parties. It describes obligations for Governments and additionally for society so far the State has an impact on social life at all levels of society. Thus the Convention refers to self-commitments of States parties. Are you really convinced that these State parties could learn from Korczak? Why are you convinced? Or do you rather refer to society and to people 'as you and me' trying to respect the child in everyday life? How to broaden this insight today? Will reading Korczak and teaching about him really help for a deeper understanding of the child's human rights today? You see there is a tension between Korczak and the Convention and we should seriously contribute that it be a productive one! Let me now shortly discuss what I am convinced of.

At first: everybody still can learn from Korczak. But what exactly? What to tell human rights diplomats and members of the UN Committee on the Rights of the Child besides historical references? Let me underscore that a reference just for historical reasons will be without relevance in this international child rights' community.

The Convention rather generally refers to the dignity of the child. But from Korczak we can learn what this dignity means, because he addresses himself to the adult in the well known for us challenging manner. He understands the thinking of adults as a deep and almost for physically reasons obvious problem of thinking in terms of hierarchy. He strikes on our disdain, distrust and resentment. He enters into a (fictive) dialogue with the adult and his feeling. Thus in order to make children's rights a meaningful reality and truth for adults in terms of a deep paradigm shift in their attitudes and feelings one can learn a lot from him.

It is this background that I proposed in my first outline about the program to be referred to in the first panel (you find it attached): 'What can we today personally learn from Korczak?' I had asked potential members of this panel to present what personally had struck them and what they themselves learned by Korczak (and generally and respectively suppose one can furthermore learn by him). In analogy there will be a parallel panel of what personally can be learned by the Convention.

With regard to the ongoing debate on children's rights there is a **second** very much striking subject in Korczak's thinking and practicing: these are the constitutional aspects of his thinking. He referred to himself as having become a 'constitutional teacher': "I declare that these few cases have been the nub of my training as a new 'constitutional' teacher who avoids maltreatment of children not because he likes or loves them, but because there is a certain institution which protects them against the teacher's lawlessness, wilfulness and despotism."

I am convinced that these constitutional elements are the most striking ones in Korczak's human rights based thinking and especially worth of a message today. He did not develop a pedagogical system or anyhow systemized theory but instead developed a 'pedagogical theory of a given place', in this case, a place of residential care. Analysing the same for another place, like school, would mean that we would have to find out quite different constitutional elements. Thus the very new concept is the concept of *constitution*. And constitution is – in my mind – the key to *participation* in case of children's collectives. In case of the individual child we can refer to article 12 of the Convention and the child's right to be heard and to be taken seriously, e.g. in judicial and administrative proceedings. But the Convention does neither comparatively refer to the child being respected by the adult in his or

her dignity in any situation of direct contact nor does it refer to constitutional elements of respect in case of children's collectives. Thus, both aspects are to be learned by Korczak!

The context of residential care is of high relevance for human rights' activists today. There are new Draft Guidelines about residential care just now circulating among States parties to be adopted by the UN General Assembly in fall 2009: But there are no constitutional aspects or democratic structures to be taken into account. This has something to do with the fact that quality criteria are a matter of the single State and not of the UN. But the mainstream of this paper generally refers to residential care as some kind of 'last resort': whenever possible it should be avoided and family, extended family, foster family or even adoption should be prioritized. The idea of self-government and its constitutional elements are not taken into account.

There is another important paper that hopefully will be adopted in January 2009. This is the new General Comment 12 on Article 12 of the Convention that will be issued by the Committee on the Rights of the Child. In one of its headlines it directly refers to Alternative Care and it mainly refers to procedural law of consulting the child and of monitoring the whole process. But there is in this Comment at least the idea of a representative council of the children that we don't find in the just mentioned UN Guidelines. Thus one could actualize what such a council might mean in terms of Korczak. In case that this paper would not be adopted in the up-coming session I would ask the chairperson for the allowance to send it to you, at least partially. Thus, one or the other Korczakian would be able to comment this Comment from a Korczak point of view.

Thus there could be a message from the Korczak point of view showing that the concept of residential care is worthwhile to be taken into account for a number of children, at least for adolescents because one may accept the challenge of constitutional elements in terms of high-level participation for youngsters in the sense of a consequent democratic institutionalization of self-government. But one should put such a message in the broader context of participation and not at once focus on residential care, - thus you will find the theme 'Participation' in the draft program.

Well, one has to look for a bridge to overcome the gap between Convention and Korczak. I am not quite sure whether my point of view might be a rather European one: The more it would be a challenge to learn what kind of messages people of other regions and continents might find in the writings of Korczak!

Finally one could show that Korczak stands for the moral substance of children's rights: but one has to accept and to learn, that as well the legislative side is a fundamental one! And this side will be represented by members of the Committee on the Rights of the Child.

Commentary and additions by Joop Berding, Dutch Korczak Association

February 2009

1. The paper mailed to us by Waltraut on 18 January 2009 gives a fine exposition of the themes that are relevant for us as 'Korczakians'. (I don't particularly like this label, so from here I will refer to 'us'.) Waltraut starts from the observation that Korczak is rather marginal, looking at the debate on children's rights on an international political and policy level. This is I suppose in contrast with the way terms like 'the champion of the child' or 'the children's attorney' are used in scientific research and professional quarters to characterize Korczak and his impact on children's rights. And I also suppose that it differs from country to country, and from continent to continent. In Europe for instance two representatives of the Dutch Korczak Association, Theo Cappon and myself, are members of the Working Group on the Quality of Childhood that is hosted by a number of members of the European Parliament. That is, one might say, a 'political' fact with 'political' meaning.

Waltraut correctly observes that translations of Korczak's works (I have an American edition from 1967, 'Selected Works of Janusz Korczak', selected from Polish by Martin Wolins) were not received with much enthusiasm by children's right activists. But my question is: were there any children's activists at all in those days and what was the state of the general reception of Korczak way back then? We're talking about more than forty years ago! I think this situation has changed, in part on the general political level but certainly on a more practical and professional level. It would be far-fetched to say that Korczak's view is the dominant one, although I clearly see (in Holland anyway) some progress compared with say ten or fifteen years ago. The progress being that many novices in education (teachers, group leaders) now at least have heard Korczak's name, or read something by or about Korczak during their training.

2. When we look at the Convention on the Rights of the Child I think we can safely say that it encompasses – in another 'language' to be sure – many ideas and beliefs that belong to the core of Korczak's constitutional educational 'philosophy'. In the first place, the fact that there is a Convention at all, i.e. a written, public statement on children's rights is consistent with Korczak's insight, and practice, that children must be protected against arbitrariness from the side of the educator, in the case of the Convention against the arbitrariness of the national state and those who act on its behalf. The fact that it is public is crucial.

Secondly, the well-known three P's of the Convention (protection, provisions, participation) are consistent with the way Korczak looked at the education and upbringing of children and youngsters. It is safe to say that Korczak is one of the founding fathers of the very idea of participation. But it is necessary to track back when, where and why he developed this concept at all. Because it was developed in a very specific social situation, i.e. the summercamp where Korczak worked as a novice in the 1900's. There, Korczak underwent a sort of Paulinian conversion when he found out that the pupils planned to fight each other with sticks and branches. He put an end to it there-and-then, and as he recalls in the part 'Sumercamps' of *How to Love a Child*, the next day he went to the woods with the children and started to talk with them instead of to them. I have always felt that the idea of participation was born then. It included a totally different attitude from Korczak as an educator toward the children. Educationally speaking, the concept of responsibility is of utmost importance here: Korczak abolished his attitude of disinterestedness and self-centeredness and accepted the responsibility for all children. He made clear in what relation he wanted to stand to his pupils. In other words, not until he clarified this relation, and positioned himself in

relation to the children and had the children position themselves to each other, again in other words, not until he introduced the law of respect, was there an educational situation in any meaningful way. In the words of the French psychoanalyst Lacan we might say that Korczak broke through the 'imaginary' order and entered the 'symbolic' order, that is the order of language and difference. I believe that Korczak's work in the orphanage, based upon a written and publicly communicated Constitution, is a direct outgrowth of this early insight of the conditions under which genuine education can take place.

3. I believe we must look beyond Korczak's concrete practices and experiments to see what is really the core of his 'philosophy'. Otherwise we will never be able to make clear what he has to say to us (this includes not only 'us', but also the professionals and policy makers on every level), and we will be held captive by the 'historical' figure. I am reminded here of a Kindergarten group leader who participated in a workshop with me and asked me whether it was useful to install a children's court in her group 4- and 5-year olds. Of course not. Because a children's court is only a 'form'. What is important is the idea behind it, and that is the idea of justice and respect. So the debate has to be how to install justice and respect in a group of children. Research shows that this is no luxury: four years ago a survey in Dutch Kindergarten groups showed that 80% of the children was either a victim or a doer of bullying, and pestering. Again, the point of the children's parliament in Korczak's orphanage was not to have a parliament, but to have children participate and contribute to the everyday life of the community. So group leaders in a centre for after school care might ask themselves; in what degree and in what way do we want children to have influence on what goes on here? Workers in residential or judicial care might ask the same question (and come up with a different answer).

I submit that my examples are on the executive, professional level. There is a lot of educational and other research that suggests that success in schools, day care groups, after school care etc. has directly to do with the level and the quality of information, communication, and participation. Unfortunately, many of our local and national policies are, at this moment, not at all motivated by this kind of educational considerations. They are mainly targeted and computed to prevent or downplay risks, to combat annoyance by youth in the public sphere, and to control the everyday lives of citizens. More and more we live in the imaginary order that I referred to earlier, in which we are tempted to 'label' everything. The mediatization that goes on in our present-day societies does not really help here, to say the least.

4. Summing this up and looking again at Waltraut's piece, I think and agree that the 'constitutional' view is the core of Korczak's outlook. Now Waltraut states that this is valid for residential care, and that there might be other elements when we look at other institutions. I believe however that 'constitution' in relation to participation, and other aspects like communication, remain the same, no matter what institutions we are talking about. The task at hand is to find the adequate form, appropriate for the institution concerned.
5. There is a tendency towards juridization, which does not necessarily 'fit' with an educational view on children such as Korczak's. There is I suppose a tension between protection and the avoidance of risk on the one hand, and the educational 'fact' (or supposition) that a child wants to be a person himself or herself, on the other. Korczak of course warns against over-protection by adults who cannot control or hide their own fears and project them on their children (see *How to Love a Child*). But Korczak also points at the responsibility of the

educator/teacher/... for 'his' or 'her' children. So when Waltraut on the last page states that 'the legislative side is a fundamental one', I say: yes, and the educational side also!

So far.

JWAB

Waltraut: March 2009

Dear Joop,

I am not quite sure whether you sent your comment on my working paper to the other participants. Should we enter into a further dialogue? Do you believe that there is enough enthusiasm so that we could share this dialogue with other participants? I still believe that one should find out whether there could be a more or less shared message. Thus I started with my paper. But now, once more, I have to apologize for not having answered in time. Because nobody else wrote any idea I would prefer to at first answer you in a rather private manner.

My question is not whether Korczak might be regarded as some kind of an early pioneer of children's rights or even as the very pioneer. My question is whether Korczak should be known in the official world of UN human rights and specifically children's rights debates and whether anything is to be learned from him today. Why should I intend to bring together those who are officially given the task of monitoring the Convention and those who are engaged in the legacy of Korczak? For me it is less a question of historical truth (what is, no doubt, essential) than a question of inspiration today. Therefore I hope that there might be some inspiration on both sides in terms of bridging a gap.

What do you think about this thesis: "Thus one should be able to look at the Convention informed and taught by Korczak but vice versa: one should be able to look at Korczak informed and taught by the Convention!" I myself learned to think in terms of the Convention independently of my interests in Korczak: thus the bridge is the challenging question for me. But do we need a bridge?

I am convinced, that there is a lack of both: of a rights-based 'constitutional thinking' and of thinking in terms of the dignity of the child and of serious relationship in terms of honestly listening to the child. In this case the Convention is less inspiring than Korczak.

Thus, this could be a bridge of convergence and mutual learning.

In my view Korczak did not think in terms of protection but in terms of being taken seriously and of active participation.

There is a lot to be discussed. How should we go on?