

# **ESF Exploratory Workshop on Eugenics and Restorative Justice (EW07-146)**

**Hannover, Germany, 4-6 July 2008**

**Convened by Kathrin Braun, Leibniz University Hanover and Angelika von Wahl,  
San Francisco State University**

## **Scientific Report**

### **I. Executive Summary**

The ESF-workshop on eugenics and restorative justice took place 4-6 July 2008 at the Leibniz University in Hanover, Germany. Our workshop proved to be a very productive scholarly gathering, based on well prepared contributions, fruitful cross-disciplinary discussions, and focused assessments of the challenges and promises of research on restorative justice. As anticipated, the workshop benefited greatly from the international and interdisciplinary (history, law, sociology, political science) composition of the group. The interdisciplinary nature of the group was especially enlightening regarding the complex and internationally varied origins and practices of eugenics, as well as the current governmental responses in different states.

The group consisted of a balanced mix of junior and senior researchers. It additionally benefited from the papers having been circulated in advance so that all participants were well prepared. Participants and convenors regretted that no ESF representative was present to witness the high quality of contributions and the productive dynamic of the workshop. Due to some last minute cancellations, the convenors slightly rearranged the workshop agenda (see 'Final programme').

The workshop started on Friday evening with an introduction by the convenors, followed by a discussion and an extensive round of introductions. In their introduction, the convenors addressed the background to the topic, the recent "globalization of reparation claims" (Stern), blind spots of research in this area as regards eugenics, sex, gender, and biopolitics, and the development of a research network to close these gaps. Saturday started with an introduction

to the disciplinary and theoretical foundations of the project followed by a number of country cases and a lively group discussion taking stock of lessons learned from existing research. Sunday continued with additional country studies. The workshop concluded with a debate about key issues for future research that were recorded on flip chart by the convenors and then bundled into sub-working groups.

Country studies:

Jiri Kopal gave an account of the policy of sterilizing Roma women in the Czech Socialist Republic since 1988. He specifically explained the role of the 'policy of enlightenment' and of social workers in the formation and implementation of this sterilization programme. Further, Kopal explained the historical and political context of the sterilization policy, current struggles to achieve reparations for the victims, and the problems activists for reparations are confronted with.

Natalia Gerodetti gave an interpretation of the recent Swiss debate on whether or not to set up a reparation scheme for victims of forced sterilizations. She suggested that the failure of setting up such a scheme was in part due to the prevalence of a 'criminal offence frame' as opposed to a human rights frame. She also gave an overview over the historical background of the Swiss eugenics movement and the practice of sterilizing people living in institutions. Both cases referred to policies that were not based on a federal law but on a system of incentives and directives (CSSR), or cantonal law and common professional practice condoned by state institutions (Switzerland).

A section followed with presentations by Alexandra Minna Stern and Henning Tümmers. Alexandra Minna Stern explained how coercive sterilization formed an element within what she calls the "better breeding continuum" in the United States from the beginning of the 20<sup>th</sup> century onwards. She also gave an overview over apologies and reparation schemes concerning coercive sterilization in recent years in different US states.

Henning Tümmers presented an account of reparation politics in the case of coercive sterilization under NS law and discussed the question why claims to reparations by victims of coercive sterilization were unsuccessful in the Federal Republic until the 1980s. Tümmers also addressed the issue of categorization of victims and competition among victims in struggles for reparation.

The second half of Saturday afternoon was filled with a discussion on the interim results of the workshop and on key issues for further research and collaboration (see `scientific content of the workshop`), followed by a workshop dinner.

Sunday morning started with two more contributions by the convenors, followed by a case study by Andreas Pretzel. Angelika von Wahl analyzed and compared the reparation politics in the Federal Republic of Germany for victims of Nazi persecution of male homosexuals and reparations politics in case of the Holocaust. Von Wahl suggested that concepts from social movement theory like agency, collective identity, and political opportunity structure, could serve as useful conceptual tools for analyzing the trajectory, success, or failure of struggles for reparations. Kathrin Braun sketched out a research programme on the `politics of time´ and suggested a number of theoretical approaches and conceptual tools such as everyday time, life time, historic time, higher time, the politics of delay, or politics of periodization, that could be useful for analyzing the important temporal dimension of eugenics and restorative justice.

Andreas Pretzel analyzed the practice of castrating male homosexuals in Germany in the first half of the 20<sup>th</sup> century, mainly under Nazi rule, as motivated by eugenic thought on the one hand but as a means of disciplinary politics on the other. He also gave an account of the difficulties of victims of Nazi castration to achieve the status of victims of human rights violations after 1945. In the remaining two hours, the convenors presented a structured synopsis of the key concepts and issues discussed and reviewed the synopsis with the group (see `scientific content of the workshop´ and `Assessment of the results....´). Finally, the group agreed on a number of steps for further cooperation (see `Assessment of the results....´).

## **II. Scientific Content of the Workshop**

During the discussions on Saturday and Sunday, the group agreed on further collaboration based on a research programme that was structured, in a collaborative effort, according to four points: 1.) key concepts; 2.) issues under consideration; 3.) challenges, and 4.) forms of further collaboration.

## 1.) Key Concepts

Concepts considered key for further collaboration by the participants are 'agency', 'political opportunity structure' (POS); 'civil society'; 'intersectionality'; 'temporal frames'.

*Agency*: Research in the area of restorative justice and reparation politics has rarely addressed reparation politics as political *struggles*. These struggles can take different trajectories and are fought by actors who are sometimes able (or not) to mobilize resources. Such claimants are more or less successful due to context, strategies, institutional structures, or other factors that deserve investigation. Because of disciplinary and theoretical blindspots, the dimension of agency has been largely neglected so far in reparations research. Future research should pay special attention to the agency of victims of human rights violations, their organizations, claimants of reparations and restorative justice, their allies, but also the agency and power of those oppositional forces who oppose or delay restorative justice for various reasons.

The concept of the '*political opportunity structure*' (POS) refers to any conditions or factors that might influence struggles for restorative justice, including strategies of mobilization, material and symbolic resources, sponsors, allies, competing claims, domestic, international or EU law, collective identities, interpretative frames, dominant discourses, religion, and more.

Much of the discussion throughout the workshop referred to the relation between structure and agency, states and citizens. Of particular interest is the relation between the state and claimants (including civil society actors) regarding both the formation and implementation of sterilization policies and of reparation policies. Much of the current literature both on the politics of eugenics and on restorative justice is rather state-centred in that it tends to exclusively focus on the state as persecutor and accordingly on the state as the entity supposed to acknowledge the historic injustice it committed and issue an apology. However, examining historic injustice in the context of eugenics sensitizes us to the crucial fact that it was often times civil society actors, such as the medical profession, organized science, social workers, philanthropic organizations, women's organizations and others, who promoted and/or implemented eugenic policies. Because of the relevance of civil society, which is usually regarded highly and often uncritically, an important question that developed during the workshop was: How can civil associations be held accountable? Should the medical profession issue an apology for its involvement in coercive sterilizations? Can a profession as such apologize for human rights violations or even pay compensation? Can professions, churches, or institutions constitute addressees of claims to restorative justice in the same sense as governments are? However, civil society as a political forum and civil society actors, such

as human rights organizations, victims organizations, private sponsors, the Roma community, the gay community and others, also play a crucial role in bringing claims to restorative justice on the political agenda (or not). Thus a deeper study of the role of civil society and ‘civility’ as such is promising for understanding the politics of eugenics (see below future directions).

The concept of *intersectionality* refers to the fact that victims may belong to different social groups at the same time which each affect the way they see themselves, their place in society, the networks and resources they can mobilize, their allegiances, and so on. The meaning of these different social categories, such as Roma, gay, men, women, disabled, black, Hispanic, may counteract or reinforce or otherwise affect each other and thereby influence the potential of agency (see below future directions).

The concept of *temporal frames* refers for instance to a demarcation of "the past" as being sharply separated from "the present" in the sense that historic practices of discrimination or human rights violations are seen as being "over" and located in the past. This temporal demarcation can form a precondition for developing reparation policies. But whether, how, and where the line is drawn between "the past" and "the present" decisively influence the outcomes of struggles for reparations.

Temporal frames, however, can also refer to certain ideas about history such as history being a process of inexorable upward "progress" that has to be accelerated, or a process of downward "degeneration" that calls for being halted. It needs to be investigated if the continuity or discontinuity of such ideas about the nature of history and temporality also has an impact on struggles for reparations. This would be particularly pertinent in the case of eugenics because this practice was intrinsically linked to ideas such as degeneration, progress, prevention (through sterilization or abortion), future human improvement, or modernity.

## **2.) Issues under Consideration:**

In addition to key concepts for further collaboration, the group noted some interesting puzzles and aspects that should be considered in future research in this area:

*Eugenics as a policy of mostly democratic states:* In the literature, eugenics is oftentimes presented as a set of measures imposed on society by an authoritarian state. However, one driving force behind eugenic policies can better be understood as eugenic social movements emerging from within a relatively free civil society. Indeed, eugenic movements emerged first in Western *democratic* states and spread in nations where the “improvement” of society through social-democratic or liberal means was legitimated. In contrast to public perceptions

Nazi eugenics was the exception and probably the *only* case of an authoritarian state implementing eugenic sterilization policies (see below future directions).

*Interplay of claims:* Many case studies show that struggles for reparations for coercive sterilization have to be understood within a context of concurring claims to reparations. Different claims may reinforce each other, some successful claims may serve as a model for others, but there could also be a competition between different claims and groups of victims. The dynamic of concurring struggles and claims and the dynamic it unfolds can be seen as part of the political opportunity structure and the ability of claimants to organize (see below future directions).

*Construction of identities:* The question whether, how, and under which circumstances victims can mobilize and/or develop a positive collective identity as a basis for collective action is crucial for the understanding of struggles for reparations. Developing a positive collective identity, however, is particularly problematic in the case of eugenics. Coercive sterilization, castration, disability, or mental illness, are until today features so heavily stigmatized and socially marginalizing that it is virtually impossible to ground a collective identity on these experiences. Some groups of victims, however, might be able to mobilize other, already existing identities such as belonging to the gay community or to an ethnic community. How these identities interplay with the identity of a victim of eugenic human rights violations, is another point requiring further attention.

*Temporal logics of reparation politics vs. social movements:* Social movements, by definition, seem to be organized to focus on the future, striving at (what they see as) a better societal order or way of life than the present one. They mobilize in order to shape the future form of society and social relations. Claims to reparation and state reparation policies, however, refer to the past and are preoccupied with what had happened in the past and how to assess those events. The discrepancy between these logics is an important point that deserves further attention when researching the relation between for instance the women's movement, the gay movement, the disability rights movement to claims to reparation by victims of coercive sterilization or castration.

### **3.) Challenges for Eugenics Research:**

While the presentations and discussions in this exploratory workshop were able to reflect upon a number of conceptual innovations and specific material from the different country studies we also came to understand that a number of challenges to the empirical study of eugenics exist. These deal with questions of definition, measurement, operationalizing, and

theorizing, and as such form part of the research process of any theory-guided empirical study. Since there exists hardly any comparative research on eugenics and restorative justice, however, we are intent to take these questions seriously and to work on finding the soundest and most satisfying solutions. Questions that were identified and need to be discussed at further workshops and meetings are the following:

1.) Comparative studies are a useful approach for studying the relation between eugenics and restorative justice and the struggles for reparations. Yet: what exactly constitutes the *unit of comparison*? What is "a narrative", or "a struggle", how to demarcate it? What are the advantages and disadvantages to compare state policies, struggles, and narratives? On which time period do we focus? How broad or narrow should the unit of analysis be in terms of time, space, actors, or issues? To which extend should we focus on state policy and how far should we study civil society? In which sense are these units comparable at all? To which extend should it refer to struggles for reparation in relation to, for instance, churches, institutions, or professions?

2.) The law plays a special role in reparation claims. What should be the place of law in the prospective research network in eugenics and restorative justice? To which extend should research focus on the state and/or on a *juridical* framework? What consequences would a focus on law have for the overall project and interdisciplinary research? What would the theoretical and empirical consequence be for the project of underestimating the legal and discursive role of law?

3.) What exactly is on trial? If one of the findings is that eugenic policies are, at least to some extend, the outcome of a modernist framework, based on the idea of social engineering and human betterment through science, technology and administration, then what is on trial: a single state, such as i.e. Sweden or Switzerland? The modern, protestant welfare state? Medicine or psychiatry? The modernist biopolitical rationality supported not only by states and governments but also by certain social movements, professions, and civil society actors?

4.) Empirical challenges: The documentation of specific cases and the collection of evidence can also constitute a problem. The more forgotten, the more stigmatized, and silenced the group of victims was, the harder it is to find evidence and demonstrate agency. Also, in cases in which sterilization policies were not based on formal legal acts but on a set of

administrative measures, or were spread among different authorities, or just condoned by state actors, finding and interpreting evidence can be a challenge.

5.) Terminology: What are the advantages, disadvantages, implications, or context specific meanings of certain terms such 'reparations', 'restorative justice', 'reconciliation', 'compensation', 'human rights'? Oftentimes, such terms are associated with a certain meaning in a specific national and historic context and differ internationally (for instance 'restoration' in the German context is linked to the process of reintegrating Nazi professionals into German society in the 1950s).

#### **4.) Further Collaboration:**

The group agreed on a series of concrete steps for further cooperation:

- Participants and convenors form a research network named "Eugenics and Restorative Justice" (ERJ network).
- The group agreed to produce a series of co-authored papers on topics that have emerged from this workshop and that shall serve as a basis for further discussion and possibly future publications.
- The Hanover project will also set up a project website with links to members of the research network and their respective projects.
- A list of potential participants of further workshops, conferences and other forms of collaboration, including persons who strongly expressed their interest in the topic but could not make it at that date, will be coordinated by Kathrin Braun and Svea Herrmann. Potential participants will be contacted and asked whether they want to become members of the ERJ network.
- Svea Herrmann will set up a corrected list of participants and their affiliations (attached to this report) and email it to all participants.

To further this area of research, Kathrin Braun will start a smaller comparative research project on "Eugenics and Restorative Justice." This related project will be funded by the German Research Association (DFG) for at least two years, at the University of Hanover and compare a sample of three nations (Norway, Germany, Czech Republic) in more detail. The Hanover team will try to acquire additional funding and, provided additional funding is granted, we plan to organize a larger follow-up workshop or international conference in 2009.



Specific research clusters for further collaboration:

The human rights frame: Jiri Kopal, Alexandra Minna Stern, Kathrin Braun.

The role of agency and mobilization: Angelika von Wahl, Henning Tümmers, Anne  
Waldschmidt, Andreas Pretzel, Natalia Gerodetti.

The intersection of past and present and the role of narratives of modernism: Andreas Pretzel,  
Kathrin Braun, Natalia Gerodetti.

The role of the welfare state: Angelika von Wahl, Anne Waldschmidt, Alexandra Minna  
Stern.

A first 1000 words version of these papers will be send out and circulated until 15 September  
2008.

A second, 15 pages version will be send out until 15 December and circulated among the  
participants of the workshop.

Angelika von Wahl and Kathrin Braun will apply for an ESF follow-up workshop in 2009  
which, given it will be approved, will take place in 2010.

### **III. Assessment of the results, contributions to the future direction of the field**

As convenors, we are very pleased with the outcome of this exploratory workshop: as far as we know, the meeting constituted the first international and interdisciplinary discussion on the issue of reparations and eugenics. The participants worked well together and productively complemented each other's areas of expertise. We now look forward to further cooperation and the expansion of the ERJ network across Europe. Based on our current assessment of workshop outcomes, we would like to focus on two areas specifically where we believe our network can make lasting and important contributions: 1. The study of agency and civil society in Europe and 2. the bio-political characteristics of modern democracy:

The first central question addresses the political space between state and citizen and the possibility of change, particularly the role of agency in the form of civil society for restorative justice and eugenics. How has eugenics moved historically and politically from an issue of "social betterment" to "social injustice"? Who is defining the changing discourse and with what goals? What have European governments (and the EU) undertaken to address the serious legal and human rights questions originating from this kind of policy? While civil society has been a core area of interest in much of history, sociology, political science, and law since the late 1980's, so far civil society in the form of professional associations and social movements

has not been adequately studied in regards to reparations and eugenics. This *lacunae* is even more pressing in an international perspective.

The other central and theoretically relevant future focus of this research project will deal with questions of democracy. As our initial workshop has shown, Western democracies in particular seem to have been prone to institute eugenic policies. This surprising finding needs to be further investigated as it indicates that democracies can (whether intentionally or unintentionally) facilitate such policies. Eugenic policies seem to represent the double-edged sword of scientific progress and popular will (see the examples of Sweden and the Czech Republic). Different schools of thought from critical theory to postmodernism have problematized the belief in progress and democracy when it comes to bio-politics (see introductions by Braun and von Wahl).

We believe that as the European Union expands and steps into the 21<sup>st</sup> century, and as bio-technology proceeds it will be more important than ever to understand how democracies foster on the one hand citizens claims to human rights and, on the other hand, potentially produce policies that are deeply undemocratic and problematic. More specific issues to be addressed when speaking in democratic terms are: issues of the accountability of governments, the intersectionality of claimants identities, the contemporary role of a so called 'politics of the past', and the possibly competitive interplay of claims in pluralistic systems. Our research network plans to address all of these important issues in our future undertaking.

Themes for follow-up workshops:

*Eugenics and democratisation (projected for 2009)*

This Workshop is planned for 2009 on historical comparison of reproductive politics in European states. Here the initial intent will be to delineate political change and continuity in regards to the history of sterilization and other eugenically motivated human rights violations such as castration or coercive abortion over a longer time. The particular focus of this workshop/conference will then be on the varied and sometimes contradictory effects of political democratization: We chose three time periods of democratization to investigate in-depth the historical perspective. We focus on cross-country and diachronic comparisons of: post 1918, post-1945, and post-1989 on eugenics and restorative justice.

*Reconciliation and Civil Society (projected for 2010)*

We have been in contact with researchers at the Social Science Center Berlin (WZB) for the last 2 years. The research unit on civil society at the Social Science Center is also planning a comparative research project on human rights and reconciliation. While their project deals with minorities only there is a substantial methodological interest from both sides in learning from each other about comparative research on human rights and public policies to come to terms with the past. The research project at the Social Science Center (starting in Fall 2007 and funded by VW Foundation) will overlap in time with our prospective research network and we would like to organize a workshop together with the WZB on the issue of reconciliation and civil society.

*Europeanization of restorative justice (2011)*

The influence of the EU on nation-states is being widely researched because of its fundamental relevance in political and theoretical terms. The term ‘Europeanization’ conceptualizes some of this literature. In this workshop we would like to address the issue of both the influence from the supranational EU-level on nation-states and of the nation-states on the EU regarding the matter of reproduction and restorative justice.

#### **IV. Final Programme**

##### **Friday 4 July 2008**

17:30	<b>Meeting in the Hotel Lobby</b> <i>Walking to the Workshop Location</i>
18.00 - 20.00	<b>Welcome Address</b>  Round of Introductions  <b>Presentation of the European Science Foundation (ESF)</b>  Introducing the idea of a research network on “Sex, gender and restorative justice” <b>Kathrin Braun &amp; Angelika v. Wahl</b>  Discussion Welcome Buffet

## Saturday 5 July 2008

09.00	<b>Meeting in the Hotel Lobby</b> <i>Walking to the Workshop Location</i>
09.30 – 11.00	<b>Restorative Justice, Sex, Gender, and Biopolitics</b> <b>Angelika v. Wahl &amp; Kathrin Braun</b> <i>Topics, approaches, open questions, goals of the workshop</i> Discussion
11.00 – 11.15	<i>Coffee Break</i>
11.15 – 12.30	<b>Coercive Sterilization, Eugenics and the Politics of Reparations: Actors, Achievements, Analyses</b> <b>Jiri Kopal</b> on the Czech Republic and Czechoslovakia <b>Natalia Gerodetti</b> on Switzerland Discussion
12.30 -14.00	<i>Lunch Break</i>
14.00-15.30	<b>Coercive Sterilization, Eugenics and the Politics of Reparations: Actors, Achievements, Analyses (continued):</b> <b>Alexandra Minna Stern</b> on the USA <b>Henning Tümmers</b> on Germany Discussion
15.30 -16.00	<i>Coffee Break</i>
16.00– 18.00	<b>Eugenics and Restorative Justice: Lessons Learned from Author's Research (round table)</b> <ul style="list-style-type: none"><li>• Useful conceptual and analytical tools</li><li>• Theoretical and methodological problems</li></ul>
20.00	<i>Workshop Dinner</i>

## Sunday 6 July 2008

9.30 -12.00	<b>Setting up a Research Agenda and Building a Network</b> <b>Exploring Concepts and Approaches for Investigating the Politics of Reparations and Restorative Justice</b> <b>Angelika v. Wahl:</b> Civil society, social movement theory <b>Kathrin Braun:</b> Politics of time <b>Andreas Pretzel:</b> Sexuality and biopolitics Discussion
12.00 -12.15	<i>Coffee break</i>

12.00 -14.00

**Wrapping up the Workshop:**

**Lessons Learned from ESF Exploratory Workshop**

Challenges for future research

Comparing the politics of reparations similarities and differences among country cases

Ideas for further research:

Areas, research questions, approaches, goals

Follow-up workshops; further cooperation, networking

14:00

*Lunch*

**V. Statistical Information on Participants**

**Gender:**

Female: 6

Male: 3

**Career Status:**

Professor: 4

Senior Lecturer: 1

Postdoc: 1

PhD Student: 3

**Country of Residence:**

Germany: 5

USA: 2

Czech Republic: 1

UK: 1

**Disciplinary Background:**

Political Science: 3

Social Science: 2

History: 2

Cultural Studies: 1

Legal Studies: 1

## VI. Final List of Participants

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