



Unabhängige Expertenkommission
Administrative Versorgungen
Commission indépendante d'experts
internements administratifs
Commissione peritale indipendente
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Report Preliminary Findings Workshop IEC on Administrative Detention

This is a documentation of the public preliminary findings workshop of the IEC on 18 January 2017. The English summaries presented in this document are translations of the original German or French texts.

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Panel discussion

Following a synoptic review of the day's presentations and the subjects they touched on, the members of the discussion panel were presented to the workshop participants. The panel members were:

Dr. Dr. h.c. Markus Notter, President of the IEC

Dr. h.c. Ursula Biondi, President of RAVIA, Association for the Rehabilitation of Administrative Detainees

Dr. Tanja Rietmann of the Interdisciplinary Centre for Women's and Gender Studies (ICFG), University of Bern

Dr. Christel Gumy, IEC Research Coordinator

The discussion was moderated by: Dr. Daniel Lis, IEC.

The discussion opened with a question from the moderator addressed to Markus Notter. The question posed by Dr. Lis concerned the opportunities and limitations inherent in efforts to achieve a socio-political understanding of the past. What is it possible to say about that, he asked, after a year of intensive research? In his response, Markus Notter pointed out that certain limitations had been encountered in the course of his research into the statutory bases for ordering administrative detention. There were many differences between the legislative regimes of the various cantons and in the circumstances under which they were implemented, he explained. This diversity makes it impossible for the IEC to analyse all of the potentially relevant sources in depth and to take them into fully into account.

Daniel Lis noted that the IEC had many «fathers» and «mothers». Without pressure from the associations that represent the individuals who had been held in administrative detention, a serious historical study of the subject by the IEC would not have been undertaken. He then expressed his thanks to Ursula Biondi and the other former detainees. His second question was addressed to Ursula Biondi. She too was asked to comment on the opportunities and limitations inherent in such an investigative commission.

Ms. Biondi responded by commenting first on the use of the expression «dealing with past injustice», and noting that for many of the former detainees «injustice» was a much too mild a term for what had been done. Crimes had been committed, she said. She then thanked the IEC for its work, which she described as being important not only for the former detainees, but also for future generations. According to Ms. Biondi, the fact that the study included research not only into the periods when the victims were held in detention, but also into the entire course of their lives offers an important opportunity. It provides an chance to consider a number of broader questions. How did it all start? Why were thousands of individuals – mostly from the lower social classes – stigmatised and so readily characterised as having behavioural problems by their families and the people they trusted. For Ursula Biondi it is important that the IEC describe the lives of many different individuals in order to make it clear what those who were subjected to administrative detention measures went through. She herself, she relates, was first stigmatised as a child. This was the start of a long career of institutionalisation, beginning with foster homes at a very young age, and ending years later in a juvenile correction facility. The things that went on in those prisons, she argues, must be documented. While emphasising that the victims were not demanding that own their behaviour be simply glossed over, she points out that because of their past they are marked by a double stigma: the first is that of having been categorized as having «behavioural problems», the second that of having been placed in administrative detention, of having been incarcerated. Even after their release, she notes, they are marked for the rest of their lives. It is like wearing a muzzle, Ursula Biondi explains. They can't talk about where they were and what happened to them, since nobody believes them. Victims who are fortunate enough to meet people with a kind heart sometimes have a chance to build a life and a career, but the pain remains. Today, more of those who suffered are gradually willing to «out» themselves. They no longer feel like fugitives, they are no longer hunted. This is another subject that Biondi believes should be more openly discussed: what has become of those who outed themselves? Here she is also thinking of the people who started the early movements to raise social awareness. What has become of the people who first had the courage to talk openly about the incredibly arbitrary manner in which authorities in Switzerland are able to take decisions?

The moderator then asked Ms. Biondi whether she thought the IEC would be able to do something about this stigmatisation, could help to remove it. Her response was no, that this was something the IEC would not be able to do. The victims would continue to bear the

stigma within themselves, she explains, but what they were hoping for was that this issue would receive detailed treatment in the IEC report. That, Ms. Biondi said, would help to at least to lighten the burden of bearing such a stigma.

Mr. Lis then asked whether the work of the IEC also brought any risks with it. In response, Ursula Biondi then spoke of the concerns and fears of the former detainees. Turning to the president of the Commission, she voiced an urgent request: the former detainees, she said, needed to be reassured that the IEC was truly independent and that it would not be under pressure from the government. Otherwise, she insisted, it would constitute a cruel breach of trust towards the victims. This concern was taken up by the moderator, who agreed that the issue of the IEC's independence should be brought into the discussion. Markus Notter gave his assurance that the IEC was working under its own authority and had not been given instructions by anyone. The members of the IEC would guaranty personally that their work was being carried out with full independence. There was always a risk, he admitted, that in the end not all of the people involved (the former detainees, the members of the Commission, the members of the research team, the representatives of the various institutions involved, political representatives) would not be in agreement with all of the assessments contained in the report. This, he argued, did not alter the fact that the IEC was fully independent. While it is true that they had received their mandate based on a provision of the law, no instructions had been issued by the Federal Council. Mr. Notter stressed that the Commission placed a high value on preserving its independence.

Continuing on the subject of the IEC's independence, the moderator then asked Tanja Rietmann for her thoughts. With regard to the research being conducted, he recalled that Ms. Rietmann was one of the «mothers» of the IEC. As an historian, she had played a pioneering role through her work on the subject in the Canton of Bern and now also in Grisons. What were her views on the independence of the IEC, he asked, seen from the point of view of an historian not directly connected with the IEC project. Tanja Riemann noted that it was necessary to address the question of independence from a number of different angles. One important aspect, for example, is the responsibility of historical researchers with regard to the process of translation. Historians, she explained are accustomed to dealing with documents and must learn to analyse them with a critical eye. This, she said, was an important point. Historians bear a responsibility for the process of translation and can also provide insight into the methods of responsible historical research, on how to deal critically with sources and

facts. Most of the sources, she explained, reflect the point of view of the authorities. Because of this, when regularly confronted with sources written in bureaucratic language, it is necessary to constantly maintain a critical and reflective distance. This makes it possible to resolve misunderstandings.

The moderator also asked Ms. Rietmann about the opportunities, as well as the limitations and risks inherent in a national effort to come to terms with its own past. An important point, in Tanja Rietmann's view, is the need to gain an overview. At first glance, the wide variety of differing cantonal laws resembles an impenetrable jungle. Gradually, however, certain common features become discernible. One example, she points out, is the problems that result from the absence of a broad social welfare system at the time, which led, among other things, to the use of administrative detention also for elderly persons. Such problems were later solved at a different level. The IEC has sufficient resources, said Ms. Rietmann, to be able to investigate issues that a single historian, working on her own, would be unable to follow up on.

The moderator then posed the same question to Christel Gumy, who as an IEC Research Coordinator has an inside view on the Commission's work. Asked about the opportunities that such a research project offers, Ms. Gumy first explained that she was Research Coordinator for a specific area of research. The focus of that research is on the statutory bases that permitted the detention of individuals for purposes of social prophylaxis. The central issue involved there is one of legitimisation and delegitimisation. In her view, the opportunities offered in this area – even if it is an area that may appear to be far removed from the realm of personal experience – lie in the potential for critically examining all of the various life histories involved, taken as a whole, without at the same time divesting them of their own individual and specific features. Her area of research thus makes it possible to criticise a logic that was followed, a logic that despite being coherent, was nonetheless unjust. This type of critical reflection, she added, could equally be applied to compulsory measures that are in use today. Ms. Gumy explained that she was speaking here today also as an historian who has given much thought to the role of historians in society and the relationship between knowledge production and current social and political realities. She defended the notion that all knowledge production is political – not in the sense that it is connected with any particular political party, but rather as a form of participation in the political discourse. As an example, she mentioned the historian Irène Herrmann, who

advocates that one of the tasks of historians is to equip citizens with a critical attitude. History thus becomes something that can be examined critically together. This approach, according to Christel Gummy, can also be applied in the characterisation of victims and contemporary eyewitnesses. Currently, she explained, the approach taken is highly individualised, psychological, and concerned with the traumatic effects of what was experienced. It is also possible, however, to see the fact of being a «victim» within the historical and political context. The opportunity offered by the IEC's working in cooperation with the individuals who themselves experienced administrative detention lies not simply in the possibility of gathering their personal testimony, said Ms. Gummy, but also in the fact that the IEC sees former detainees as experts on the subject, as people who are qualified to speak about it. As such, they are able to contribute information that is not found in the written sources but which can make a valuable contribution towards understanding the history of what happened. A concrete example is the question of whether it was possible to appeal administrative detention orders. According to the written sources that was the case. Based on the testimony of contemporary eyewitnesses, however, it must be concluded that in actual practice things were not that simple.

The moderator notes that in all research there is always a certain discrepancy between expectations and reality.

Ursula Biondi wishes to add something. She has been taking notes over the course of the day, she explains, and would like to draw attention once again to the concerns she mentioned earlier. The suffering could have been reduced if C. A. Loosli had been listened to or if the government had begun rehabilitation efforts earlier, in 1981. She would like the IEC to bear in mind that they [the former detainees] today have a desire to know who the political personalities were who deliberately failed to begin the process of rehabilitating those who had been subjected to administrative detention.

Markus Notter responds that the IEC will do its best to discover why administrative detention was used in such a scandalous manner, and why this practice was maintained even up to the most recent past. What is important, he explains, is where the responsibility for it lay within the social framework: what were the procedures and structures, and which officials within the society made it possible. On the other hand, he went on, he is not certain if it would be useful if the study concluded by naming a small group of individuals who bore the guilt. The important thing is to specify where the responsibility lay and to understand what

happened. Even at the time, Loosli had already described the procedure as being unconstitutional. As early as the 1960s there was a judge on the Federal Supreme Court who qualified administrative detention as being unconstitutional. But it had taken a long time for that legal assessment to be more widely accepted, and that, in Notter's view, is something that must be looked into. But in the end, guilt will not be assigned to a handful of people, he emphasises. The IEC is not a tribunal, but a commission with a mandate to conduct historical research.

Here, Ursula Biondi, takes time out to pay tribute to the victims who are no longer alive today.

Tanja Rietmann points out that, at the time, there were people who were treated as second-class citizens, that not everyone had enjoyed the same basic rights. In her view, one of the opportunities provided by the IEC was to now identify and make known the mechanisms that lay behind that situation. This is a chance, she believes, to also take a critical look at various issues of topical relevance today. One of the important lessons to be learned from the history of administrative detention, she explains, is that it shows how tough the struggle over recognition of the universality of basic rights was, so that even people who were subjected to compulsory welfare measures would be able to exercise their basic rights. This, she argues, could help make people today more alert to situations where the basic rights of individual social groups are again restricted or violated.

At this point, the moderator opens the discussion to the public. The first question relates to Marcus Notter's statement that the IEC did not wish to name names or assign guilt. The questioner argues that the important thing about reparations and reconciliation is to bring about peace within the society. She gives as an example the Truth Commission in South Africa, which allowed the victims to directly confront the perpetrators. The payment of reparations is not enough to bring about peace. At the Interim Findings Workshop, the questioner had met young social scientists who explained to her what had actually happened to her when she was taken away from her family and put in a home. That, too, she noted, was a way to help overcome traumas. While it is true that the IEC cannot do everything, one thing it can do is to describe how the process of overcoming trauma works, aside from just distributing the funds made available for reparations.

A second member of the public rises and reads a prepared text. In it, the questioner demands that the injustice that was done be fully investigated. Explanations like «that was more or less routine at the time» are not sufficient today. If more is not done, the questioner believes, the presumption that the government is still unwilling to abandon its «cover-up tactics» will only be further confirmed. In his view, under certain circumstances the amount available in the solidarity fund should be increased – to CHF 25,000, a few months' salary for the lifelong suffering that was inflicted.

A third member of the public says that what the victims would like to see is that the horror of the past be given a face. She asks the workshop participants whether they are aware of the historical significance of the place where this panel discussion is taking place. The place where the workshop is being held, she recalls, was once the site of the now defunct Women's Hospital (today the building UniS of the University of Berne), where pregnant women were imprisoned and then never allowed to see their children again, since after giving birth they were brought back to the Hindelbank prison. The questioner asks whether any monuments were ever set up. Downstairs in the building there is a sculpture of a pregnant woman covered in moss, she points out. But the university refuses to allow the construction of a monument. For the victims, this is an important issue, she adds. How is it possible to put a face on what happened and make sure that it is not forgotten?

A fourth participant from the public talks about what it was like in the Hindelbank prison during the 1970s and 1980s. It is important, she says, to talk about what was done with the women there; that, among other things, they were sometimes even locked up together with women who had committed murder. She herself had been placed in 38 different homes and with foster parents, and had never received any schooling. She has been living on child welfare payments since she was four years old. She was married for 39 years. It is a disgrace, she says, that such a thing could be allowed to happen in Switzerland. It is something a person carries with them to the grave. A normal person would not believe it. She had once tried to run away and had then been locked in a bunker. The way they were treated was inhuman, she says.

Ursula Biondi takes the floor again. She notes that the discussion has again returned to the subject of traumatisation. There comes a point when one has to look for, and to find, tranquility, she says. She tells the story of a friend of hers who died two years ago and

whose baby was taken away from her when she was seventeen years old. That woman's wish when she was on her deathbed, Ms. Biondi recalls, was to see a photograph of her son. There was only one political personality who had listened to the woman and who spent a lot of time with her: Jacqueline Fehr. These are the kind of people we need more of in politics, in Ms. Biondi's opinion.

Markus Notter reiterates that the IEC will describe the way responsibilities were distributed, but will not assign guilt to individuals. The Commission, he explains, uses the scholarly methods of historical research. In his view, a detailed study of this kind can also be an opportunity for those institutions which today represent the institutions that bore the responsibility at the time of the events. He adds that sexual abuse, corporal punishment and the like were unlawful even at the time, and cannot be justified by simply saying that those were «tough times». It is important that the Commission also contribute to a better understanding of that distinction. He also addresses the issue of memorials, mentioning in that regard that there is now a new law, according to which the Confederation has a duty to promote the creation of memorials that cannot be simply passed by without noticing them.

Another member of the public adds that she thinks it is a good thing that the IEC exists, since it has set a lot of things in motion that it would have not been possible for the government to do otherwise. As an educator she is familiar with the example of the Montessori schools. That is why she believes that it is not right to justify or excuse what happened, because even at that time there were other educational models available. Even back then, she believes, it would have been possible to do things differently.

Another participant is bothered by the term «distribution of responsibility» and poses the rhetorical question: «How is it possible to discover the truth if the Canton of Bern is destroying the records?»

A further victim tells her story: she herself did not have a 'Hindelbank career' behind her – she had merely been placed with fifteen different families in twenty years. She asks: «What image did people in Switzerland have in 1944 of what a family was supposed to be like?» «How were women seen?» There are some aspects of the trauma, she believes, that they [the former detainees] must come to terms with on their own. They cannot expect today's society to shoulder the whole burden. Parts of the trauma and of the rehabilitation process are things that take place within one's own self. They have the knowledge, she explains, adding that support – from therapists, for example – is available to them. She wonders aloud,

what the notion of ‘collective peace’ is supposed to mean. The victims, she says, have to begin by finding inner tranquility for themselves. What was possible in the past, and what wasn’t, she asks. Into what social context was each individual born? What possibilities did that offer, and what was not possible? She calls on the people in the room, and especially the young, to think about what image of humanity, what image of women we convey to others in our daily lives. Today we talk about those who assume responsibility, and about those who are ‘failures’. But failure, she goes on, is the best thing that can happen to us, as long as we have the strength to get back up and start over again. She would like to know what image of humanity we carry within ourselves when we read the newspapers, etc., and what we pass on to others. For her it is important that she can now live her life true to her own rebellious nature, which once she was forced to suppress. At the same time, she does not want to spend too much time looking back. She wants to look reality in the eye and ask: What kind of times were we living in back then?

Another participant is interested in the issue of the Commission’s independence and asks how the IEC is funded and where it is possible to find that information. Markus Notter responds that the IEC is funded by the Confederation, which has allocated CHF 9.9 million for research over a four to four-and-a-half year period. The members of the research team hired by the IEC receive a regular salary. Most of them work part-time on the project. The members of the Commission receive a meeting fee (CHF 400 per meeting) plus travel expenses. The results of the IEC study will be published when the work is completed. He reiterates the IEC is not a tribunal. The final report will then serve as a basis for all kinds of other things. That is beyond the responsibility of the IEC. For the record, Mr Notter also notes that the various institutions involved are required to preserve all their records. Today there are laws requiring public institutions to maintain their records and provide access to them. In addition, it is also possible today to add corrections to the records.

Loretta Seglias, Commission member and IEC Research Coordinator, makes the closing address. She stresses the importance of giving visibility to the IEC’s work. This Interim Findings Workshop, she says, is a first step towards increasing visibility, an initial exchange of views. She also points out that communications are a central element of the IEC’s work and that the IEC is in the process of making public the sources it is using in its research. She calls attention to the website of the IEC on Administrative Detention, which serves to ensure the transparency of the IEC’s research methods.