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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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Guest presentation

Clara Bombach and Samuel Keller, Zurich University of Applied Sciences:
«D'Fürsorg isch minere Mutter weg gnoh worde». Herkunft und Zugehörigkeit ehemaliger Heimkinder

«They took my mom's custody away». Family origins and social belonging of former foster care children

The presentation provides an introduction to the Sinergia Research Project (2014-2017) «Placing Children in Care. Child Welfare in Switzerland, 1940-1990», currently in progress. The focus is on Project 3B, «Life after foster care, Canton of Zurich, 1950-1990», which is being conducted by Thomas Gabriel, Clara Bombach and Samuel Keller, as part of the sub-project «Institutionalisation of Children in the Canton of Zurich». The data base is composed of biographical interviews of 37 persons – 20 men and 17 women – who had been placed in foster care homes in the Canton of Zurich between 1950 and 1990. Many of them were still small children when they entered the foster homes and spent extended periods there, often their entire childhood.

The presentation is structured according to the main stations in the lives of the former foster children, concentrating on the following major turning points and periods: placement in a foster home, life in the home, (impending) release from the home, and the consequences of those experiences in later life. Detailed consideration is given to the meaning of the terms «origins» (dictionary definition: family and social background; specific social, national, cultural background from which a person comes; point or place where something begins) and «belonging» (being a part or a member of, or having an affinity for, a particular group).

The presentation is built around a set of trenchant quotations from the interviews, which clearly illustrate how, in actual individual cases, life experiences bring about changes and value shifts in the inter-subjective meaning of the concepts of belonging and family origins. The four stages in the lives of the foster care children are presented chronologically, beginning with their placement in foster care, their time living in a foster home, their release from the home and, lastly, a summary presentation – based on certain hypotheses – of the course their lives took after spending their youths in foster care.

The experience of being placed in a home was perceived by many of the foster children as an abrupt change, accompanied by a feeling of being fully at the mercy of the all-powerful (representatives of) public authorities. Unprepared, and with many unanswered questions, the children found themselves confronted with a fait accompli, often leaving them with a feeling of helplessness and vulnerability. They also see their parents (and sometimes their grandparents) as experiencing those same feelings, as public officials strip them of their parental authority through the institutionalisation of their children. As a result, the children perceive their own parents' acts as being subject to outside control, to the objectives of the public authorities. These aspects of the way they experience their placement in foster care give rise both to a spatial and an emotional separation from their original families, which undermines their sense of belonging. The intervention of the authorities leads to a weakening of that sense of belonging. At this point, their future seems to them to be completely unforeseeable and uncertain.

Once they have entered a foster home, many of the children must go through the experience of being denied their individuality, while at the same time seeing their opportunities for contact with their parents, grandparents and siblings severely restricted. This is compounded by the fact the foster home tends increasingly to be considered as their (new) «family of origin», often giving rise to an acute sense of alienation. Simultaneously they may (overly) identify with the facts of their own lives, thus seemingly legitimising the discrimination and demeaning or abusive conduct that children in foster homes commonly experience.

In the logic of the authorities, preparations for leaving the home, or the actual act of leaving the home, are contingent on making certain that the financial and (living and work) arrangements for the juveniles in their charge have been completed. From the point of view of the authorities, this means that solutions are possible that would appear to be in contradiction with the original motives for institutionalising the children – such as returning the children unaccompanied to their original families. For many former foster children the

reaction of their families to their return or to the resumption of contact was experienced as being highly ambivalent or even as a complete failure.

«Does a foster child remain a foster child?» Around this question as to the future course of the lives of children raised in foster homes, the following hypotheses are offered:
First: The question of the family background of foster children was often doubly connected with feelings of guilt, shame and self-doubt (deriving both from the sentiment of having come from what the authorities considered to be an «immoral family» and from having been (re-) educated and disciplined in a foster home or reform school). These feelings receive confirmation and are reinforced throughout the lives of former foster children, in their personal relationships, in their contacts with employers and public officials, and through the regular confrontation with their own case files (which are treated as «facts»).
Second: In their later lives, whenever the issue of making a commitment to a long-term relationship arises, very many former foster children tend to adopt a highly sceptical attitude toward their social surroundings. One reason for this may lie in the self-defence mechanisms they develop in response to the confusing and hurtful experiences they go through both when they enter, and during their lives in, foster homes and reform schools, as a result of their family background and social status.

Finally, two questions remain open: Is there a potential problem in the highly formal nature of the procedures for obtaining reparations? Is it possible to address these issues within the framework of current official practice and, if so, how? The pertinence of these questions is illustrated on the example of current policy on reparations and the possibilities for applying for the payment of reparations. The requirement of producing written documentation, together with the process of reviewing the record, causes the applicants to relive the experiences they went through as children and adolescents, which become recurring themes that accompany them throughout their lives. This includes, for example, the experience that foster children have of not being believed (being told, «you're lying») and the risk of being stigmatised anew – among other things by being faced once more with the logic of bureaucracies (applications are submitted to anonymous, decision-making bodies that conclude their deliberations with the issuance of an order, and which have full decision-making authority). A second issue raised, in particular by the second question, is that of the constant challenge that results from the use of stationary child and juvenile welfare measures, that is, the challenge of being sensitive to the importance to the individual of the

issue of family origins and the sense of belonging in each case where such invasive measures are ordered, and when considering how to create viable future prospects for those who have been subject to such measures.

IEC presentation

Dr. des. Ruth Ammann, IEC Research Coordinator:
«Genau von dort weg ist der Teufel losgegangen». Stigmatisierungen in der Kindheit von administrativ versorgten Menschen

(«From that moment on, all hell started to break loose». Childhood stigmatisation of administrative detainees)

This presentation is based on our starting hypothesis that in many cases of administrative detention incidents of (perceived or imputed) juvenile delinquency were involved, and that a phase of delegitimisation and official surveillance preceded the issuance of an administrative detention order. An initial analysis of the interviews we conducted revealed, however, that many of the former administrative detainees do not mention or recall any such incident of delinquency or any process of delegitimisation when they were adolescents. What they do describe is the sense of already having had a stigma attached to them as young children, which took on concrete form very early on in their lives through their being administratively detained. In the following, taking as examples two blatant cases of children who experienced such a process of delegitimisation, the presentation considers the social dimension of the phenomenon of stigmatisation: was the object of the delegitimisation process the entire family, or just the children? And why was this so? What was the social function of the administrative detention order that ensued?
A close reading of the two interviews makes it clear that the stigmatisation of the children is not simply a reflection of the precarity of their original families. What we find, rather, is that stigmatisation of the children often takes place at a time when the family situation has already stabilised so that the families are beyond the reach of the public authorities for ordering any intervention. What is more, the children's good performance at school and their professional aspirations could even be interpreted by their teachers and by other social actors as signs of a potential for social advancement. The stigmatisation of the children by

their teachers, according to the present hypothesis, was the expression of a diffuse sense of social unease, which served as a motivation to drive the family back into a social status of precarity. It is thus argued that a sense of social unease in response to the fact that family's social rank had ceased to be unambiguous manifested itself in the stigmatisation of the children. The dynamics of this process also served to determine the social rank of the children, in that it later manifested in their administrative detention. As a result, by the time they reached adolescence the possibility of stable or even improved prospects for the future were already denied them.

Comments

In her comments, Prof. Dr. Anne-Françoise Praz underscores the importance of reports by contemporary eyewitnesses. Such reports, she explains, constitute an important body of primary sources, in that they reflect the perspective of people whose experiences have not yet been put down in writing. They provide vital insights into the traumatic nature of the experience of being institutionalised, an experience that, regardless of what happens in later life, leaves an indelible mark in the construction of an individual's identity. The first presentation of the day, she notes, makes clear the discrepancy that existed between the intentions of the authorities and the feasibility of actually realising them. Another important point, according to Dr. Praz, is the finding that the process of stigmatisation continued over generations. Certainly, the placement of children in foster care produced a stigma. At the same time, the life stories chosen here as examples also showed that the victims had certain alternatives available to them – for resisting the measures ordered by the authorities, for example. The people against whom such orders were issued, she points out, should not be seen as having passively accepted their fate: the struggle against stigmatisation is a lifelong battle. Dr. Praz takes special reference to the 1960s and the rise of the youth movement, observing that this created new opportunities for identifying with others and finding a sense of belonging. This phenomenon culminated in the 1980s with the establishment of «autonomous spaces», such as the «Rote Fabrik» in Zurich, which served, among other things, also to provide shelter to runaway teenagers. In her view, the «Foster Home Campaign» of 1971-1972 can be seen as a turning point in the history of foster care in Switzerland, although the period leading up to those changes had already begun in the post-

war years. The youth movement, popularly associated with the protests of 1968, she recalls, initially got started in a just few big cities.

Discussion

In the discussion that followed, many of the former administrative detainees responded to what they had heard and talked about some of the things they themselves had experienced. Among other things, they spoke of the systematic process of alienation from their original families that resulted from the activities of the Pro Juventute foundation's «Association for the Benefit of Gypsy Children». A particularly painful memory was the moment of separation from their siblings. Another important point was the fact that the stigma of being a foster child, or of being institutionalised, remains with them, even if later, as adults, they were able to succeed in their professional and private lives. The process of stigmatisation, they explained, did not end with their release from the measures imposed, since those measures were always mentioned, again and again, in their contacts with public authorities, in criminal proceedings against them, for example, or in psychiatric reports. The problem of having been repeatedly subject to administrative measures, or of having been repeatedly placed in administrative detention, was also discussed. Attention was also drawn to the difficulties the victims still face today in gaining access to their case files, in applying for permits and in filing requests. Finally, a number of the participants emphasized the importance of making sure that the subjects raised in this discussion are also taken up by the IEC in its research.

Session B – Deprivation of Liberty for Purposes of Social Prophylaxis: Establishing Norms and Categories

Panel Moderator: Dr. Christel Gumy, IEC Research Coordinator
Comments: Prof. Dr. Jacques Gasser, Member of the IEC
Comments and discussion report: Dr. Alix Heiniger and Dr. Ludovic Maugué

Guest presentation

Prof. Dr. Cristina Ferreira, College of Health Sciences of the Canton of Vaud [*Haute École de Santé Vaud*] (HESAV):
The public interest and the deprivation of liberty for welfare purposes

Between the middle of the 1970s and the beginning of the 1980s an important legislative reform was carried out in Switzerland. The introduction of federal provisions on the *deprivation of liberty for welfare purposes* put a definitive an end to the cantonal laws governing the use of administrative detention. The analysis of this transition is among the objectives of a current Swiss National Fund (SNF) research project *«Protection by force: a socio-historical study of the deprivation of liberty for welfare purposes»* – directed by Cristina Ferreira and co-directed by Jacques Gasser. Members of the study's research team: Ludovic Maugué (historian), Delphine Moreau (sociologist), and Sandrine Maulini (historian).

Beyond the legislative milestones, in this case the amendment of the Civil Code, which entered into effect in 1981, the realities are marked by discontinuities which should be recalled. On the one hand, the cantons had not waited for the passage of the amendments to federal law before repealing their own laws. At the same time, however, the imposition of administrative measures for dealing with aberrant behaviour continued, through the use of guardianship regulations. While the desire to achieve conformity with international law (ECHR) undeniably played a role in this reform process, consideration must also be given to the influence of the changes brought about by capitalism. Building on the work of Michel Foucault on the management of popular illegalities, it is important to define the normative structures that presided over the use of detention, and to understand the mechanisms that

contributed to the decline of those disciplinary practices. Against the background of industrial capitalism, the motive of governmental efforts to control social undesirables was to transform *living time* not usefully employed into *working time*. With regard to administrative detainees, forced labour was the favoured means for containing the disorder in which they lived and for binding them into the production apparatus. Over the course of the 1970s, the crisis that capitalism went through had repercussions for the normalisation and correction methods then in use. Those were rendered obsolete with the advent of a new form of capital – *human capital* – which was to play a central role in the relaunching of economic growth policies.

It was within this context that criticism of the repressive detention policies then in use began to multiply. In the Canton of Vaud this came to expression with the parliamentary motions submitted by Menétry in 1969 and 1971, which denounced the archaic nature of a system that was contrary to the principles of social justice. Nevertheless, the legislative changes introduced in that canton in the early 1980s gave rise to concerns of another kind. The granting of a more important role to the guardianship authorities, as formally introduced by federal law in 1978, met with resistance. In order to limit the authority of the magistrates, *ex officio* hospitalisation of the mentally ill and the institutionalisation of alcoholics continued to be governed by public health law. In the same interest of preserving existing powers of authority, efforts were made to maintain the position of the district Prefects in the procedures for institutionalising alcoholics.

Lastly, certain actors deplored the abandonment of such categories as «vagrancy» and the disappearance of work colonies, which they felt had proved their usefulness as a means of controlling the «emotionally disturbed». This is reflected in the position taken by the Guardian-General of the Canton of Vaud in 1985, who denounced the inconsistency of the new policies while at the same time welcoming the advances made in providing individuals deprived of their liberty with greater legal protection. This kind of critical analysis brings into relief the conflicting reactions to the transformations that were then taking place in the ways marginal elements of society were dealt with. Discipline through forced labour gave way to other forms of intervention into the lives of population groups now no longer categorized under the general rubric of «indolent» or «behaviourally disturbed», but subject instead to medical-psychiatric diagnostic techniques.

IEC Presentation

Dr. Lorraine Odier and Matthieu Lavoyer, IEC researchers:

Categorisation procedures and resistance to categorisation: study on a case file from the Cantonal Commission on Administrative Detention (Canton of Vaud – 1950)

Adopting the perspective of an «inter-area» (C and E) research study, this presentation focused on the case file of a man who had been placed in administrative detention in the Canton of Vaud in 1950. In addition to this case study, the presentation included an examination of the categorisation procedures used by the authorities and the efforts of the individual involved to resist those procedures. One part of this examination was an analytical description of the operative steps taken by the concerned authorities to gather information on an individual and to label him in a way that inevitably led to his detention. The procedures employed involved various different actors (the police, district prefects, cantonal commissions, etc.) and relied on various techniques and practices, including, in this case, police surveillance, the preparation of case files by the cantonal commission on administrative detention, and the maintenance of records on the individual's past history, which played a decisive role in the decision-making process. At the same time, attaching particular importance to the documentation produced by the individual concerned, and to his point of view, the speakers also considered the different means of resistance he was able to devise.

An analysis of these different aspects of the case showed that the violence of the detention procedures was not simply submitted to passively, but also elicited strong reactions. Individuals against whom an administrative detention order was issued developed strategies of resistance for breaking or circumventing the rules and the measures that were imposed. From this point of view, the struggle surrounding the legitimacy that was attributed to the authorities and to different ways of life is seen to be a central element in understanding administrative detention, through which the debates, conflicts and power relations surrounding its use are revealed. While the stigmatising effects of the case file must emphatically be noted, it is also clear that the process of categorisation did not proceed in a linear or absolute manner, but was punctuated by resistance, periods of complete inaction, and contradictions.

Comments and discussion

Jacques Gasser opens his comments by remarking on the similarities between the two projects and the complementarity that exists between the work of the IEC and other academic studies. This makes it possible to gain a wide-reaching overview of the 20th century and to identify divergences in the means employed.

Martin Lengwiler also takes up this issue and finds it interesting to note the similarities between the objectives pursued, despite the differences in the methods employed. This, he continues, is an issue that commonly arises in connection with the construction of a welfare state, as may be seen by comparing this process in different countries. He poses the question of whether there exists a certain specificity to the problems identified that can be linked to the socio-economic context of each particular region.

The authors reply that the methods employed were for the most part quite similar; they concentrated on the same types of phenomena that were seen as social scourges (alcoholism, prostitution, indolence) and, in a more general sense, on persons at the margins of a society that sees regular employment as the norm. The problems come to expression with divergences that reflect the different circumstances that prevail in urban and rural milieus. Aside from the question of the available legal instruments, an issue that arises again and again for the actors involved in the implementation of administrative detention measures is this: what is to be done with individuals one doesn't know what to do with because they question the validity of existing institutional norms?

For Cristina Ferreira, the use of institutionalisation for welfare purposes (after 1980) is based on the same logic. It applies to individuals who have been driven to the margins of society, even if one does find distinctive features specific to certain periods and regions (cantons of Vaud and Valais) in the records. With regard to psychiatric hospitals, she notes, the case files are a rich source of information for observing changes in family and social structures.

Session C – Implications of Administrative Detention Procedures for the Decisions of Public Authorities

Panel moderator: Dr. Nadja Ramsauer and Dr. Sara Galle, IEC Research Coordinators
Comments: Prof. Dr. Lukas Gschwend, Member of the IEC
Comments and discussion report: Emmanuel Neuhaus

Guest presentation

Dr. Tanja Rietmann, ICFG, University of Bern:
Navigating between federal law, cantonal law and tradition: On administrative detention practices in the regional welfare context of the Canton of Grisons

It was during a period where poverty had reached oppressive levels that the Canton of Grisons opened in 1840 one of the first forced labour facilities in Switzerland, the «Fürstenau Forced Labour Facility». In comparison with other cantons, the introduction of the new legal instrument of administrative detention took place very early in Grisons and the use of it was uncharted territory. It was viewed as a means of dealing with the severe poverty that had not only reduced large portions of the population to lives of destitution, but was also viewed by social reformers and the political class as a threat that could erode the very foundations of society and jeopardize social progress. Administrative detention in the Fürstenau facility – and, from 1855 on in the juvenile correctional labour facility «Realta» – was only one of a wide range of measures available to the police for dealing with the poor, all of which proceeded from the assumption that poverty was largely the result of leading a «dissolute» or «indolent» life, for which the poor themselves were to blame.
The presentation focuses on the ways in which the early cantonal laws on poverty created the structural foundations of the institutional and legal conditions on which compulsory welfare measures in the 20th century were based. The Swiss Civil Code (CC) widened the possibilities for ordering compulsory welfare measures throughout all of Switzerland, beginning in 1912; in the Canton of Grisons, a new Welfare Law, adopted in 1920, allowed the administrative detention of «drunks», the «dissolute» and «vagrants». Up to well into the second half of the 20th century, it was primarily members of the lower social classes that the

public authorities had in their sights. The example of Grisons shows how the number of laws in this area multiplied and the possibilities for administrative intervention were extended. At the same time, the guardianship authorities that were responsible for ordering such measures were often overwhelmed by the task, the scope of which had been significantly expanded. Experts criticised the insufficient statements of grounds in decisions depriving people of legal capacity, the denial of due legal process, and the protracted delays in administrative detention proceedings. The guardianship authority had traditionally been staffed by officials serving on a voluntary basis, and the Canton of Grisons was slow in taking steps to provide them with professional training and greater financial resources. Although the improvements that eventually were made did theoretically offer administrative detainees increased legal certainty, the actual practice of the various local authorities continued to be marked by large differences.

The presentation is based on the findings of a study on the use of compulsory welfare measures in Grisons, commissioned by the Canton of Grisons. The study will be published in the spring of 2017.

IEC presentation

Flavia Grossmann, IEC researcher:

The roads to detention are many. Procedures, categorisation and the logic of administrative detention in the Canton of Schwyz

«Your legal guardian has filed an application for your detention in the Kaltbach facility. What do you have to say about that? *I don't think it's right for me to be put in detention in the Kaltbach facility, I haven't committed any crime. Even if people say it's not a prison, that's what it is. I haven't committed any crime that I should deserve to be put in that prison*» (Extract from the transcript of a hearing with Anna B. at the District Office of Schwyz, 20 July 1966: StASZ Akten 3/14_861/170 RRB 2338). The central focus of this presentation was on the administrative detention of Anna B. in Kaltbach, in 1966, in the Canton of Schwyz. Following a brief introduction on research area C, which is concerned with the practical implementation of the regulations on administrative detention as an element in the evolution of the modern welfare state between 1935 and 1981, a chart illustrating the wide array of actors involved in the procedures was presented. Those included not only public officials and

the detainees themselves, but also private and church institutions, and other people connected with the procedure – such as relatives or neighbours, for example, who may have filed a complaint with the authorities. In addition to the Swiss Civil Code, there were two other laws and ordinances governing the procedure, which played a central role in the Canton of Schwyz between 1935 and 1970: the police ordinance supplementing the Poor Laws of 1882 and the Act on the Establishment of the Kaltbach Forced Labour Facility of 1896, under which Anna B. was placed in detention in Kaltbach.

The following statements focused on the said law analysing its terms and the categories of people it affected. In this way it was possible to demonstrate that the Act on Forced Labour Facilities created a large number of categories of people (such as minors who «stubbornly resist» the authority of their parents or the supervisory authorities, or persons who are «perpetually disposed to indolence, drunkenness or to some other dissolute way of live» and are consequently unemployed or dependent on assistance) and that the legal terminology was assimilated into the language used in actual practice to justify the ordering of administrative detention. Often it is not clear from the text of the decisions whether it was, for example, «drunkenness» or a «dissolute way of life» that was the decisive factor that led to the administrative detention order. In such cases it may be surmised that the individual in question was the object of a more generalised stigmatisation. A second finding was that in the case of the Canton of Schwyz's Act on Forced Labour Facilities priority had been given to the factors of usefulness and physical productivity. In this sense, it is entirely possible that administrative detention could also take on the aspect of a criminal punishment.

Comments

In commenting on the presentation, Prof. Dr. Lukas Gschwend points out that administrative autonomy even of a limited scope can have negative consequences for the practical implementation of laws. The purpose of the juvenile correctional labour facility Realta is very reminiscent of older conceptions of forced labour as a means of education. The question arises, he notes, as to whether profit motives also played a role for the authorities. Gschwend further calls attention to the mixed use of Realta as both a prison facility and as a correctional labour facility. This, he suggests, is one of the biggest problems connected with the use of administrative detention, since it undermines the claim that it was purely a welfare measure. The appeals process, he maintains, was complex even for legal experts.

Gschwend finds it surprising that many appeals were granted by the canton's Government Council, in its capacity as supervisory authority.

Speaking of Grosmann's presentation, Gschwend stresses the importance of case files as sources, which must be analysed critically, as it is possible to construe stigmatisations and imputations out of them. Notable in Schwyz, he points out, is the fact that the ordering of forced labour was permitted as early as at the age of 16, which would appear to be questionable in terms of the use of such measures for ostensibly welfare purposes. The proceedings, he recalls, were carried out without any involvement of the courts. The reference to the need for «strict discipline» is indeed one of the arguments that were invoked in the 19th century to justify criminal laws.

Finally, Gschwend proposes various hypotheses, here listed in abbreviated form:

1. As a result of the global financial crisis and the Second World War, considerations of law and order were given higher priority.
2. Personal liberty was not specifically mentioned in the Federal Constitution of 1874 and was long considered, and with great reluctance, as an unwritten constitutional right.
3. Despite the fact that as early as 1950, with the adoption of the European Convention on Human Rights (ECHR), the use of administrative detention was considered in legal circles as being problematic from a human rights point of view, there was almost no awareness of the problem in political circles.
4. The use made of institutions that were designed for purposes of penal correction constitutes a departure from the opinions of contemporary legal experts, which can be explained only by economic considerations.
5. The question of administrative procedures was largely neglected by legislators in Switzerland until well into the 1960s and the legal protection offered by the administrative laws of the cantons was inadequate.
6. The cognisance of the Federal Supreme Court was limited. Because of this, review of the facts of the case was not permitted in constitutional appeals.
7. The absence of legal provisions on free legal assistance and the costs of seeking legal counsel constituted a major barrier for the individuals concerned and thus imposed severe limits on the legal protection available in cases of administrative detention.
8. Because of the shortcomings in the applicable legislation, social welfare authorities had a tendency to prefer the use of administrative detention over other possible measures.
9. In terms of procedural law, it was particularly problematic that denunciations and witness statements often came from people who had a conflict of interests.

10. Until well into the 1960s, administrative law was still far removed from today's understanding of what is to be considered proportionate in the restriction of constitutional rights, in particular in the weighing of private and public interests.

Discussion

A member of the public asks for the floor. She says that all of this could have been prevented if the government had listened to Carl Albert Loosli or other detainees. The wilful attitude of the authorities, she claims, has not been given enough attention in the presentations. The federal government failed to exercise control over the cantonal and municipal governments, and the victims have to live with their suffering to the end of their lives. In her opinion, we owe it to coming generations to make sure this doesn't happen again. Another participant joins the discussion. She says that in 1936 Switzerland aligned with the German National Socialists with regards to the education of minors, which led to the establishment of a brutal system of education in Switzerland. In her view, Switzerland should be brought before the Human Rights Court.

A third participant adds that, as a teacher, she was disappointed that presentations did not include the children's voices. Today, she notes, even in divorce cases, the children are heard, which did not use to be the case. This was something she saw regularly in her profession. It is important, she concludes, that the children be given a voice. Sara Galle responds to these remarks by pointing out that it is difficult to hear the voice of the children when studying the written records. The IEC, she explains, is researching the subject from different perspectives using various approaches. She notes that in the interviews the victims were also heard, but that the IEC must also consider the point of view of the authorities.

Another participant points out that the government had very large financial interests. Tanja Rietmann responds that the government was very authoritarian and patriarchal. An important element of that attitude was that it had full authority to do as it pleased with the children, so that there was no reason to consult them. This was one reason that a disproportionate number of children born out of wedlock suffered. Another participant draws attention to the role of the schools. She claims that the schools were responsible for the «primary stigmatisation». Source studies, she notes, have since investigated more thoroughly the role of the educational establishment, teachers, etc., and have revealed many blind spots. The records only rarely include any references to diagnoses or character reports submitted by

schools. Another member of the public asks whether administrative detention was used mainly for people from the lower social strata. He is told that in the 19th century it was primarily poor families that were touched by such measures. Rich children were normally packed off to schools abroad It also depended very much on which region the family lived in. Flavia Grossmann points out in this connection that there are also other research projects working on the subject, such as, for example, the Sinergia Project on children who were separated from their families, «Placing Children in Care».

Another member of the public takes the floor and talks about her experiences. She pointed out that she had been detained in Kalchrain and never had a chance to make her complaints known. Whenever she wrote to her guardian, she says, her letters were opened. She was then given a harsh beating and put in solitary confinement, she recalls, saying that this also ruined her health. Sara Galle responds that the remark that complaints were never delivered is an important point for the IEC's research. Another participant tells about her experience with a psychiatrist. She had thought that she could tell him the truth. But he had immediately reported what she told him so that she had to suffer another beating.

Another participant criticises the fact that some of the terminology used in the presentations was very outdated. The remarks of another member of the public stress the importance for Research Area C of taking into account the fact that the rights that were officially available to administrative detainees (right to be heard, etc.), insofar as they were even formally recognized, could not in practice be exercised in most cases (censorship; pressure from the authorities; punishment when such rights were asserted). It was absolutely essential, the speaker argued, that this be studied in detail; to fail to do so would lead to a distortion of the truth. The mere fact that certain rights were provided for in writing was not by any means a guarantee that it would be possible to exercise them. The last person to take the floor told about the difficulties she encountered in trying to gain access to her case file and about the terrible experiences she went through in detention facilities. She expressed her hope that something will finally be done about the injustice that was inflicted on her and other administrative detainees.

Session D – A Social Welfare Panacea? Multi-Functional Detention Facilities and the People inside them

Panel moderator: Dr. Loretta Seglias, Member of the IEC and IEC research coordinator
Comments: Prof. Dr. Martin Lengwiler, Member of the IEC
B Comments and discussion report: Dr. Ernst Guggisberg and Joséphine Métraux

Guest presentation

Dr. Urs Germann, University of Bern:
Detained in Prison: the role of multi-functional facilities in the enforcement of administrative detention orders

Multifunctional facilities played an important role in the use of administrative detention. Many former detainees report that they were incarcerated together with people who had been convicted of crimes and that they must live with this stigma for the rest of their lives. Public attention was drawn to this problem, in particular, by reports on the detention of young women in the Hindelbank correctional facilities in Bern. The presentation focuses on the question of why mixed detention regimes remained so widely and so long in use – in some cases to this very day. Two possible explanations are advanced, which mutually reinforce one another. The first theory is that the social and legal understanding of criminal, socially deviant and non-normative behaviour largely overlapped until well into the 20th century. In this context, the use of forced labour for both correctional and educational purposes in the same prison facility was long seen as a legitimate solution for what was viewed as a single social problem that did not fall under any of the traditional legal regimes.
The second theory concentrates more on the importance of factors that were specific to given times and places. The Hindelbank Prison Facilities are taken as an example to illustrate the various turning points in legal, educational and financial policy that made it possible up until the 1970s for women who were still minors to be detained in a facility that was also used for penal correction purposes. Taken together, the two theories help to demonstrate the interrelationship between long-term developments, social interpretation patterns and individual administrative decisions. The practical effect of this was that the

authorities, even when there was no lack of alternatives, were willing to accept the fact that their decisions would cause severe psycho-social distress and prejudice.

IEC presentation

Dr. des. Kevin Heiniger, IEC researcher:
Juvenile correctional labour, alcohol withdrawal and old age homes - On the extended forms of institutional detention on the example of detainees and staff members

Administrative detainees were often placed in institutions that performed a whole series of functions under a single roof – serving simultaneously as prisons, juvenile correctional labour facilities and alcohol rehabilitation centres, and even as old age homes. A case study concerning Rosa Sommerhalder (1989-1966), who was a detainee for many years, provides an illustration of this phenomenon and also gives some indication of the stages of escalation and de-escalation that were typical of the administrative detention procedures followed by the authorities. After a series of convictions for property offences, Sommerhalder was detained for security reasons from 1927 to 1932, without interruption, in the Hindelbank Prison Facilities. Following a further conviction this was repeated from 1938 to 1948 and, because of probation violations, again from 1943 to 1946. It was only after she was no longer of child-bearing age – one of the factors that was expressly taken into consideration – that the detention authorities were willing to risk moving her to an «institution» where the regime was less strict. She remained in the Dettenbühl nursing facility until the spring of 1953. Thereafter she was placed as a maidservant with a rural family, a step that may be seen as a further stage of de-escalation. On grounds of «unsuitable» conduct she was then sent back to Dettenbühl in the fall of 1960. Suffering from diabetes, she was increasingly in need of nursing care, so that in the years that followed the «institution» progressively came to perform the function of a nursing and old age home. Rosa Sommerhalder died there in December 1966.

The second part of the presentation considers the situation from the point of view of the staff that worked at the Hindelbank Prison Facilities and, on the basis of the institution's annual reports, outlines the stages in the process of their professionalisation. Because Hindelbank was used as a penal correction, administrative detention, juvenile correctional labour and alcohol rehabilitation facility, employees there had a wide range of functions that they was

called upon to perform. For many years, however, the staff – which up until the 1970s was made up in part of deaconesses – had received no particular training to prepare them, in particular, for the task of dealing with inmates. A hesitant start was first made in 1933 with the introduction of a training course for facility personnel, conducted by the Swiss Association for Prison Services and School Supervision. But it was not before more than 20 years later that real progress began to be made. In 1959 twelve staff members took part in a training course for guards and four senior staff members participated in courses specially designed for them. Further, more specialized training began to be provided in the 1960s, with special courses for social workers, courses on dealing with girls with «severe behavioural problems», and both introductory and continuing education courses conducted by the Swiss Association for Penal and Prison Services. Overall, it is only since the 1950s that one can speak of there being a significant advance in the level of professional skills possessed by the staff at Hindelbank. Prior thereto, and over a period of decades, there was a wide gap between the what was expected under the law, as formulated in the 1942 Criminal Code, and the institutional reality.

Comments

Martin Lengwiler opens his comments with a question addressed to Kevin Heiniger. He refers to the case of Rosa Sommerhalder as recounted by Heiniger. Lengwiler finds it particularly interesting to see how small petty offences could be used to justify intervention by the authorities using extremely serious measures. This is a paradox, he notes, which was highly traumatic for the individuals concerned. This raises the question, Lengwiler argues, as to what was ultimately needed for a small misdemeanour, or a series of small petty offences, to lead to such hugely invasive measures. He wonders aloud whether there were certain paradigms that were followed – such as responses to repeated events, to a certain number of offences, or a temporal logic. Or were there no paradigms at all? Heiniger believes that it is possible that the individuals' family background could have served as a paradigm, that a family that had already been stigmatised, for example, might have made the authorities more prone to intervene. In addition, he suggests, it is possible that gender-related factors may have appeared, which influenced the decision-making process and which ultimately mirror the stereotypes and role images that prevailed at the time.

Commenting on Germann's presentation, Lengwiler notes that the hypothesis that there are parallels between the debates that took place on criminal law reform and developments in the history of administrative detention is highly interesting. To what extent did the decades-long debates and the process of revising the Criminal Code influence the changes that took place in the use of administrative detention? The intent of the new Criminal Code was to move away from the punitive character of criminal law, since imprisonment was no longer seen as the sole alternative. Does the history of administrative detention truly fit into to that context?

Germann argues in response that the relationship between criminal law and administrative detention should be seen as one of dynamic reciprocity. The reform of criminal law in Switzerland, he points out, relied to a large extent on existing administrative detention procedures and the logic of those procedures was in many cases incorporated into criminal law. At the same time, he recalls, the laws on administrative detention that were adopted in the 1920s were heavily influenced by the various drafts of the Swiss Criminal Code then circulating. In addition, he argues, the question must be posed concerning the extent to which administrative detention also served to supplement criminal sanctions in the sense that it provided a more extensive form of social prophylaxis. This was because the laws on administrative detention placed fewer hurdles in the way of those ordering the deprivation of liberty for a lengthy or even indeterminate period of time than did the criminal laws, where the sentence was based on the gravity of the offence.

Discussion

The first question from the public concerns the use of petty offences as an illustration of the kinds of things that could lead to administrative detention. Was this a random phenomenon, or are there indications that the social background of the individual played a role? Was a distinction drawn, for example, between the «good» (conformist) poor and the «bad» (non-conformist) poor? Kevin Heiniger supports this hypothesis. In the case of Rosa Sommerhalder it is clear that her conduct was judged immoral because she refused to accept a passive role («uncomplaining victim attitude»).

Another member of the public talks of her own life. She recalls having grown up in four different foster homes and, based on that experience, can only confirm what was said: conformist children had an easier time that those who were more daring and willing to taking

risks. Germann joins the discussion and points out that the tendency to stand by negative characterisations or appraisals was very persistent and that there was little possibility for the individuals concerned to escape those moral judgements. Resistance was seen by the authorities as proof of guilt. Institutional actors, he notes, were able to build a kind of network, while it was very difficult for the individuals concerned to combat such «detention coalitions» made up of public officials and other social authorities or actors.

A third member of the public is interested in the significance of eyewitness reports and documents prepared by the former detainees themselves, which researchers describe as highly interesting and important sources. She asks how the research teams use those sources and what kinds of documents they are referring to. Heiniger replies that there is a large number of documents prepared by former detainees, the content of which makes it possible to draw only very limited conclusions about the persons in question (e.g., applications to the authorities). Such documents offer only superficial insights into the character of the person involved, based on such things as handwriting and orthography. More rarely, diaries or similar records exist, which serve as a remarkable source of direct testimony. Such sources are also taken into account in IEC's research. Documents written by the detainees themselves, he explains, are of particularly high interest when they can be brought into correlation with information or responses found in official documents.

Loretta Seglias (IEC) adds that another highly informative kind of source is letters (addressees, content, censorship). They can provide indications of such things as the grounds for release from an institution, including such things as the arguments put forth by detainees and their efforts to conform. Another member of the public then also speaks of events in her own life and reports that she had understood very early that she was expected to conform. She had always told herself, «The best thing is to keep quiet. Do what they tell you.» She also remarks that the so-called personal or individualised documents actually represent only a kind of mainstream thinking, and do not really reveal very much about the way the individuals truly felt. «Who were we supposed to write to using the right words,» she asks. «And how were we supposed to find those words?» She points out that the fact that there are no, or hardly any, documents written by the victims is only natural. In her case, for example, her official guardian was also her foster mother. Thomas Huonker (IEC) adds that documents composed by the victims, such as complaint letters that were not forwarded by the institutions, are considered to be a very important element of the IEC's research. In addition, he explains, the IEC also places a high value on the interviews it conducts, both as testimony and as sources of information on past events from the perspective of the victims.

The final question concerns administrative detainees who were compelled to reimburse the authorities for their post-release education in reform schools. Heiniger responds that he has not encountered any concrete cases of this kind in his research, but that there were cases where the commune from which the detainees stemmed was required to assume the costs. Germann also speaks to this point and tells of a case involving the City of Bern, where the commune that was required to assume the costs of detention wanted to request reimbursement from the family of the former detainee. In that instance the juvenile attorney responsible for the case stepped in and succeeded in blocking the request in order to avoid placing a further financial burden on the family. Whether such demands for reimbursement were routinely made, he adds, is something that must be looked into more closely. He assumes that distinctions also existed based on the nature of the measures involved.

Heiniger adds that with regard to vocational training costs, there is a case in the sources where a family was required to pay for the vocational training of an administrative detainee. Loretta Seglias comments that there does exist evidence that recourse was taken against families for the compensation of costs, that the authorities had the right to do that. The question of financing and thus also of the possibility of requiring a contribution from a person against whom an administrative detention order was issued, falls within the scope of the IEC's Research Area D. A member of the public draws attention the fact that the seizure of property belonging to detainees was a major issue. In one family, the speaker says, the sewing machine was seized. The mother of the family was no longer able to work as a seamstress and was thus unable to provide for her children, with the result that they, too, were then placed in administrative detention. These closing remarks demonstrate the importance of taking economic factors into account when discussing the use of administrative detention.

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 Gumy, 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. Gumy, 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 in 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 carreer' 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.