

German chancellor's outburst against sexual offenders: "Lock them up—and throw away the key"

Walter Albrecht, Dietmar Henning
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When police found the body of eight-year-old Julia at the beginning of July, the boulevard press immediately assumed it was another sex killing. Federal Chancellor Gerhard Schröder (SPD—German Social Democratic Party) exploited the ensuing uproar, appealing—in the sensation-mongering daily *Bild am Sonntag*—for drastic measures against sex offenders. “Lock them up and throw away the key,” he said.

According to Schröder, harsher treatment is rarely meted out because the culprit's case is dealt with by a cartel of too many lenient experts. In expressing such sentiments, Schröder is pandering to the most extreme right-wing rabble elements—who maintain the tradition of National Socialism by agitating in their publications against “rapists and child molesters”—as well as numerous right-wing political groups committed to a continued sharpening of criminal law and an extension of the police state.

The facts expose the fallaciousness of the stance taken by Schröder. The Federal Criminal Investigation Agency registered two sex-related killings of children in 1999 and 2000 respectively, as well as five cases of sexual abuse resulting in death in 1999 and one case in the following year. This constituted a marked decline in the statistics, both in comparison to the 1960s and 1970s as well as to the period from 1990 to 1994, when figures again showed a slight increase. In 1972 there were 10 sex-related killings of children, and in 1979 there were 13—all occurring in West Germany.

The statistics also prove Schröder wrong when it comes to his statement about the “lenient experts”. Because of persistent media campaigns against sexual offenders, forensic psychiatrists tend to classify them as dangerous and recommend their admission into custody on grounds of maintaining public security. The number of incarcerations of dangerous offenders increased from 172 in 1996 to 238 in 2000.

In so-called reprimand prisons—where offenders suffering psychological illness and assessed to have acted out of diminished responsibility are interned for an unspecified time—about 4,000 people (among the approximately 50,000 inmates in conventional prisons) found themselves in this category in the 1990s. Of these, about a quarter were sex offenders. These figures suggest that the locking up of offenders, as expressed in Schröder's demand, was already a widely preferred strategy. The magazine *Der Spiegel* commented: “For approximately every tenth person in prison, the Schröder solution is already in operation today.... They leave the institution in a coffin.”

Consequently, psychologists and others are speaking out against a

further tightening of existing laws. Siegfried Bayer, managing director of the Stuttgart Probation Support Association, objected to Schröder's idea that therapeutic treatment is inappropriate for sexual offenders. “In the last three years, we have treated 109 sexual offenders from Baden-Württemberg. Just three of these have relapsed into crime,” the psychologist reported.

Heinz Hilgers, president of the Association for the Protection of Children, pointed out that the great majority of offenders commit their crimes in the immediate vicinity of where they live. He maintains this shows that counselling support is “substantially more effective than punishment”. This should be remembered above all in relation to today's oft repeated slogan: “Protecting the victim is more important than protecting the offender.” It is no help to a child victim of sexual abuse—at least from a certain age—when he knows that his father, grandfather or uncle has to spend the rest of his life in prison because of his incriminating testimony.

It is obvious that Schröder's interests and those of the right-wing forces supporting him are not really concerned with protecting society from sexual crime. Of course, there are improvements in the current system that need to be made. For example, opportunities for receiving therapy should be increased. But this is the responsibility of the financially autonomous German states which refuse to undertake the quantitative and qualitative improvement of forensic clinics and therapy centres, claiming they lack the finance.

Instead, repeated crude campaigns against sex offenders are aimed at turning back history and thwarting progressive social policies. This is happening because the “strong-arm tactics” of the state are inconsistent with the principle of rehabilitation, still enshrined in German criminal law. This principle stems from the 1960s and 1970s when a broad movement developed against what was characterised as “the dingy smell of the Thousand Year Reich”. This referred to the “dingy smell” of National Socialism, which was noticeably evident in German courtrooms (in the form of ex-Nazis still serving as judges) at the time.

Rehabilitation theorists believe that crime is abnormal social behaviour that has its roots in the society itself. It is the expression of corrupting social processes that must and can be corrected. By implementing certain programmes and other measures—for example, the use of therapy—it is possible to integrate criminals back into society and to rehabilitate them. This line of thinking also gave rise to a period of rapid progress in intellectual fields such as psychology, social science and education.

The roots of a sex killing or any other sexual offence are to be

sought in the society, which is subjectively (although perversely) mirrored in the individual rapist or murderer. Causes of such crime are to be sought just as much in the ideological and political foundations of the society as in the social conditions of the personal life of the offender. Without diminishing the responsibility of the offender, it is also necessary to establish that a society which produces poverty, violence and crass brutality, as well as psychological and physical depravity, deserves to be termed sick.

Experts say that sex offenders do not have a typical personality structure, but they do agree that the personalities of these people are characterised by drastically faulty development. Because the human being is a social creature, this aberration stems from external conditions—consequently, from social conditions.

And it is precisely this view of the issue to which reactionary forces in society object. The state's strong-arm policy against sex offenders is not only strikingly reminiscent of the policies of the Nazis in the 1930s. It also has the same ideological basis: a biological conception of human nature as determined by genetic inheritance.

In connection with this, sensational scientific advances—such as in genetic technology—are being abused in order to draw the most reactionary conclusions. Theories have begun circulating according to which social problems like poverty, lack of education, alcoholism, drug abuse and crime are seen to stem from genes—i.e., are considered to be “predetermined”. From this point of view, systems of social prevention and cure are superfluous. In the broadest sense, hunger, poverty and human misery are proclaimed to be essentially instances of “predetermined fate”.

The degree of absurdity reached when this ideology is teamed with mathematical empiricism was recently illustrated by researchers at Boston University in Massachusetts. Their project involved investigating the behaviour of 8,000 identical and non-identical twins in relation to marriage and divorce. No differences concerning marital tendency were discovered; but there were differences when it came to divorce rates. Here they found a greater similarity in the behaviour of identical twins (who have identical genetic structures) than in that of non-identical twins (whose genetic make-up is only about 50 percent the same). From this it was deduced that even marital divorce is predetermined.

Schröder's statement about the incarceration of sex offenders drew applause from the right wing of the CDU (the conservative Christian Democratic Union) who—quite correctly—saw it as support for their own law-and-order campaign.

The CDU/CSU (the alliance between the CDU and its sister Bavarian party, the Christian Social Union) has demanded a drastic sharpening of criminal law in a key policy paper. Apart from broadening the range of custodial sentences appropriate for sex crimes, it is calling for the legalisation of telephone tapping even on the “suspicion” of child abuse or dissemination of child pornography. What is more, undercover investigation of the all-embracing category of “offences pertaining to particular milieus” is to be allowed, even when the offences involved are of “a more innocuous nature”.

Norbert Geis, the legal spokesman for the CDU/CSU parliamentary faction, advocates first and foremost extending the right to impose additional custodial sentencing. Offenders deemed likely to relapse into crime are to be kept under arrest even after serving the sentences imposed on them by the courts. Of course, this is being justified on the basis of society's need for protection against sexual crime. But extended custody is already permitted for sex offenders. Furthering this practice by writing it into the normal penal system would open the

door to state despotism, because what prisoner can be said—with absolute certainty—to be incapable of falling back into crime?

In a similar vein, the establishment of a central bank of genetic data at the Federal Criminal Investigation Agency was pushed through by former Interior Minister Manfred Kanther (CDU) in 1998. The pretext for this was ascribed to the public rage over the sex killing of Christina Nytsch, whose murderer was convicted as a result of mass genetic testing. Legislation passed in September 1998 already stipulated that the genetic fingerprinting—not only of sex offenders, but also of persons guilty of crimes of “major importance”—could be included in the genetic data bank.

But what constitutes a crime of “major importance”? The various practices of the state investigating authorities in this respect seem to be quite inconsistent. In Bavaria there have been cases where shoplifters were required to give saliva tests at police headquarters. Within a period of three years, 125,000 genetic fingerprints have been gathered. “Only” 125,000—not enough says Geis, Bavarian Interior Minister Kurt Beckstein and others who want to force through the expansion of genetic fingerprinting.

In line with this, the CDU/CSU's policy paper demands that “in future, judicial authorisation of DNA testing must be both possible and effective on the occasion of each criminal offence, insofar as grounds exist for the assumption that sexual crime or other serious offences on the part of the culprit are to be feared.” Consequently, the way is being paved for all sorts of state tyranny.

Not so long ago, when the sex killing of the 12-year-old Ulrike seized the attention of the media, Brandenburg's Interior Minister Schönbohm (CDU) even went so far as to suggest that not only the genetic fingerprints of all offenders should be stored, but also those of all men in Germany.

This development is not confined to Germany. Peter Lindsay, a parliamentary representative in the Australian government, is demanding the genetic fingerprinting of all newborn citizens as well as all other Australians and immigrants. “If a person is not a criminal, he doesn't have to worry,” according to Lindsay's remarkable reasoning. Rabble-rousers in German politics and inside the state bureaucracy are heading in a similar direction. For example, the German Police Federation is calling for the routine implementation of genetic fingerprinting in the clearing up of burglaries.

In fact, the storage of the population's genetic information on a massive scale along the lines of a biological conception of humanity constitutes the basis for what critical scholars of jurisprudence call “the genetic inquisition”.



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