

**Transatlantic Discourse on Integration:
“Barriers to Integration and Efforts to Remove Them: Racism,
Discrimination and Anti-Discrimination”**

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Introduction

Since the beginning of the 1990s European societies have begun to realize that they were becoming immigration countries, although they are not “classical immigration countries”, such as the United States. A lively intellectual exchange across the Atlantic on the analysis of migration, migration policies and control has been going on since and European countries have benefited very much from this discourse. With regard to integration and integration policies, however, much less exchange has been taking place yet. For that reason, the *European forum for migration studies* initiated a “Transatlantic Discourse on Integration” which wants to link the European discussion of integration issues with questions of inclusion and exclusion of migrants in the U.S.. As part of this transatlantic discourse, the efms organizes a sequence of workshops in 2004 and 2005. The first workshop took place on November 2, 2004 at the *Bayerische Landesvertretung* in Berlin.

Integration is, among others, the gradual inclusion and participation of migrants in the major institutions and relationships in the receiving society. It depends on the resources, competences and motives of the migrants on the one hand, and the opportunities offered by the receiving society on the other hand. Barriers towards the inclusion of migrants impede integration. The first workshop “Barriers to Integration and Efforts to Remove Them: Racism, Discrimination and Anti-Discrimination” brought together 32 experts from Europe and North America, including representatives from government, academia, trade unions, nongovernmental organizations and the media. The conference was designed as a one-day workshop and therefore only a limited number of participants were invited. An alphabetical list of participants is attached to this report. To stimulate intensive discussions input statements were presented at the beginning of the sessions and enough time for exchange and discussion was allowed for in the conference program.

In the following the main results of the workshop are summarized.

Racism and discrimination from a sociological perspective: Definition of the concepts and empirical findings

The purpose of the first session was an introduction into terms, sociological concepts and empirical findings of racism and discrimination. Building on a long tradition of sociological research on majority-minority relations in the U.S., **Prof. Dr. John E. Farley** of the *Southern Illinois University at Edwardsville* opened the workshop with a definition of the terminology. Using a rather broad definition, he stated that racism is “any attitude, belief, behavior, or institutional arrangement that favors one race or ethnic group (usually a majority/dominant group) over another (usually a minority/subordinate group).” This does not only include “intentions but also consequences: If the result of an action or social arrangement is that one race or ethnic group receives a disproportionate share of scarce resources (e.g., money, education, political power, and social status), it is an example of racism.” Although open and outspoken racism still exists today, Prof. Farley argued that “today’s racism is often more subtle, more “underground,” more institutionalized, and sometimes so engrained or institutionalized that it is unconscious.” To differentiate and elaborate the term, Prof. Farley presented four forms of racism and explained their significance nowadays: 1) *Ideological racism*, which is less common today and refers to the belief of natural or biological superiority or inferiority of one group; 2) *Racial or ethnic prejudice*, an inflexible over-categorization of people based on their racial or ethnic group. Whereas prejudice refers to thought, discrimination (discussed below) refers to behavior or institutional arrangements. 3) *Individual discrimination*, referring to actions by individuals which treat people differently based on race or ethnicity, which are more subtle today than in the past because it is illegal (“Discrimination with a smile”) and 4) *Institutional*



racism and discrimination, for instance in schools or other public facilities. Presenting a wide range of statistical and empirical material, Prof. Farley illustrated how race may still decide on peoples' opportunities and living conditions today: Afro-Americans and Hispanics have a lower average household income and higher poverty rates than Whites. Whereas white households have 49,000 \$ medium net worth, Afro-American and Hispanic households have to cope with about 7,000 \$ respectively. Whereas the unemployment rate of all ethnic groups dropped since the beginning of the 1990s, Afro-Americans and Hispanics are much more affected by unemployment than Whites. Afro-Americans and Hispanics have less health insurance, a higher infant mortality rate and higher imprisonment rates. To explain the still existing gaps between the ethnic groups Prof. Farley stated that racism is perpetuated through "social inheritance", institutional practices and structural causes.

Prof. Farley also pointed out that in a European-U.S. comparison, the history of ethnic minorities has to be considered and a different picture emerges in the respective countries. The groups most impacted by racism in the U.S. are "internally colonized minorities", such as American Indians or African Americans. He contrasted this with European colonialism, where indigenous peoples were colonized in their own territory and no large populations of groups were brought forcibly from elsewhere, like Afro-Americans in the U.S.. Europeans have a long history of conquering and controlling other Europeans, and in some places, there are strong lingering effects of this. Minority problems in present-day Europe mostly concern migrants.

In the discussion following Prof. Farley's presentation Prof. Heckmann stated that this broad concept of racism might not be adequate to translate it into anti-discrimination measures and policies and that an inflationary use of "racism" would include anything that has to do with inequality and conflict among individuals and groups. "Racism" as an analytic term would be in danger of becoming a catchword in the language of political confrontation and as a consequence of this development the term may lose any analytical value at all. Prof. Heckmann rather favors a more narrow definition to differentiate harsh racism from "milder" forms of negative inter-group attitudes and stated that the group differences shown in the statistical material might also be traced back to peoples' different social and cultural capital, rather than to discrimination. Speaking for the Sinti and Roma in Germany, Dr. Wenzel added that open racism and racist statements are still existing in Europe, especially in eastern Europe and that racism is not only happening in a subtle and indirect way.

Combating racism and discrimination in Europe and the U.S.: The legal background

To provide the participants with background information on the laws and legislation concerning racism and discrimination, two legal experts from Germany and the U.S. contributed an historical and up-to-date overview on anti-discrimination legislation. **Dr. Randolph Capps** of the *Urban Institute in Washington D.C.* illustrated the historical context of racism and discrimination in the U.S., involving the four largest ethnic minority groups: African Americans, Latinos/Mexican Americans, Native Americans and Asian Americans. The foundation for civil rights legislation was laid in the 19th century, with several amendments to the U.S. constitution: the 13th amendment which abolished slavery, the 14th which defined citizenship as "All persons born or naturalized in the United States are American citizens and citizens of their state of residence", and the 15th amendment introducing the right to vote. Building on this foundation, several Supreme Court decisions interpreted these rights, e.g. concerning school segregation. In the 1960s, the Civil Rights Movement mobilized a strong multi-racial coalition which resulted in a wide expansion of civil rights, among others, the Voting Rights Act (1964) and the Civil Rights Act (1965). The main areas which are



covered in U.S. anti-discrimination law are: voting rights, public schools (elementary & secondary), higher education, employment, housing, banking and credit, health and social services and public accommodations (hotels, restaurants, etc.). Dr. Capps illustrated strategies that are applied to enforce anti-discrimination law in the U.S. There are, for example, lawsuits by individuals which are usually effective for enforcing anti-discrimination policies in private corporations. Secondly, interest groups are mobilized, such as the *League of United Latin American Citizens*. Another strategy is the disclosure of data: data on home loans by banks, for example, show different lending patterns to “white” vs. “black” (Latino, Asian) neighborhoods. This information is distributed to community groups and civil rights organizations and can be the basis for lawsuits. Civil rights activities in the U.S. are focusing more on equal access, less on outcomes.

Dr. Capps stated that after a “Civil Rights Era” with several important legal changes, a “post Civil Rights Era” has developed in the U.S., including backlashes against anti-discrimination policies and civil rights.

In contrast to this “post Civil Rights Era”, Germany might be in a “pre Civil Rights Era”, **Dr. Matthias Mahlmann** of the *Freie Universität Berlin* stated. Following outbreaks of racist violence and xenophobia in Europe in the 1990s, a new norm was included in the Treaty of Amsterdam in 1997 enabling the European Union to combat anti-discrimination (article 13). The EU declared 1997 as the “Year against Racism” and founded the “European Monitoring Center on Racism and Xenophobia (EUMC)” in Vienna. In 2000, two anti-discrimination directives were passed by the European Council which have to be translated into national law. As an expert for the European Commission, Dr. Mahlmann has been observing the attempts of translating the anti-discrimination directives into national law during the last two years and he commented that Germany might learn something from U.S. anti-discrimination legislation. Although the German Basic Law (article 3) decrees that all men are equal and that nobody should be discriminated against and therefore provides a strong fundamental legal basis for the public sphere, hardly any case law has been used – in contrast to the U.S. where case laws are an important strategy to enforce anti-discrimination laws. In February 2002, the Federal Ministry of Justice presented a draft Civil Law Anti-Discrimination Bill. It was dropped in 2002, following a very controversial dispute among legal experts, NGOs and the churches. A new draft is currently being discussed. Dr. Mahlmann argued that a pragmatic approach is necessary: including a differentiated list of discrimination characteristics and a clear legal definition are the basis for an applicable legal regime. These legal regulations will probably be backed by institutional changes in the draft, such as the introduction of independent bodies.

In the ensuing discussion the workshop participants agreed that clear definitions have to be included in an anti-discrimination bill to prevent false accusations. Shifting the burden of proof and providing clear sanctions for discrimination are central aspects in an applicable anti-discrimination bill.



Combating racism and discrimination: Affirmative Action for Europe?

Affirmative Action is a set of public policies and initiatives designed to eliminate past and present discrimination based on race, color, religion, sex or national origin. The actual phrase “Affirmative Action” was first used in President Lyndon Johnson’s Executive Order 11246 in 1965, which requires federal contractors to “take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, creed, color, or national origin”. In 1967 Johnson expanded the Executive Order to include affirmative action requirements to benefit women, quota for employment and university admissions.

Prof. Erna Appelt of the *University of Innsbruck* in Austria was the first scholar in Europe who had organized a large international conference on the controversial issue of Affirmative Action in Europe in 1998 and she opened the session with an overview on the anti-discrimination situation in Europe. She understands Affirmative Action in a very broad way, including several kinds of positive action programs. Following these European examples, measures to create equal opportunities in the U.S. were presented and discussed, concentrating on Affirmative Action as the most prominent and controversial program. Numerical quotas that ensure that a portion of government contracts or law school admissions are the strongest and most controversial forms of Affirmative Action. **Prof. Paul Frymer** of the *Woodrow Wilson School of Public and International Affairs at Princeton University* gave a presentation of the rise of Affirmative Action measures in the U.S. which were mostly brought about by court decisions. The reason for this is that the existing laws of the 1860s and 1960s turned out to be not sufficient to fight discrimination. In a number of court decisions, the standards for Affirmative Action have been tightened. The fundamental questions concerning discrimination cases were: Is there a protective group involved and will this group be protected by politics (e.g. Afro-Americans) and, secondly, is there a compelling interest for Affirmative Action, for example the protection of national security. It should be noted that in the U.S. economic equality is not a compelling interest (when you are poor, it is considered bad luck). In lawsuits, however, it is very hard to provide evidence of discrimination, unless it has been very explicit. The characteristics of people who qualify for Affirmative Action programs have been very much extended during the last years and also includes, for example, if you come from a certain region in the U.S. Considering the absence of extensive social politics in the U.S., Affirmative Action programs are a valuable compensation and an abolishment of the various programs would be a major setback in equal opportunity policies.

According to Frymer Affirmative Action is considered a remedy for past injustice inflicted on certain groups in society. It was initiated under very specific circumstances and with a broad societal support during the Civil Rights Movement in the 1960s. Affirmative Action programs were introduced for a number of pragmatic reasons, Frymer stated: first of all, they helped to calm down riots in U.S. cities in the 1980s by acknowledging minority rights. Secondly, Affirmative Action became very popular with educators, policymakers and particularly entrepreneurs: it is “good for business”, they judge, as an ethnically mixed staff can contribute a wider diversity of thoughts and can therefore increase the companies’ success on the global market. In addition, the Pentagon needed a diverse “workforce” for activities abroad. Affirmative Action today also provides assistance to people who come from certain geographical regions and Prof. Frymer raised the question whether this could be a remedy for socio-economic problems in eastern parts of Germany. Against this it was argued that there is a much wider range of social policy measures in Germany compared to the U.S..

In 1996, California voters passed Proposition 209 which banned state Affirmative Action programs based on race, ethnicity or gender in public hiring, contracting and educational admissions. Opponents immediately filed a lawsuit to block enforcement of the law, claiming that it violated the



14th Amendment. The support for Proposition 187 represents a widespread skepticism about Affirmative Action programs. Not everybody agrees that Affirmative Action is a wide and fair policy. There is little support from the general public for programs such as those that set aside jobs or employ quotas for members of minority groups. Opposition is particularly strong when people view Affirmative Action as “reverse discrimination” – giving preferential treatment to less qualified individuals due to a quota system and that merit is the only fair basis for distributing benefits.

In a critical assessment of Affirmative Action **Prof. von Heydendahl Rhodes** of the *University of Texas* stated that there are indeed successful outcomes of this program. The most documented impact of Affirmative Action is its positive effect on hiring policies of women and minorities that has contributed to a modification of gender and minority role stereotypes. Advances have been made by Hispanics, African Americans and women in overall government employment. The number of African American managers and professionals in government increased 275 percent from 1960 to 1970 and another 200 percent from 1970 to 1980. For whites, the comparable percentages were 82 and 29 percent respectively. Evidence also exists of a positive effect of Affirmative Action on federal contracting with minority and female owned businesses. Between 1982 and 1991 contracts awarded to firms owned by women increased by more than 200 percent and those awarded to minority owned firms increased by more than 125 percent. Effects of Affirmative Action on university and college enrolment are also striking: Afro-American enrolments rose from 1.8 percent in 1960 to 9.0 percent in the 1990s.

Considering the future of Affirmative Action and evaluating it critically, Prof. von Heydendahl Rhodes stated that the initial proponents saw it as a temporary program that would come to an end when true equality of opportunity appeared in a “colour and gender blind American society”. Today, Rhodes says, the U.S. is experiencing a focus on diversity and multiculturalism while at the same time experiencing the heaviest immigration in its history. A consequence of this demographic change is that whites have become a minority in large population centres. If one is to have ethnic and gender balance in the work place new ethnic proportions must be devised that may include members of a burgeoning Muslim community. The existing disadvantaged ethnic categories need to be modified. Asians, especially Chinese, Japanese, Koreans and East Indians are among the most successful groups in American society and no longer require preferential treatment. It should also be reconsidered to what extent discrimination is an appropriate means to fight discrimination: by giving preferential treatment to a certain group, there no longer exists an open competition for the best achievers. Persons get jobs because they fit the quota. This leads to conflicts in institutions.

Continuing the critical assessment of Affirmative Action, **David Nii Addy** of the *International Labour Organisation* added that it is not enough to “outlaw” discrimination, but that these legal measures have to be imbedded in a broader approach. It would be very difficult for Europe to copy existing Affirmative Action programs in the U.S., as country-specific characteristics are very important, e.g. the historical context, social policies, but also the different notion of the individual. For that reason it could be very problematic to introduce strict quota, which solely rely on group membership. Rather than rigid and compulsory quotas, voluntary incentives of a proactive nature should be introduced. It would be better to introduce a long-term monitoring system of discrimination and racism to watch over the development of the various groups to be supported and their changing situation. The key area of socio-economic integration is the labour market. Ethnic minorities are still disadvantaged in German education and labour market outcomes. The challenge for anti-discrimination policies would be the identification of beneficiary groups and to create a legal framework, including proactive supporting measures. The basis for this could be a reliable statistical database to ensure the identification of eligible grantees, as well as more applied research on potential beneficiaries (e.g.



discrimination testing). This point was questioned by government officials in the ensuing discussion as “ethnic data” are problematic and, due to historical experiences, are not collected in Germany. However, new statistical categories could be introduced.

Mekonnen Mesghena of the *Heinrich Böll Foundation* added that it is important to consider the message of anti-discrimination measures or Affirmative Action programs to the public: it would indicate that the German society intends to create equal access for everybody to resources and that it wants to promote a “culture of integration”. In designing appropriate measures, one could build on the experiences and instruments applied in gender politics and could include other target groups. More companies should be encouraged to set up diversity programmes, e.g. for personnel recruitment, as it is already practised by Lufthansa, for example. The value of diversity is already acknowledged at the corporate level and this should be increasingly transferred to the political level, too.

Contributing the perspective of a national minority in Germany, **Dr. Uwe Wenzel** of the *Zentralrat Deutscher Sinti und Roma* agreed with Mr. Nii Addy that outlawing discrimination will not be enough to combat discrimination in Germany. Mr Wenzel considers the existing legal instruments too weak, for example the Criminal Code, as his organization notices a growing number of racial violence. Especially in Eastern Europe, a growing racist attitude towards national minorities can be seen and Dr. Wenzel quoted some extreme examples of racial discrimination of Sinti and Roma from a Romanian newspaper. The media play a decisive role in reproducing ethnic stereotypes. By better legal protection the message would be clear that discrimination is not tolerated by society. The supporting measures to combat discrimination should be group-specific and should have the objective of not only creating equal access to resources, but also equal outcomes. As in the U.S., this type of “soft” Affirmative Action could be achieved by special grants, assistance in schooling, special recruiting strategies or special support for self-employed persons.

Conclusions

In the U.S. as well as in Europe efforts to secure equal opportunities for all citizens and to fight racism, xenophobia and discrimination have frequently been on the political agenda. On both sides of the Atlantic measures applied to fight these phenomena are controversially discussed. One example in the U.S. is the discussion on Affirmative Action. What can the European Union learn from this debate and experiences in the field of anti-discrimination policies and Affirmative Action in particular and what are the consequences for integration policies?

The following conclusions can be drawn on the basis of the workshop presentations and the ensuing discussions.

- ▶ Affirmative Action seems to make sense when it is regarded as a temporarily limited measure that gives preferential treatment to a historically disadvantaged group.
- ▶ In the U.S. there has been a positive effect of Affirmative Action on structural integration: more women and ethnic minorities are in higher levels of employment, run their own businesses or are enrolled at universities.
- ▶ Although a high degree of segregation is still a feature of society in the United States, Affirmative Action has contributed to improve inter-group relations as it brings people together at schools or at the workplace.



- ▶ Affirmative Action gives preferential treatment to groups and therefore needs certain criteria to allocate resources. It consequently reinforces ethnic boundaries that ultimately it wants to disappear.
- ▶ Affirmative Action is a program that is part of an overall policy which includes a wide range of measures, for example assistance in education and vocational training, measures concerning social policies or recruitment methods of private companies. Neither Affirmative Action nor legal restrictions alone can solve the problem of discrimination and racism, but should be accompanied by supporting measures within an overall policy program.
- ▶ In the U.S., the understanding of rights and equal opportunities focuses very much on the individual and his or her legal status and is primarily brought about in courts. The German approach, however, is guided by the concept of the welfare state. Since the 1950s, immigrants were granted the same rights concerning social security.
- ▶ It was generally agreed by the participants that a permanent monitoring system of racism and anti-discrimination is needed and that more applied research could provide more insights in the origins and effects of discrimination, especially concerning certain groups. Organizations such as the European Monitoring Center on Racism and Xenophobia (EUMC) in Vienna or the wide range of NGOs in the U.S. are first steps towards such an institutionalized monitoring system.



List of participants (in alphabetical order)

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Dr. Randolph Capps, The Urban Institute, Washington DC

Dr. Dilek Çinar, European Centre for Social Welfare Policy and Research, Wien

Anke Clodius, Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration

Dr. Claudia Diehl, Bundesinstitut für Bevölkerungsforschung, Wiesbaden

Claudia Ehrenstein, Die Welt

Prof. Dr. John E. Farley, Southern Illinois University at Edwardsville, U.S.A.

Prof. Dr. Paul Frymer, Woodrow Wilson School, Princeton, U.S.A.

Heinz Grunwald, Regierungsvizepräsident, Regierung von Mittelfranken

Prof. Dr. Friedrich Heckmann, Leiter des europäischen forums für migrationsstudien, Bamberg

Prof. Dr. Robert von Heydendahl Rhodes, The University of Texas of the Permian Basin

Katrin Hirsland, Bundesamt für Migration und Flüchtlinge, Nürnberg

Barbara John, Koordinatorin Sprach- und Bildungsmaßnahmen für Migranten, Berliner
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