INTRODUCTION
The history of eugenics was catapulted into the attention of the international media in 1998 through a series of prominent media scandals concerning Sweden and Switzerland. A study which examined sterilisation policies in Sweden generated considerable interest and concern throughout Europe’s popular and scientific press. Even though social historians had been previously aware of this, many were shocked to discover that Sweden, more renowned for its strong welfare state and attendant protection of vulnerable groups in society, had engaged in exclusionary practices such as eugenic sterilisations until as recently as 1973. The study showed that between 1934 and 1976 some 63,000 people were sterilised in Sweden, most of whom were women thus pointing to gendered aspects of eugenic administration. In Switzerland, 1998 saw the publication of the government report on the notorious Kinder der Landstrasse (‘Children of the Country Roads’) program, which officially confirmed claims that had been reported in the Swiss press as early as 1972, resulting in public outrage and the closing down of the project (Leimgruber et al. 1998). This government-approved program which aimed at eliminating vagrancy had been set up by the agency Pro Juventute, ran from 1926 to 1973 and its explicit aims were, in the words of its founding father Alfred Siegfried, to prevent the Jenisch (or Yenish, the main group of gypsies within Switzerland) from ‘reproducing without restraints and bringing new generations of degenerate and abnormal children into the world’. Intertwined with eugenic aims, Pro Juventute thus removed over six hundred Jenisch children from their parents, to be raised in orphanages, foster families and mental institutions - an experience which the then

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1 I wish to thank my collaborator Véronique Mottier for extremely helpful comments on earlier drafts, as well as the participants of the ECPR workshop. Gratitude is also due to the Swiss National Science Foundation for funding this research (Grant 61-66003.01), and to the IEPI, University of Lausanne and to CIGS and CAVA, University of Leeds, for institutional support.
President of the Confederation, Ruth Dreifuss, described as ‘one of the darkest chapters in Swiss modern history’. Coming, as it did, on the heels of the ‘Nazi Gold’ scandal, which had revealed that Swiss banks profiteered from Nazi crimes, it further shook the foundations of Swiss identity, in particular, its (self-)image as a neutral nation driven by humanitarian aims whose political institutions of direct democracy and federalism allow for the expression and protection of the cultural ‘differences’ within its borders.

Swiss eugenic history was not new to social historians as a number of studies since the early 1990s attest to. As in Sweden, it was discovered that Swiss sterilisation practices disproportionately affected women (this in contrast to national socialist Germany where numbers were much more even between women and men). Contrary to Sweden which was quick to launch a process of compensation following apologies from the then Swedish government, Switzerland, though a similar claim was launched in 1999 to compensate people, decided in December 2004 not to follow the initiative. This paper is interested in looking at the reasons why these two countries differed so substantially on this issue, what the reasons for the respective outcomes were, what discourses were deployed in the process and what implications this has for notions of biopolitics. Thus, I will elaborate briefly on the history and practices of eugenics, particularly in relations to these two countries, before developing a working definition of biopolitics in this context. I will then examine the Swiss process in closer detail and ask why Switzerland struggles to recognise and compensate the injustices created in the past and how that affects essentially its present self-image and representation. Late modernity has come to be characterised as a period of (self-)reflexivity not just on an individual basis but also collectively. Attempts of reconciliation of a present collective with regards to past practices can be identified across Westernised nations, particularly in relations to colonial pasts (such as in South Africa) or with regard to more recent genocides (see the court trials in relation to the Balkan war). Although different in character, the way that past practices gain expression and implications in present political struggles and (self-)representation has gained increasing attention. The concrete examples this paper will talk about here are eugenic practices and coerced sterilisation\(^2\) in particular.

**MEANINGS OF EUGENICS**

\(^2\) I use the term coerced sterilisation intentionally to disrupt the presumptive understanding that “forced sterilisation” can evoke. For reasons that should become clear “force” and “consent” have been highly problematical in discussions around sterilisation.
During the first half of the twentieth century, eugenics became a mainstream body of thinking and to some extent an approach to the solution of social problems across Europe and North America. An increasing number of states are currently uncovering their eugenic past both in terms of its scientific side as well as its translation into public policies. While the latter had been locally, regionally and/or nationally specific the social policies that were formulated since the beginning of the twentieth century share the commonality that they were articulated against the background of a fear of degeneration and decline as well as in the context of certain notions of heredity and fertility. Within the discourses of threat to the nation’s health, sexuality and gender came to constitute an axis of intervention, in conjunction with particular ideas about physical and mental abilities. In this framework, eugenics became an approach and a tool to rationalise the management of the population’s health, especially through the governance of reproductive sexuality.

Definitions of eugenics vary, not so much in their historical origins but as to how broad they can be perceived. When Francis Galton coined the term in 1883, he relied on the Greek root meaning “good in birth” or “noble in heredity” (Kevles 1999). Eugenics referred to the science concerned with the improvement of the human stock on the basis of the scientific study of all influences which would give “the more suitable races or strain of blood a better chance of prevailing speedily over the less suitable” (Galton 1883). Albeit formulated within the realm of science, eugenics was always deeply intertwined with social and political aims and it emerged both as a science and as a social movement (Mottier 2004). Ideas about natural selection and the survival of the fittest formulated by his cousin Charles Darwin were considered to be insufficient to deal with modern needs by Galton. Furthermore, he observed that “those highest in civic worth” produced the fewest children whereas those “unworthy” had disproportionately many children and were blamed with sliding the nation towards disaster (Kline 2001). Opposed to the idea of natural selection and hostile to the politics of laissez-faire liberalism, Galton and his successors proposed a more rational and managed approach of reproduction by advocating the practice of selective breeding (Porter 1999). The three recurring elements, namely ideas about selective breeding inspired by Darwin, the idea of physical and mental decline of the population and the hereditary character of mental illnesses in eugenic discourses (Missa 1999) directly affected ideas about gender, sexuality and notions of normalcy. Thus, as a coalition between science and social movement, eugenics provided an analysis of what was wrong with modern society, how this occurred and by what means it could be remedied. In the face of mounting threats and anxieties about “degeneration”, “race suicide” and the threat of “unruly
sexualities”, eugenics formulated a comprehensive and rationalized program of social engineering. Despite vivid opposition on occasion, it was to become an influential practice, not least because it sufficiently overlapped with social and political concerns raised by other groups.

Conceptually, eugenics is often divided into positive and negative eugenics, with positive eugenics often thought of as “soft” eugenics because it was less intrusive or contradictory to individual rights. Negative eugenics included the means by which the quality of the human race could be improved by eliminating or excluding biologically inferior people from the population (Kevles 1999), or a plan looking to limit the reproduction of inapt individuals (Missa 1999). Within this potentially large scope of measures eugenicists were by no means a homogeneous group, defending or promoting the same interventions and not all endorsed sterilisation as a measure. Sterilisation often acclaims a salient place in discussions of eugenics, explained perhaps by the severity of the intervention (and outdone only by euthanasia). Sterilisation was a highly gendered practice in most national contexts but while many of the discussions focus on the differences between voluntary and forced sterilisation and the legal basis for either or both (Missa 1999; Porter 1999; Weindling 1999), relatively little is said about the fact that these did not constitute two opposite ends of a dichotomy. Rather, as can be shown with some of the Swiss practices, “voluntariness” was upheld as a principle even though actual practices point clearly to pressures and/or threats under which consent was given.

The Canton of Vaud in Switzerland was the first jurisdiction in Europe and the only one in Switzerland to adopt a sterilisation law. However, the Vaudois law is not so much an expression of rampant eugenics but instead of regulated eugenics. Devised to curb abuses of sterilisation practices the Vaudois law from 1928 effectively led to smaller numbers of sterilisations than elsewhere in Switzerland. Swiss psychiatrists were aware that the laws produced increased bureaucracy and some openly maintained that a system of “voluntary sterilisation” would be preferable and better manageable, not least because they thought it would be easier to convince some individuals, usually women, to agree to “voluntary sterilisations”. Sterilisations often happened in the context of other interventions, such as abortions or as a condition of release from institutionalisation. Thus, the conceptualization between forced and

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3 Sterilisation and castration were usually seen as distinct surgical procedures with the former being a ligature of tubes and the latter a removal of ovaries or testicles. Only in popular contemporary understandings have they assumed gendered meanings.

4 At least at the time in question. In the late 1980s and 1990s three more cantons legislated on sterilisation (Aargau 1987, Neuenburg 1995 and Fribourg 1999).
voluntary needs to be rethought in terms of a continuum and taking into account a more
differentiated analysis of power and power relations, and contextualizing these within a
Foucauldian framework of “bio-politics” (Mottier 2004).

PREVENTIVE BIOPOLITICS

*Laissez-faire* politics was deemed problematic by eugenicists who proposed that population and
birth rate needed to be planned and managed. Opinion, in Switzerland as elsewhere, was divided
whether state policy was the most effective means or not. The idea of regulating and managing
reproduction made women an easier and more efficient target for intervention because of their
different social, economic and political status. Reproductive sexuality was constructed as an
obligation towards the collective and, thus part of bio-politics, women were given a particular
role on the basis of their role as “guardians of the race” (Bland 1982). This discourse of
responsible motherhood was prevalent across Europe and North America (Kline 2001; Stuart
2002). Influenced by the emphasis on home and environment, family and morality, reproductive
heterosexuality was instilled with a sense of responsibility, both biological and moral, towards
the collective. Individual rights were not so much refuted as constructed within a discourse of
collective responsibility. Thus, a moral dimension was crucial and has been conceptualized as
“reproductive morality” (Kline 2001), or the maintenance of the moral boundaries of the nation
(Gerodetti 2005) complementing the controlling of “the biological boundaries of the nation”
(Mottier 2000).

Society itself was under threat, not merely from the outside as attested by the fear of “being
swamped by foreigners”, which emerged for the first time after the 1900s, but also from threats
within. There was an unprecedented concern with unruly sexualities and with an apparent rise in
the number of people with “mental deficiencies”. “Feeblemindedness”, for instance, was
increasingly not only seen as part of the wide spectrum of social problems but had come to be
perceived as the root of problems such as crime, vagrancy, poverty, unemployment, alcoholism,
prostitution and so on across Europe (Jackson 2000; Jones 1986). Perceived to be outside of
rehabilitation due to their hereditary character “feebleminded” people and people with other
“mental deficiencies” were subsumed under the state’s interest in reproductive control. At the
same time, these problems were intricably linked with sexuality and particularly reproduction,
thus giving rise to a concept of rational sexuality.
Eugenic thinking was heavily indebted to the notion of “prevention” which can most clearly be seen with regard to negative eugenic interventions which were aimed at preventing future degenerative offspring. The thoughts about prevention were coupled with humanitarian ideas to prevent future misfortune before it had emerged and thus prevention and preventative care was also attractive to social-democrats, for instance. Preventive thinking was directed towards those who had already transgressed social or legal norms as well as those who were, on the basis of predictive premises of science, cast as potential transgressors. Clearly, a wide range of activities have fallen under the umbrella of ‘preventive’ and at stake here are merely eugenic practices in terms of preventive practices. Here perhaps more clearly than elsewhere, the fallacy of prevention is exposed for science operated with at the time contested notions of heredity and its applications were even less guarded by a scientific basis. Prevention also emerged as ‘good and rational’ and thus it is a prime modern concept. The idea of future-oriented prevention is firmly rooted in rationality and a belief in progress. However, it is an essentially slippery concept as it can be used for creating unity and cohesion, for encouraging cooperation and mobilizing project resources, for purposes of inspiring optimism in health care, social policy and criminal policy, or for legitimising untested or unsubstantiated methods. Prevention is also never free of political concerns, of course, and control and prevention have a complex relationship (Sahlin 2000).

The idea of steering the development of society and individuals on a national scale had emerged during the modern age and was indebted to rationalism and preventive thinking. Whilst older methods of prevention had to rely on segregation and control eugenics provided certain methods of social engineering towards those deemed asocial and which constituted a heart of bio-politics. What the eugenic experience shows is that perhaps prevention is not inherently “good” or “neutral”, rather it is deeply intertwined with a socio-political context in which certain typologies and therefore certain people are deemed as dangerous or as problematic to the collective. That these goalposts change over time can be seen in what was characterized at the time as being a sign of degeneracy: Marie Stopes, the British birth control campaigner and feminist who was also hugely interested in eugenics, for instance, forbid and disinherited her son for marrying a woman who had clear sign of degeneracy and whose offspring, in her eyes, was bound to suffer from bad genes. Her son’s partner’s degeneracy was that she had bad eyesight, nothing which would lead nowadays to be considered sufficient grounds for exclusion from society. A further example is “feeblemindedness” a concept that was in a borderland
between social and medical category but which always had strong overtones of social deviance if it was not openly a moral category applied to women who were sexually transgressive.  

APPLICATIONS OF EUGENICS

Switzerland’s involvement in and development of eugenic policies and thinking has, in the aftermath of the 1998 media debate, become the subject of renewed interest. Eugenicist discourses were highly influential in Switzerland from the end of the nineteenth century up to the end of the Second World War, and Switzerland was at the forefront of eugenic science and practices. Swiss scientists made significant contributions to the international scientific discourse of eugenics, while important eugenicist practices and policies were pioneered and implemented in Switzerland. Collective anxieties centred on the different categories that were seen to form hereditary ‘threats’ to the nation: criminals, prostitutes, alcoholics, immoral people, the mentally ill, haemophiliacs, people with tuberculosis, drug addicts, gypsies, and vagrants. In accordance with the vision of a ‘less degenerate’ future, much of the Swiss eugenic efforts were not only directed at ‘managing’ those adults deemed ‘unfit’, but crucially were also aimed at the young, as representatives of the next generation. The removal of gypsy as well as other children, educational interventions and follow-up care from guardianship offices or educational authorities attest to that.

Nevertheless, sterilisation and castration were also practiced and constituted the most radical eugenic practices in the Swiss context. Auguste Forel, the sexual and moral reformer, constantly called for the sterilisation of the above-mentioned ‘degenerate’ categories of the population by the state, as a rational measure to prevent their reproduction. He perceived this task as all the more urgent and as the director of the world-renowned psychiatric clinic Burghölzli in Zurich between 1879 and 1898, he put his ideas into practice by pioneering the very first sterilisations without consent within German-speaking nations in 1886 (Aeschbacher 1998; Keller 1999; Rufer 1991).

It has been argued that the construction of the Swiss nation was at least partly founded on what could be described as the Swiss ‘dream of order’ as the social and political order was seen to be

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5 At the time, conceptions of female sexuality were such that sexual transgression by women was easily done. Active sexuality, particularly if coupled in some ways with public places, could be quite sufficient for women get into contact with authorities. Once in the wheels of the authorities, methods of testing intelligence, given the limits of access to schooling, could then easily result in a diagnosis of “feeblemindedness”.

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‘troubled’ by various categories of ‘unorderly’ (‘unordentlich’) citizens and non-citizens, such as Jews, ‘vagrants’ (incorporating Jenisch as well as other ‘travellers’), the mentally ill, the physically disabled, unmarried mothers, and homosexuals (Mottier 2000). Eugenic interventions often overlapped with economic incentives or were carried out in their shadow as in the Swiss federal state it was the job of the local authorities, rather than the federal state, to carry the financial burden of supporting ‘indigent’ members of local communities. The eugenic experiments in social engineering were thus shaped by specific Swiss political institutions, in particular by federalism and the attendant central importance of local agencies and authorities. Many of the eugenic practices, such as forced sterilisation of (mainly) women’s bodies, were not carried out by the central state, but through local legislation and administrative measures implemented by cantonal and local authorities as well as para-state actors such as psychiatric clinics. The latter, especially the university clinics in Zurich, Basel and Lausanne, offered practical opportunities for applying eugenicist ideas and technologies to a population which was most often already under tutelage or guardianship orders. Practices of direct intervention by the federal state were comparatively less important in scope, but included central eugenic policies such as those operated by Pro Juventute, federal legislation prohibiting marriage for mentally ill persons or Jews and regulations in the Criminal Law aimed at curtailing sexual relations with ‘mentally deficient’ people.

A pivotal role in providing institutional supports to eugenic discourse was played by the newly emerging disciplines of psychiatry and sexology. Their scientific expertise was used to legitimise eugenicist policies, in turn legitimising their own emergence as autonomous disciplines. ‘Degeneracy experts’ were actively involved in the process of policy making, notably through their routine inclusion in expert committees. They also played an important role in policy implementation. Having established themselves as the sole experts in the identification of hereditary flaws, psychiatrists’ assessments were used in connection with marriage permissions, guardianship orders, removal of children and, of course, sterilisations, thereby investing them with significant agency in the application of eugenic policies. For instance, at the beginning of the twentieth century minimum stay and legal responsibility were demanded as criteria for naturalisation whilst individual cantons added further requirements, including psychiatric assessments (Imboden 1999). Cantons such as Basel thus required candidates for the acquisition of Swiss citizenship to be examined by a psychiatric expert, with the aim of detecting hereditarily transmittable degenerate features.
On the basis of the Vaudois law, which provided a legal framework for sterilisation between 1928 and its repeal in 1985, “only” 187 applications for sterilisations were granted and carried out. When the law was first enacted, half the sterilisations applied for were being carried out mostly on women and predominantly on the basis of “feeblemindedness” (Steck 1938). In other cantons, the absence of legal provisions proved more useful to psychiatrists in maintaining their role as “gatekeepers” of female sexuality as access to abortion, of course, was also firmly in the hands of psychiatrists as two medical assessments, one from a psychiatrist, were required (until 2002) to qualify for an abortion. Indeed, abortions were in some cases made dependent on a concomitant sterilisation rendering both these practices inextricably linked.

Numbers of coerced sterilisations are difficult to obtain due to the fact that the records indicating the context such as pressure or threat are located with different institutional archives and that certainly some were never declared. Some numbers on sterilisations also most certainly overlap. Still, in Zurich where various institutions seemed to work together quite effectively dozens, in “peak” times hundreds of sterilisations were carried out a year. The Zurich guardianship office also filed extensively for sterilisations using blackmail, pressure or simply wrong or distorted information to obtain consent from all the parties required (Huonker 2002; Wottreng 1999). The numbers from Basel where eugenic practices were equally widely practiced in relation to sterilisation, immigration, and marriage restriction suggest so far 960 sterilisations in the women’s hospital (Frauenklinik) between 1920 and 1933 (Keller 1999). But the lack of clarity about numbers, in turn, gives us an insight that sterilisation practices were an inter-institutional matter initiated by various instances such as the guardianship office, in connection with an abortion or within a psychiatric hospital itself.

There were some critical voices amongst welfare providers yet even they succumbed on occasion to eugenically motivated sterilisation on economic grounds as sterilisation was cheaper

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6 Some historians of science in Switzerland are doubtful about the eugenic effect of the law, but nevertheless interpret the law as a way of regulating female sexuality (Jeanmonod and Heller 2000). Yet as legal scholars have argued, intent and effect of laws often shows discrepancies and the intent of the law at the time was certainly seen to be eugenic. Hans Steck, director of the psychiatric hospital in Lausanne, for example, saw the sterilisation law of 1928, together with the eugenic reason for abortion which was added to the cantonal Criminal Code in 1932, certainly as mechanisms to further a eugenic agenda (Steck 1938).

7 Notably sterilisation was probably also used by women as a contraceptive method and its connection in particular with abortion therefore also opened up routes for individual agency. It remains for now unclear how widespread this was as certainly the psychiatric discourses and case notes did not intend for this to happen.

8 In southern US states sterilisations among poor Southerners came to be disguised so regularly as surgery relating to appendicitis that social historians have termed them “Mississippi appendectomies”.
than years of maintenance. During the 1920s an increasing number of “non-mentally ill” people were referred to psychiatric care whose conduct or the nature of their crime led to suspicions of “mental deficiency” (Grossenreiter 1994). Between 1919 and 1933 the number of people who were put under guardianship more than doubled. Most women who were sterilized came to the attention of welfare authorities and psychiatrists in connection with illegitimate pregnancies or unlawful conduct. 90% of sterilisations in the canton of Vaud were carried out on women. Equally, the wards of Zurich’s guardianship authorities were predominantly female. According to psychiatrists, it was much easier to persuade women to be “voluntarily” sterilized than men for ‘men see in sterilisation a proper castration in the psychological sense and it is hard to combat against this prejudice’ (Grossenreiter 1995; 237). Most important, although the principle of voluntariness was maintained with regard to sterilisation, records and testimonies from medics show that women were often presented with a choice between sterilisation, the referral to a workhouse, the threat that their poor relief would be withdrawn or under pressure that an abortion would only be carried out if women agreed to a “voluntary” sterilisation (Wecker 1998b).

In addition, women were more likely to get into the machinery of welfare authorities and psychiatric care on the basis of sexual comportment, and prostitutes could legally be referred to psychiatric care when arrested. There was also a preconception that “feeblemindedness” was more easily inherited in women than in men and there was a widespread belief beyond the realm of psychiatry that many prostitutes were inclined to pathologies. Indeed, Eugen Bleuler conceived the term of mental illness not as a medical term but as a social term which rendered the holder socially (and economically) incapable (Grossenreiter 1995). Uncontrollable sexuality and illegitimate pregnancies could thus be quite enough for severe intervention. The most often cited cause of “deviance” in women was “sexual unsteadiness”, a characteristic that was contrary to the economic and social purpose of women’s reproductive capacities, their housekeeping duties and their child rearing duties. In a society dominated by rigid moral norms and conceptions of female sexuality as passive it was easy to depart from the norm, particularly for working class women.

When Swiss Criminal Law was nationalised, sterilisation was exempt, a move that was supported by some psychiatrists. As a result eugenic ideas were applied through a complex and interacting set of institutions and a dispersed set of mechanisms. As these examples show, whether in the presence or in the absence of official state policies, individual actors in key
positions such as psychiatrists and welfare office directors, had considerable room for manoeuvre, making the medico-bureaucratic alliance a particularly powerful agent in the application of eugenic measures. Rather than merely being in the hands of the medical profession then, sterilisation practices were most widespread where various institutions were pursuing the same or a similar aim. Framed as a protective measure and needing the consent of two instances, such as guardian and doctor, sterilisations were considered officially legal and coordinators of sterilisations could also often rely on the presumption that the affected women’s financial, social and political position would effectively hinder them from filing a complaint for grievous bodily harm. Nevertheless, the problematic of how consent was obtained at the time returns with a vengeance albeit not more clarity in discourses around compensation claims.

EUGENICS IN SWEDEN
From 1935 and 1975 in Sweden, 62,888 cases of sterilisation were officially reported and during that period there were two laws regulating sterilisation (1934 and 1941). Swedish laws prohibited the use of physical force although private member bills to that effect were proposed in parliament in 1941 and 1943, but rejected. The laws specified that “legally incompetent” people could be sterilised against their will but that people able to leave a legally valid approval could not be sterilised without their consent. However, most people were considered “legally competent” and signed their own applications (92%). 95% of people sterilised were women who had passed through institutions. Similarly to Switzerland, questions have been raised as to how consent was obtained from medical or welfare personnel from women whose socio-political situations did not favour opposition to the authorities. But unlike Switzerland, sterilisations in Sweden were based on a national policy.

As a response to the media scandals, the Swedish government promptly commissioned an inquiry which reported on the historical background, surveyed the issues and proposed financial compensation for those concerned in 1999. It noted that the stringency of implementation changed in 1941 but found, with regard to racial categories, that the policy did not affect any one ethnic group despite early suggestions that the policy might have adversely affected the Sami people. However, there was an over-representation of so-called ‘Travellers’ or ‘Tattars’. As Weingart (1999) has argued, that means that the policies affecting the Tattare were the structural equivalent of the racial organisation of the Jews in Germany. In Sweden, they were subject to the ‘social indication’ added to the Sterilization Act of 1941.
The Swedish Inquiry had recommended, accepted and implemented a compensation package for those affected by the sterilisation policies. Personal compensation only was installed, that is, one had to be alive to claim, to the amount of 175,000 Crowns in cases of sterilisation against someone’s will. Where women were ‘probably’ sterilised against their will, they should be awarded compensation and where the sterilisation was voluntary (since 1976) there was to be no compensation. By 2000, 1700 people had asked for compensation and 1009 cases were decided, with 872 being awarded the compensation payment. As Leif Persson, the vice-chairman of the Swedish Sterilisation Compensation board said: ‘It’s a symbolic gesture to make up for past wrongs. The laws between 1941 and 1975 said that sterilisation must be voluntary but we know that many people were sterilised against their will’.

While in 1998 the media scandal in Sweden concerned cases of sterilisation, in Switzerland it was the years the removal of children from Jenisch families made the headlines. The responses of both governments to these emerging issues had been to install a system of compensation and to issue an apology. Yet the proposal put to the Swiss government in 1999 to confront its national past on sterilisations and work out a system of compensation analogous to other countries received a cold shoulder and a stark rejection in 2004. The arguments against compensation, in short, centred around a rejection of responsibility due to the absence of national legislation, the fear of setting a precedent for other groups to demand compensation and the lack of feasibility to establish whether someone was coerced or not. What seems at first to deal with similar issues (compensation for coerced sterilisation) was in the space of five years decided to be handled very differently by two different but European countries. In the following I will elaborate on the concept of bio-politics before looking more specifically at the Swiss case.

BIOPOLITICS AND ITS ANALYTICAL MERITS
With regard to eugenics there is no new argument that it was a form of biopolitics. Foucault himself identified it as an example and it fits the skeletal definition he had provided himself. In his conceptualisation of power, biopower was central and had evolved in two basic and inter-related forms. Firstly, it included a disciplinarisation of individual bodies and their movements, behaviours, gestures and capacities. These bodies are located in institutions but also at the microlevel of society, that is, in everyday practices and habits of individuals. Secondly, it refers to a regulatory power aimed at the collective body which is inscribed in policies and interventions governing the population. This power focuses on the species’ bodies and is the object of study and classification and target of intervention in public health agencies, health
economies, demography and so forth (see also Sawicki 1991: 67). Practices of biopower and
governmentality, such as the eugenic regulation of the reproductive sexuality of the national
body, are dependent upon the constitution of a body of expert knowledge, produced through
careful observation and classification. Biopower, Foucault argued albeit he never got to
elaborate further, depends on the interplay of both aspects of power, the regulatory techniques
and mechanisms of surveillance and normalisation within structures such as state and para-state
institutions as well as the disciplinary effects of new welfare policies which involve both
relations of care and control by opening up further mechanisms of scrutiny, surveillance and
disciplinarisation (see also Mottier 2004).

Similarly, Rabinow and Rose (2003: 2) characterise biopolitics as ‘the specific strategies and
contestations over problematisations of human vitality, morbidity and mortality, over the forms
of knowledge, regimes of authority, and practices of intervention that are desirable, legitimate
and efficacious’. In trying to develop Foucault’s skeletal notions Similarly, Rabinow and Rose
(2003) have proposed a set of elements necessary to identify bio-politics and two axes of inquiry
to bring to zones identified as biopolitical. For them identifying elements are truth discourses
about the ‘vital’ character of humans beings, strategies for intervention upon collectives in the
name of health and life and modes of subjectification in which individuals can be brought to
work on themselves by means of practices of the self. Collectives, they explain much more
succinctly than Foucault, need not be congruent with nation but can be any (bio)social collective
which is sometimes specified in terms of categories of gender, race, ethnicity or religion
(without being exhaustive categories). One of Foucault’s important contributions has centred
around modalities of power and his argument that knowledge production and power formations
are forming along state apparatuses in the terrain of the “social”. But he never gave much
attention to concrete differential expressions and modalities of power in that arena and has been
criticised, notably by feminists, to have neglected gender as an axis of differentiation. Equally,
and although Foucault’s notion of resistance in his conception of power has offered much to
(bio)social collectives, the impact on and ways of relating the micro and the individual have
been left rather thin.

This leads to the two axes of inquiry that Rabinow and Rose (2003) propose in that they usefully
suggest that biopower can be operationalised along the axis of relations and tension between
macro and micro poles of power. In other words, they suggest to fore-ground relations and
emphases on ways of thinking and acting at the level of population groups and collectives and
the individualisation of bio-political strategies. In terms of the history of eugenics subject here, it is important to draw on such a problematisation because although the eugenic rationale justified interventions in the name of the collective and to the effects of collective benefits not only were interventions mapped onto individuals but they were also administered by (key) individuals. Decision making processes about specific interventions such as sterilisations were effectively set within a small group of individuals, within which the person affected had a limited scope of agency through the notion of consent.

Their second axis of inquiry suggest to question how specific sites have come to be problematised in different zones and how other sites have not been taken up as zones of political and ethical engagement or contestation. This question has been central to my undertaking here in asking why the history of sterilisation has evoked such different responses in different countries. This has led me to investigate whether there have been dimensions which have been neglected in definitions of biopolitics and therefore biopower and I suggest that one such aspect and layer is temporal. I am not referring to how eugenics’ legacy is being reconfigured, continued and discontinued in contemporary genetic politics. Rather, I am trying to argue that the history of eugenics is a history of the present and that it has, by means of invoking calls for compensation and therefore law as a mechanism of regulatory power, impacted on contemporary politics on eugenics and its continuous history. By this I do not mean to say it is trans-historical or necessarily characterised by continuity, rather recent discussions have produced particular discourses on eugenics once more.

The temporal aspect goes beyond the obvious time frame of bridging the contemporary with the past. Eugenics itself was deeply linked to ideas about prevention, itself a concept that is extremely directional in terms of time, namely to a time to come. Thus, eugenic thinking and practices were imbued with notions of time, of better times as it were, of a utopian society. My suggestion here is that the recent discussion of compensation for coerced sterilisations is part of a history of eugenics and, in the Swiss case, it finally installs a juridical form of power in eugenics.10

9 The argument should equally be made that spatial dimensions should be more integrated but I cannot go into this here.
10 Equally important, and not elaborated here, is the notion of technology and the belief in technology as an aid in biopolitics.
EUGENICS AND DIFFERENT POLITICS OF REDEMPTION

In October 1999 a parliamentary initiative was submitted to the Swiss government seeking to install a system of compensation for victims of forced sterilization as well as demanding regulatory legislation of future sterilization practices on a national level. In December 2004 Swiss Parliament passed legislation which would safeguard future sterilisation practices but had rejected the demand to compensate people who had been sterilised against their will. Despite an initial welcoming of the initiative, it was the position paper of the Federal Council in 2003 which, although it welcomed the “important work of the legal commission” of rendering visible the coercive measure taken against disabled or marginalised people, which steered the decision making process towards the final rejection.

The position paper acknowledged that there was a need to critically question as well as recognise the perhaps “darker sides of recent social history”, as the nation did with regard to the “Children of the Country Road” program. Furthermore, the position paper acknowledged that these interventions had been based partly on eugenic reasons, in conjunction with social-hygienic or socio-economic goals, and partly they were taken in the presumed interest of the person concerned. But the report perceived it to be a delicate undertaking to discuss compensation as moral values and ethics had changed in the past hundred years. Not only had conception of psychiatry changed significantly but sexuality as a component of individual identity has been claimed by disabled people, unimaginable only a few decades before. In addition, federal legislation had been devised to safeguard the prevalent abuses in the area of administrative internment and was currently under discussion with regard to regulating future practices of sterilisation.

Clearly, the proposal was intensely debated over the course of the five years but its rejection centred around three key areas of contestation: first, although there are existing provisions for compensation in case of criminal injury (victims’ compensation scheme, Opferhilfegesetz OHG, 1991) it was argued that because none of these sterilisations were in actual fact illegal and thus no criminal code had been violated those provisions could not be used. Moreover, if a compensation was installed a “dangerous precedent” would be set opening up paths for further groups to claim compensation on the basis of past injustices, such as people who were forcibly incarcerated, particularly before the 1980s when federal legislation regulated solicitous

11 Administrative internment (administrative Versorgung) was possible according to the Swiss Civil Code of 1912 which effected to prison sentences without sentencing in reality.
withdrawal of personal freedom (fürsorglicher Freiheitsentzug, FFE). Second, the contestation was made that because there was no national legislation there was no reason why the federal government should be accountable in any way. Moreover, concerns were raised about judging past events by present ethical standards and about the injustice of now condemning those individuals who acted in the interest of society and according to prevalent social understandings. Third, it was argued that it was impracticable to ascertain in retrospect whether someone was forced into a sterilisation or not, given that notions of consent had changed over time and that a full assessment of the circumstances was hindered in many cases. In addition, it was pointed out that the commission could not ascertain with certainty how wide-reaching the problematic was as the historical data was still incomplete. Nevertheless, the Federal Council’s position on legality was not all that clear cut: ‘It can be concluded from the commission report that sterilisations which took place without informed consent were based on different situations and practices according to each canton, physician and institution. The boundary between interventions which were evidently based on illegal coercion and whose legitimacy remains controversial today is fluid’ (Bundesrat 2003: 6357). What is striking in this argumentation by way of a commentary is that the vocabulary of late-modern social theorising is instrumentalised here, that is: differentiality, uncertainty, historicity, and fluidity.

Consent emerged as a big issue in the discussions. Contemporary European law (Protection of human rights and human dignity in relation to application of biology and medicine, ETS Nr 164, 1999) determines that interventions on person incapable of consent are only legal if they are carried out to their immediate benefit. In reality, it is an extremely difficult terrain and produces complex question even though contraceptive means are much more efficient as well as reversible nowadays. The Federal Council concluded that it would be problematic to consider every sterilisation or castration of a person incapable of consent as “forced sterilisation”. Particularly because in this light even more recent sterilisations carried out according to cantonal law could induce claims for compensation. The Canton of Fribourg, for example, whose law from 1999 defines one of the conditions to sterilise a person incapable of consent the fact that that person is not capable of carrying out their parental duties (Bundesrat 2003: 6358). That regulation was, of course, highly problematic and open to manipulation and interpretation on the side of the authorities in a way similar to earlier eugenic applications. In addition, the working presumption that people were incapable of consent is problematic and omits any awareness that people were rendered “incapable of consent” through incarceration and guardianship orders.
When talking about consent it should be clear that in terms of Western health care what is meant by consent is a medico-ethical construction which is mirrored and enforced by legal discourse. Law, however, must present itself above all as neutral, impartial and objective within the dominant discourse of liberal humanism, and as one which is held to reflect moral norms. Its proper concern is with the discharge of abstract contracts made between formally equal individuals involving, in health care as elsewhere, a network of mediating rights and duties. Whilst the real, embodied, *gendered* individuals who are in practice its concern, are held to have no legally significant differences when parameters are brought forward for those who can and for those who cannot consent the matter is further complicated. Although patient self-determination is often referred to as a basic legal right now, its certainty is undermined not just by the claims of conflicting rights and duties, but also by the discursive exclusions of rationality. When disputes arise the standard set for a legally valid consent devolves on what a reasonable doctor is entitled to do, and obliged to divulge, in keeping with current standards of the discipline (see also Shildrick 1997: 83-87). Rationality is both privileged and denied to certain groups. For women, that disempowerment has always been compounded in that in a society based on normative male standards they were not considered fully rational in the first place and even more so when they had been deemed incapable of consent because of “feeblemindedness”, “moral and physical neglect”, “sexual unsteadiness” and other categories that have a high percentage of social validation rather than being medical categories.

One of the bones of contention for Swiss politicians was that a special framework for compensation for forced sterilisations would be in competition with the OHG (*Opferhilfegesetz*) enacted in 1991. This law specifies compensation for people who have been subject to a criminal offence which, the Federal Council and the middle-right political parties argued, was not the case for sterilisations. Problematic was seen here that sterilisation victims could claim compensation whereas victims of other criminal medical misconduct could not do that (OHG imposes a limitation period for claims of two years). Thus, people whose own or their descendents’ fertility was affected by the prescription of Distilbène in the 1960s, for instance, could not claim compensation, it was argued. This argument held that if victim compensation would defined as a violation of a basic human right (rather than of a criminal offence) then victims of forced internments could, by extension, claim compensation, those abused in orphanages or in retreats for elderly people. These different categories of victims would create a system, so the justification said, that certain categories of victims would be privileged thereby
violating the principle of equal treatment for all and undermining the coherence of the victims’ compensation scheme.

The report pre-empted the charge that these were merely theoretical considerations and referred to the compensations paid to the victims of the “Children of the Country Road” program, a privately initiated but state supported program which systematically removed children from Jenisch families (biggest group of gypsies in Switzerland) between 1926 and 1973 to place them in residential or foster care. Here there was seemingly no problem creating different categories of victims or conflicts with OHG. What was at stake implicitly, I would suggest, was also the amount of compensation proposed. For the Children of the Country Roads compensation dealt with amounts between 2000 and 20,000 SFr, for “serious cases of forced sterilisation” (incurring economic hardship) the initial proposed amount was 80,000 SFr. However, strangely no reference to other nation’s approaches to compensation was ever mentioned12.

The Federal Council further argued that the acknowledgement which society owed victims of forced sterilisation did not necessarily have to be in financial terms, moreover as it would come too late for a part of the victims anyway. ‘Instead of continuously trying to compensate past injustices and thereby possibly opening up wounds which have healed over time we prefer to use the existing means to ameliorate support of people who have mental disabilities or have physical or social difficulties and who need care in an institution or other institutional support’ (Bundesrat 2003: 6359). The “continuous” attempts to compensate refer to the Pro Juventute case and the “Children of the Country Roads” compensation as well as the case of haemophiliacs where responsibility was acknowledged13. Nevertheless, the arguments suggests not only some resentment towards those groups receiving compensation but also seems to overlook the fact that welfare expenditure has undergone significant cuts in recent years so that it remains unclear where resources would come from to “ameliorate support”.

Should parliament nevertheless decide on financial retribution then local government was deemed responsible, although not so much legally but socially and politically, the Federal Council argued. There seems to be an inconsistency inherent here in that if one is to talk about

12 Strange in the sense that eugenicists in the early twentieth century constantly referred to practices in other countries thereby seeking to legitimize their practices. Also, wherever legislation was discussed comparative perspectives always played an important role.
13 Swiss government also rectified its wrong doing towards those who helped refugees before and during WWII who were, according to legislation at the time, sentenced to prison.
social and political responsibility and physicians, welfare administrators, priests and other individuals involved in the decision making process are not personally responsible because they acted according to prevalent understandings then surely the bigger national bio-social collective bears past and present responsibility. In other words, if these practices were part of a wider regime of care and prevention in the name of the collective then responsibility for breach of care also lies with the collective, in this case the national collective. But the Federal Council took the decision, as did the majority of parliament later, that responsibility here should be more narrowly defined. ‘It is precisely unproven in the case at hand, in contrast to the programme “Children of the Country Roads”, that the Federal Government supported morally, politically or financially forced sterilisation which have been practiced by certain physicians and institutions’ (Bundesrat 2003: 6359). Although there is a pointer towards certain individuals and institutions, this rationale was not taken up. Rather the cantonal bodies responsible for those institutions should be, if at all, made responsible.

Neglected in this argument is, of course, that welfare support has been, according to a political decision in a federal state, been denominated as a local responsibility, cantonal and communal, one could equally argue that it was by national consent and therefore political. Furthermore, it was a national-political decision not to include a national regulation on sterilisation in the criminal law which was being nationalised between 1890s and 1930s and enacted in 1942. National legislation could have had the effect, as did the Vaudois law, to curb numbers of sterilisation so that a national responsibility could be framed in terms of not intervening. Moreover, the Swiss government did sanction sterilisations as part of population politics through the government’s position on the family article 1944, for instance. Although eugenic arguments were thrown out at the last minute as a reason to protect the family the Federal Councillor Philipp Etter argued that it was not necessary to include it as such a politics could be carried out in Switzerland without constitutional basis (Bundesblatt 1944). The federal government supported such a politics and also never spoke against it, as it was pointed out in the discussion in the NR and social historians (Wecker 2004).

In response to the catalogue of concerns raised by the Federal Council in 2003 amendments were made to the proposal, most obvious in term of the compensation package suggested. Instead of compensation symbolic reparation of 5000 SFr should be paid. Still, centre and right parties rejected even such a symbolic gesture as it would be wrong, in their eyes “to judge the past according to today’s measures and knowledge [and] to map our conception of law onto
incidents which occurred in different time and under different conditions” (NR 2004: Mathys SVP). In contrast, social democrats and greens argued that past injustices needed to be acknowledged and that there was no shame nor misjudgement in acknowledging that certain practices which some people fell victim to were illegal. Furthermore, they contested the argument that sterilisations were not regulated as physicians were well aware that unless they could obtain legally valid consent they could be brought to justice (if people who are at the margins of society can ever do that) for grievous bodily harm. The mere fact that nobody has been sentenced for committing grievous bodily harm in the form of a sterilisation was not indicative that that they did not take place. The position of the Federal Council, these political quarters argued, was seen to “lack a sense of history”, to be “constitutionally insensitive and insufficient” and to constitute a formal-legal side manoeuvre. Firmly contesting the catalogue of arguments brought against payments to people who had experienced coerced sterilisations the Left argued that the reparation package of 5000 SFr would “merely be the bunch of flowers that comes with an apology”. Furthermore they stipulated that if parliament rejected the proposal for compensation today you make the victims from then to victims again and legitimise the actions of the perpetrators in retrospect”.

Distinctive, new and common features have emerged from concept of compensation over the past decade in particular. The search for unifying principle of compensation that reflects reparation for wrongs now the subject of broad human rights and humanitarian concerns, including criminal actions by the state and breaches of duty of care by state bodies. Australia, for example, has seen recent attempts to acknowledge the history of indigenous oppression and dislocation (Hocking 2000). There was acute and more general governmental and public discomfort with compensation claims from what has become known as the “Stolen Generation” who was subject to a policy of removing half-caste Aboriginal children from their families, a policy in place until the 1970s. Unlike the Swiss Pro Juventute case, Australian government was non-responsive and John Howard has steadfastly refused to utter a formal apology for such past governmental policies and a compensation system was rejected (Hocking 2000). In the absence of compensation tribunal common law has been resorted to in test cases which, however, have been unsuccessful as.14 Thus, court systems have clear deficiencies compared to administrative compensation schemes.

14 A problematic point was once again “consent “ which had formally been given in one test case by the person’s mother’s thumbprint. But there were also issues about presenting insufficient evidence, possible witnesses who
CONCLUSION
This paper has been arguing that history and the present interweave in ways that are perhaps unanticipated when talking about bio-politics. Biopolitics of the past is biopolitics of the present in the context of eugenics but not or at least not only, as some might argue, in terms of some of the continuities of concerns that the new genetic politics present to society. Rather, I have tried to argue that there are no clear demarcations between history and the present, rather that it is an integrative part of the present and therefore of the future. By way of examining current compensation claims in the context of eugenics and particularly compensation claims for coerced sterilisation I have tried to integrate temporal aspects into the concept of biopolitics. The fluidity of temporal categories, I want to suggest, is not least due to ways in which present power and governmentality enter the arena of past issues and what ways of dealing emerge from it. The Swiss government, insisting on legal and political technicalities in relation to the nation’s eugenic past, exemplify Foucault’s notion of power underlying the notion of biopolitics, namely that although power relations need to be understood outside their traditional arena, this traditional arena nevertheless remains also constitutional of his notion. In the Swiss case, I suggest thus, present dealings with legality and illegality derived from law saturate the notion of biopolitics with traditional forms of power whereas the eugenic practices in the twentieth century were more an example of those other notions of biopower and biopolitics.

Some of the issues that make the Swiss response to compensation claims problematic are the ways in which some of the key concepts have been used: compensation and indemnity was the vocabulary used overwhelmingly rather than, as has in other contexts such as South Africa, reparation and reconciliation. Though the term “reparation” entered the political discussion it was for pragmatic reasons in terms of providing an easier route to pursue the claims rather than in the context of a sense of collective responsibility, acknowledgment or even sense of shame. In terms of a temporal framework I would also suggest that the absence of using the occasion to deal with further underlying concepts also has further ramifications for the future. The concept of prevention comes to mind here and whose history could prove instrumental for the future.

Finally, implicit in this discussion was also the relationship between collective identities and politics. The fact that, in the Swiss context, the Jenisch, haemophiliacs and those sentenced for were dead, and about evidence which was destroyed. Despite all that the obligation was placed on claimants to prove their claims that they had been taken against the will of their families (Hocking 2000).
helping refugees during WWII have in the last decade or so received a public apology and/or some form of reparation which together contribute towards some form of reconciliation was not least partly due to the fact that there were public advocates on these issues. For those having undergone forced sterilizations this was not the case and one can easily see why. Suffering twice from the stigma of ill mental health, once when sterilized and again in the parliamentary discussions where the continuous allusions to “inability of consent” was never dissected, this was/is a group of people that was and is continuously individualised by society. Therefore, the basis of collective action is rendered more difficult, particularly in a political climate which is not willing to acknowledge social injustice. In contrast to Sweden, where hundreds of people came forward with compensation claims after a system of compensation was installed swiftly after the public exposure of it forced sterilisation history. The recognition and compensation of individual injustices is part and parcel of a politics of recognition and reconciliation and redemption, at least in gesture. Its presence or absence therefore has much to say on what Rabinow and Rose (2003) have taken as a starting point of inquiry into biopolitics, namely the relation between micro and macro forms of power.

BIBLIOGRAPHY:


