

GENDER-BASED VIOLENCE IN UNIVERSITIES AND RESEARCH ORGANISATIONS

NATIONAL FIELDWORK REPORT

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Researcher: David Meier-Arendt

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1. INTRODUCTION

Preliminary note:

This report gives a summary of the research conducted from March 20th until May 7th, 2021. The information provided in this report is the result of a research contract that converts 40 hours of research which includes: composing an annotated bibliography, answering a detailed (approximately 150 questions) survey, filling in two detailed 'Grids' (approximately 150 questions each), and writing this report.

Attitudes towards GBV in Universities during the last 5 years:

Over the last five years, the topic of GBV in RFOs and Universities has gained traction and relevance not only in academia itself but also in the political sphere. The following paragraphs will highlight a few examples of this trend.

Recently scholars (i.e. Schütz et al., 2021) and 'General Equal Opportunities Officers (ger. Allgemeine Gleichstellungsbeauftragte) have highlighted the need for more prevalent up-to-date data on GBV in universities (Schütz et al., 2021, S. 3). The article confirms that Feltes et al. (2012) is the only systematic study that produced representative data on GBV in Universities in Germany. For RFOs, however, such research is lacking.

The topic of GBV in Universities has also come to the attention of institutions on the federal level, such as the federal anti-discrimination office (in German 'Antidiskriminierungsstelle' in short ADS). This Report (issued by the ADS) includes guidelines and strong recommendations for universities when it comes to prevention, prosecution. The document also highlights the importance of partnerships between entities that reach across the state borders. Furthermore, the document provides suggestions for policies that could be implemented. The document highlights the legal frame and state in which sexual harassment (germ. 'sexuelle Belästigung') is illegal. The document critically notes that despite this fact, 'German law does not yet have any clear and or transparent regulations to protect students against sexual harassment by lecturers (staff) or other students.' Kocher (et al. 2015: 5). The document also states that its focus is to help universities that want and need to raise awareness for GBV and to help universities to institute preventive mechanisms.



Overall, the ADS-report concludes that 'sexual harassment and violence are a "frighteningly normal" experience at German universities, especially for women and LGBTI* persons, but also for men who are ascribed "unmanliness" or homosexuality.' (Kocher et al., 2015, S. 7)

The ADS-report also assesses some of the characteristics of the legal framework, such as the 'general equal treatment act' ('Allgemeines Gleichbehandlungsgesetz' short AGG) and the higher education laws. Both do not provide a sufficient regulation on how students can be protected from different forms of harassment (and GBV in general) at universities (Kocher et al., 2015, S. 46ff.). It is, therefore, of great importance to establish clarifications within the state (in German 'Länder' or Bundesländer') higher education laws.

2. MAPPING OF POLICIES AND LEGAL FRAMEWORKS

The mentioned ADS-report already highlights the difficulties of the German legal framework to a certain extent. The following paragraphs are meant to shed light on these difficulties.

When looking into the legal framework which addresses GBV on a general basis, two laws are of direct relevance. Namely the paragraphs §177 StGB (German for 'Strafgesetzbuch') etc. in criminal law (German for 'Strafgesetzbuch') and the already mentioned 'General equal treatment Act' AGG (Allgemeines Gleichbehandlungsgesetz) of 2006. This regulation is meant to be important legal instruments for preventing GBV by requiring every employer to commit to the safety of their employees. This 'only' includes university staff and students who can file their complaints based on AGG laws (especially § 13 and §14). The AGG, however, is a part of civil law, not criminal law. This means that the affected person might have to file charges on their own accord and, in many cases, come up with the financial resources to do so.

The jurisdiction on higher education, however, lies with the individual states ('Länder' or 'Bundesländer'), not the federal government. Therefore, there could be laws passed at the state level that specifically address GBV in Universities as long as they do not contradict national laws such as the AGG or the StGB. The federal government is unable to and is not allowed to pass laws that intervene with the jurisdiction of the individual States. The federal government can, therefore, only issue recommendations and guidelines when specifically addressing GBV in higher education. Furthermore, some of the universities are autonomous to a certain degree where they have their own laws (like the Technical University of Darmstadt in the state of Hessen). This short overview demonstrates the complexity of the different levels and what needs to be considered when addressing the issue of GBV in Universities and RFOs. These three levels of autonomous universities, individual states, and the federal government are making it impossible to give an exact account of the legal framework and policies. Further, more detailed research would be needed to accomplish that.

The following paragraphs will thus only represent a fraction of the different laws and policies that are relevant to GBV in Universities and RFOs.

Laws, Actors and Policies on the federal Level



On a national level, the AGG (for example, §13, etc.) and the StGB (§ 177, etc.) are the most referred legal provisions when it comes to GBV in Universities. Both of these laws are instituted on the national level.

The AGG commits every employer to be responsible for the protection ('Fürsorgepflicht') of their employees. The Universities are therefore responsible for their staff in that regard. The explicit aim of the AGG is to prevent and eliminate discrimination based on race, ethnic origin, gender, religion, and sexual identity (§1 AGG). The law further protects these groups from less favourable treatment in §3 (1) AGG. The § 13 (AGG) gives employees the right to complain to the relevant appeal body of the company or institution. The law further states that the complaint must be examined, and the result has to be communicated back to the employee who filed the complaint. This law has had the greatest impact on institutions (such as universities) and companies since all employers are liable for the protection of their employees.

The StGB is, in contrast to the AGG, the criminal law. The StGB does not only cover GBV in terms of sexual harassment (§ 184i) or rape (§ 177) but also actions like stalking (§ 238). Since it is not easy to prove these actions in court, the effect of these laws on the existing level of GBV in universities has been limited.

Since these laws do not specifically address GBV in universities, larger partnerships and corporations have taken on this issue. The 'Federal Conference of Women's and Equal Opportunity Representatives at Universities' (dt. Die Bundeskonferenz der Frauen- und Gleichstellungsbeauftragten an Hochschulen“ short „bukof“) and the HRK are two of these examples. The 'Hochschulrektorenkonferenz' (HRK) established a canon of recommendations. In this canon, the HRK (2018) has repeatedly mentioned aspects that are intended to prevent the abuse of power. In addition, a cross-university exchange on good practice solutions and the establishment of quality standards is to be launched within the HRK.

The 'Federal Conference of Women's and Equal Opportunity Representatives at Universities' (bukof) has taken further action by developing a guideline (bukof 2018, 2021) that outlines how institutions of higher education and RFOs can and should handle GBV. The guideline, therefore, addresses all students and all employees of the universities. This document highlights the importance of partnership, protection and prevention. The document explicitly recommends policies that could be adopted to combat GBV and also differentiates the different forms, such as verbal and nonverbal.

Another curtail actor on the federal level is the Federal Anti-Discrimination Agency (German for Antidiskriminierungsstelle des Bundes short, ADS). This agency has produced several documents and guidelines addressing GBV in the context of higher education (such as the report written by Kocher et al., in 2015).

Laws, policies Actors and Strategies on state Level

There are vast varieties of laws and regulations on the state level since concrete legislation on education is subject to the state legislature.



This report focuses on the state of North-Rhine Westphalia (NRW) and gives a few examples of measures that have been taken. The parliament of North-Rhine Westphalia passed a law in September of 2014 that explicitly mentions harassment as one of the punishable ‘violations’ in § 51a (Hochschulgesetz (HG) NRW, Higher Education Act). This paragraph specifies the types of violation and the possible sanctions for students who commit actions that hurt the dignity of another human based on gender, sexual identity, etc. § 51a HG NRW explicitly talks about the violations of regulations that could occur from the behavior of another student. The law defines such violations as a use of force or use of violence or by threatening its use (etc.). Sentence 3 a) further states that violations could occur on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual identity. In addition to these clarifications, the law also states five sanctions for these violations: 1. the pronouncement of a reprimand, 2. the threat of expulsion, 3. exclusion from the use of university facilities, 4. exclusion from participation in individual courses for up to one semester, 5. expelling the student. (§51a (29)).

Despite these explicit regulations¹, many universities in North-Rhine Westphalia have adopted additional policies and regulations on GBV and discrimination (i.e., University of Bielefeld 2021).

These specific regulations and policies also occur in other states (i.e., Goethe-University 2021 or the University of Kassel 2021, both in the state of Hessen). These different measures on different levels demonstrate the complexity of regulations, policies, and laws on the national level, the state (Länder) level, and the Institutional level (policies of the different universities).

Despite these widespread efforts on these different levels to combat GBV in the context of higher education, the universities themselves have not included the topic of GBV in universities in the relevant curricula or teach about it on a broad scale.

In general, the measures for prevention, protection, and prosecution can only be effective if the higher education institutions have concrete regulations in the form of guidelines.

These should contain transparent procedural rules for dealing with allegations and incidents of sexual harassment. In incidents of sexual harassment, it is particularly important to achieve clarity about whom a person could contact at universities, as well as spreading the information efficiently amongst the students.



3. DEBATES REGARDING #METOO AND THE ISTANBUL CONVENTION

Debates related to #MeToo have, in general, been more controversial than the debates around the ratification of the Istanbul Convention. Little attention was paid to the context of higher education in both debates, however.

The ratification of the Istanbul Convention has led to an overwhelmingly positive reaction among relevant NGOs (such as ‘ProFamilia’), the NGO welcomes the ratification as a significant milestone in the fight against violence against women and girls. Also, the federal agency

¹ The information provided in the report does not have to be absolute due to the limited time devoted to the mapping.

"Bundesministerium für Familie, Senioren, Frauen und Jugend" - "federal ministry for family, seniors, women, and youth" (BMFSFJ) has emphasized that signing the Convention improves the protection of women from violence. Next to federal agencies, religious actors have also commented on the ratification of the Istanbul Convention in a positive manner by stating that the Convention creates a framework necessary to increase the security of women Weltkriche.katholische (2017). The only exception is the political party "Alternative für Deutschland" (AfD) engl. Alternative for Germany. A populist far-right party claims that the convention only tries to push "gender ideology" and does little for (German) women (AfD Kompakt; Anderson C., 2021).

The process of the ratification of the Istanbul Convention also affected higher education, at least partially. The Frankfurt school of applied science (UAS 2021) has started a research project (in cooperation with the state of Hessen) on 'Women's Shelters and the Implementation of the Istanbul Convention (short FrlmlKo) for the state of Hessen. The project was designed to help with the implementation of the Istanbul Convention by investigating the existing support services for particularly vulnerable groups and people to identify potential networking approaches of the institutions.

The debates around the #MeToo movement have also not significantly revolved around the context of higher education. However, there have been a few media articles, such as one article in the "Tagesspiegel" claiming that the #MeToo movement is giving a voice to women who have experienced GVB in Universities. One of the only specific comments on the #MeToo movement, in the context of higher education, was a statement by the Leuphana University of Lüneburg (2021), which describes the movement as an enabler for survivors to come forward. The authors also emphasize the need for innovative preventions.



4. PUBLIC OPINION ON GBV

In general, public opinion condemns GBV. Also, the #MeToo movement has helped by raising awareness for the issue of GBV in general. Recent data from 2019 also shows that most people (slightly) overestimate the percentage of women who have been victims of physical and/or sexual violence by a current or former partner or spouse (statista 2018). The discussions on the ratification of the Istanbul Convention and the debates on the #MeToo movement clearly show that the media and other actors condemn GBV. This, however, does not mean that all actors are willing to change laws or pass new legislation on the topics. It is important to note that some parts of the media did condemn GBV as a whole but yet suggest that movements like the #MeToo-movement are anti-male (Fleischhauer 2018).

5. IMPACT OF COVID-19 ON DISCUSSIONS ABOUT GBV

The impact of COVID-19 on the discussion about GBV in university and RFOs, etc. is hard to measure. For now, it seems that the topic of GBV has gained enough traction during the last decade(s), in universities and in the context of higher education. GBV is discussed alongside other topics within the discussion on COVID-19. Also, some student initiatives are actively pursuing the topic of GBV in universities. For example, the general students' committee of the University of Duisburg (2021), which organized a ring lecture that covered a wide range of topics, from consensus and campus violence to sexual violence during the Corona crisis. But some universities have also directly engaged with the topic of GBV in times of the global COVID-

19 pandemic. For example, Goethe University Frankfurt (2021) addressed the issue of GBV (and others) via a long entry on their website. This entry provides general information about the limited but continuing work of the Equality Council, as well as contact information during emergency situations (collection of links at the end of the mail). The entry furthermore provides an assessment about the digitalization of university operations during the Corona crisis. Another example is from the University of Heidelberg, which also addresses the issue of GBV (sexual harassment, bullying, stalking) in times of a global pandemic, via an entry on their website (University of Heidelberg 2021). This entry emphasizes that counselling is also available during the pandemic and that complaints can be filed via e-mail, and if pandemic social distancing standards are met, face-to-face counselling is also possible.

In general, many universities have adapted to the circumstances of the pandemic by providing online services, etc. (i.e. Goethe Uni Frankfurt). Therefore, it seems that the pandemic did not overshadow the debate about gender-based violence in universities.

6. CONCLUSION

Concluding this report, one can presume that the situation in Germany is very complicated from a legal perspective. As other scholars already highlighted, it is of great importance to create cohesively uniform rules of procedure that deal with allegations and incidents of sexual harassment. Some actors already work towards a more cohesive and consistent process (such as the AAS and the BuKof). As many of these reports state: it is necessary to pass additional legislation in regards to GBV in RFOs and higher education. Another factor for the complexity of this topic is the scarcity of prevalent up-to-date data on GBV in higher education and RFOs. Further work in this direction is needed. Exact data on the prevalence and the situations in which GBV most frequently occurs would help with improving the already existing concepts for protecting students and employees from GBV. Another important aspect is the question of actual sanctions (prosecution). Survivors of GBV and perpetrators must be sure that they not only have someone to counsel them but that eventually, concrete actions will be taken. Even in the case of less severe incidents of GBV. In connection with this assessment, it is also important that universities try to spread the information about the possibility of the council and the relevant avenues of contact available.

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