Compass 2020

Germany in international relations
Aims, instruments, prospects

Human Rights and International Social Policy

Constraining the Anarchy of Power

Erfried Adam

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The Compass 2020 project represents the Friedrich-Ebert-Stiftung's contribution to a debate on Germany's aims, role and strategies in international relations. Compass 2020 will organise events and issue publications in the course of 2007, the year in which German foreign policy will be very much in the limelight due to the country's presidency of the EU Council and the G 8. Some 30 articles written for this project will provide an overview of the topics and regions that are most important for German foreign relations. All the articles will be structured in the same way. Firstly, they will provide information about the most significant developments, the toughest challenges and the key players in the respective political fields and regions. The second section will analyse the role played hitherto by German / European foreign policy, the strategies it pursues and the way in which it is perceived. In the next section, plausible alternative scenarios will be mapped out illustrating the potential development of a political field or region over the next 15 years. The closing section will formulate possible points of departure for German and European policy.

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Human Rights and International Social Policy

Constraining the Anarchy of Power

Erfried Adam

Abstract

As a reaction to the catastrophes of the 20th century – World War I, fascist tyranny, holocaust, dictatorship and World War II – international organisations to prevent their recurrence were established: first the League of Nations and the International Labour Organization in 1919 and later the United Nations in 1945. A feature common to the UN Charter, international law, human rights and social standards is their underlying purpose of safeguarding peace within and beyond national boundaries and giving people freedom, equality and social progress. Through these organisations, multilateral rules to constrain the anarchy of power are put in place by joint endeavour and backed up by a call for collective commitment by the community of states to apply and safeguard those rules. As a value orientation, human rights lay the foundation of the democratic order. Their primary function is a protective one, shielding citizens from the state and its possible claim to absolute power. They serve to constrain state hegemony and arbitrary rule by the state, to protect the individual as a "human" being, and provide the foundation for enshrining in law the relationship between state and citizen. They are the cornerstone for constitutionalising the international order. The debates on the UN's 60-year track record of policymaking in the field of human rights focus on disputes about the universality of these rights' validity, their interdependence and status ranking, and particularly the relationship between state sovereignty, under the terms of which human rights fall within the "domestic competence" of states, and a common responsibility incumbent on the community of states as a whole for their protection and implementation, from which control functions and even – in extreme circumstances – the right to intervene could be inferred. Whereas under conditions of ideological antagonism, human rights and international social standards are deemed also to have politico-instrumental functions, their validity is today being additionally called into question by power shifts within the international system, diminishing credibility on the part of the proponents and the increasingly fierce competitiveness conflict associated with globalisation.

Against the backdrop of its history, Germany has reached a remarkably reputable position within the international system but, in the estimations of many, is strangely self-effacing and is failing politically to mobilise its full potential. Coordination and coherence represent the biggest challenge to international organisations and the policies of their member states. The international organisations' ability to take the lead is determined largely by what the member states instruct and empower them to do. Their power to shape globalisation and the international order is exercised vicariously. Taking responsibility and the political initiative are incumbent on the member states and their willingness to explore policy options, to reach consensus and reconciliation of interests as well as their readiness to offer substantial material incentives. This applies as much to human rights policy and international social policy as it does to safeguarding peace and to global economic and development policy. What is required here is tangible and practical action by states and an assured and coordinated approach to action in all arenas within the international system. Germany will only be able to play an active role on the international stage if it succeeds in coping with the challenges of demographics, inter-generational conflict and social competition and thus also secures human rights and social equity both within and beyond its national borders. A country which is torn apart by inter-generational conflict, xenophobia and social division foregoes its ability to act on the international stage and exert its influence on the policies of international organisations.

I. Framework conditions – Multilateral responses to the major global crises

Social issues have constituted human history. Economic development necessarily leads to social change, incremental or on the scale of social turmoil, which in turn provokes political reactions, adjustments and transformations. In modern times, efforts to control this process and seek reconciliation and integration have become a substantial focus of politics – and not necessarily only of democratic politics. Modern political parties position themselves within this process and seek thereby to obtain legitimacy and popular support.

The internationalisation of production and the liberalisation of capital and financial markets which have taken place within the process of "globalisation" have sharpened the profile and speeded up the pace of this fundamental dynamic process in society, but they have also had some dislocating effects on it: social disparities have widened both within states and between world regions, with some regions being left ever further behind in terms of economic and social progress while others are finding that economic progress is bringing precarious employment and social and ecological crises in its wake. Whereas traditionally the conflict over control and distribution has been confined largely to the national level, it has now become part of both international competition and intergovernmental and multilateral efforts to manage, attenuate or even reconcile interests with a view to mitigating social conflict and avoiding inter-state conflict wherever possible.

Alongside stating a commitment to promoting social justice as a precodition for universal peace, the preamble to the Constitution of the International Labour Organization (ILO), drafted in 1919, makes it amply clear that the mandate of the organization is positioned within a context of competition; it emphasises: "*[…] the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries."* Minimum standards in international law were to give this competition a framework and limits within which to operate and thereby prevent „social dumping". Proceeding from the core tenets of the Declaration of Philadelphia (1944), *"labour is not a commodity"*, *"freedom of expression and of association are essential to sustained progress"* and *"poverty anywhere constitutes a danger to prosperity everywhere",* the partners in the ILO's tripartite management structure have developed a complex system of international labour standards which can be presented only in outline here.

The reference to peace, freedom, equality and social progress is also a key element of the UN Charter, the Universal Declaration of Human Rights and the human rights conventions which ensued in reaction to the turmoil of the inter-war period, World War II, fascist tyranny, holocaust and dictatorship.

I.1 International labour standards

A legacy from the preceding League of Nations age, the ILO was the first organisation to become part of the new United Nations system and the first UN specialised agency. It now has 177 Member States and a tripartite management structure which is unique within the international system and allows for national delegations to include, alongside two government representatives, one representative each of employers' and workers' organisations within that Member State. The ILO's main task is to establish standards and monitor compliance with them. The basis and core of the ILO's work in this field is its body of international labour standards (also abbreviated to ILOLEX), which cur-

rently incorporates 376 individual standards, more specifically 184 conventions and 192 recommendations. Far from being indiscriminately imposed rules and regulations, these international labour standards are the outcome of a democratic process engaged in by representatives of government, business and unions from the Member States around the world. They are finally adopted by the International Labour Conference, the supreme decision-making body of the ILO. The standards are the result of a process during which the interests of the various Member States and their respective employer and employee representations are reconciled; they are thus in the nature of a compromise reached out of a situation of conflicting interests between nations and conflicting interests between capital and labour.

The international labour conventions have the status of international treaties and have to be adopted by a two-thirds majority of the delegates to the International Labour Conference. They are legally binding once they have been ratified; prior to ratification they have the status of objectives. Recommendations are non-binding technical or policy guidelines, often accompanying a convention, and are not subject to ratification. Ratification is the act which commits a Member State to implement a convention in national law and report regularly to the relevant ILO monitoring mechanism. At the request of the Governing Body,[1] a Member State may be obliged to report on matters falling within the scope of a particular convention even if it has not ratified that convention. The core Convention on Freedom of Association and Protection of the Right to Organise (No. 87) is deemed to be a constitutive element of membership for all Member States irrespective of formal ratification.

The international labour standards have *universal* status, i.e. all states, irrespective of their level of economic development or social and political system, should be capable of ratifying and implementing them; because of this universality, international labour standards are often drafted to allow for a certain amount of *flexibility* and moreover have a *promotional* thrust insofar as they oblige states to do everything in their power to bring about improvements. For many conventions, ratification has been inadequate;[2] other conventions have become obsolete in many respects. Work has therefore started on reviewing the conventions for up-to-dateness to establish their contemporary relevance.

Important for the clout of the ILO's international labour standards are their *relevance*, their *universality* and their *implementability*. The last feature is the decisive characteristic, for standards which cannot be enforced and supervised are toothless, a nice idea bereft of genuine impact. To deal with this aspect, the ILO has developed an international supervision mechanism which can undoubtedly be considered exemplary in terms of its effectiveness and efficiency and provides a comprehensive overview of thousands of documented cases. Essentially it is a complex mechanism of interaction with the Member States involving periodic national reporting (Article 22), comments by the social partners, study by an international Committee of Experts,[3] deliberation in special committees of the Governing Body (e.g. the Committee on Freedom of Association), and finally deliberation by the International Labour Conference itself. The procedure under Article 19 for

1] The Governing Body is the executive organ of the International Labour Office and, after the International Labour Conference, the most important body of the organisation. It is composed of 56 titular members (28 representatives of government, 14 representatives of employers and 14 representatives of employees) plus 66 alternate members (28 representing government and 19 employers and employees respectively). The 10 most important industrial states, including Germany, have permanent seats on the Governing Body.

2] The ratification score differs very significantly from one convention to another; presumably the highest score, 152 countries, is held by the conventions on the elimination of child labour. A rating dated 5th November 2003 indicates that 99 states have ratified all core conventions (see note 11). Included in the list is Germany, which has ratified a total of 77 conventions, of which 67 are in force. The USA has ratified only two of the core conventions: no. 105 (forced labour) and no. 182 (child labour) – it has not ratified the convention on freedom of association!

3] The Committee of Experts on the Application of Conventions and Recommendations, which currently has 19 international members, is convened by the Governing Body at the proposal of the Director-General. Cf. Eric Gravel/Chloé Charbonneau-Jobin: The Committee of Experts on the Application of Conventions and Recommendations: Its Dynamic and Impact, ILO Geneva 2003; Isabelle Boivin/Alberto Odero: The Committee of Experts on the Application of Conventions and Recommendations: Progress achieved in national labour legislation, in: International Labour Review, Vol. 145 (2006), No. 3.

conventions which a Member State has not ratified is similar. The provisions of Article 24 admit representations from an industrial association of employers or workers alleging non-compliance with ratified conventions – the so-called non-observance of conventions procedure – and the Governing Body "may" communicate any such representation to the governments concerned. Under the provisions of Article 26, a complaint may also be filed by a Member State government against another Member State government. The Governing Body then takes decision, on the basis of a report drawn up by a Commission of Inquiry, on what measures need to be taken. The government concerned can then, of right, appeal to the International Court of Justice or can accept the recommendations – and monitoring compliance again becomes an issue. The ILO is trying to address these enforcement weaknesses – weaknesses which are inherent in the system of multilateral organisations – in various ways, including efforts to strengthen political will:

1. By means of actively supporting implementation of the international labour standards on the basis of ''technical cooperation'' and the establishment of multidisciplinary advisory teams working with an integrated approach in all regions of the world.

2. By actively promoting the social dialogue at national level in each Member State, a process which covers all varieties of negotiation, consultation and exchange of information between governments, employers and employees, is described as both a "means and an end", and represents a very sizeable strategic aspect of the ILO's work.

3. By politically recognising and endorsing the core labour standards, with considerable media effect, through the ILO Declaration on Fundamental Principles and Rights at Work, adopted in June 1998 by the 86th International Labour Conference.

4. Through the Decent Work programme with its four strategic goals: right to work, employment, social protection and social dialogue.

The ILO ''Declaration on Fundamental Principles and Rights at Work'', together with its four underlying principles, has earned broad international recognition and has subsequently been incorporated into various international agreements, declarations and guidelines (such as OECD guidelines and the UN Global Compact). Its four underlying principles are: (1) freedom of association and protection of the right to collective bargaining, (2) elimination of forced labour, (3) effective elimination of child labour and (4) elimination of discrimination in respect of employment and occupation. A special, augmented reporting procedure which is equally mandatory for Member States which have not fully ratified the core labour standards, and the InFocus Programme on Promoting the Declaration have in turn added further weight and given a binding character to the ILO Declaration on Fundamental Principles and Rights at Work. The core labour standards therefore undoubtedly qualify as belonging to the the *ius cogens* of public international law;[4] they amount to more than merely "soft law".

The ILO's Decent Work programme has also meanwhile met with extensive political endorsement as both a global and a national goal, as witnessed, for example, by its support from the UN Millennium Summit (September 2005)[5] and from the EU Commission.[6] In October 2000 the ILO itself launched a Decent Work Pilot Program and since 2005

4] Cf. Norman Paech: Die sozialen, ökonomischen und kulturellen Menschenrechte im Rechtssystem der internationalen Wirtschafts- und Handelsordnung, Eine Studie im Auftrag der Friedrich-Ebert-Stiftung, Bonn 2003.
5] Millennium Summit Declaration, Paragraph 47: „We strongly support fair globalization and resolve to make the goals of full and productive employment and decent work for all, including for women and young people, a central objective of our relevant national and international policies as well as national development strategies, including poverty reduction strategies, as part of our efforts to achieve the Millennium Development Goals. These measures should also encompass the elimination of the worst forms of child labour, as defined in the ILO Convention No. 182, and forced labour. We also resolve to ensure full respect for the Fundamental Principles and Rights at Work."
6] Commission of the European Communities: Promoting decent work for all - The EU contribution to the implementation of the decent work agenda in the world, Brussels (COM) 249, 24th May 2006.

has been applying the lessons learned thereby in Decent Work Country Programs in its Member States. Essentially, however, it is a truism that implementation of the international labour standards on the ground depends on the readiness of the respective government to implement them, on the available political will, on democratic participation within society, on a country's understanding of social policy, on its political culture. And for the strategically so important arena of the social dialogue, it is not only a country's political culture which counts, but also the respective strength or weakness of the social partners: employers' federations and trade unions. In many countries the latter do not enjoy the freedom rights, the degree of unionisation and the organisational and political competence required to enable them fully to play their role within the social dialogue and defend the interests of their working and job-seeking constituencies. The ILO and the system of international social and labour standards thus represent an expression and mirror-image of global power relations and are therefore greatly exposed to the strains of changing dynamic forces.

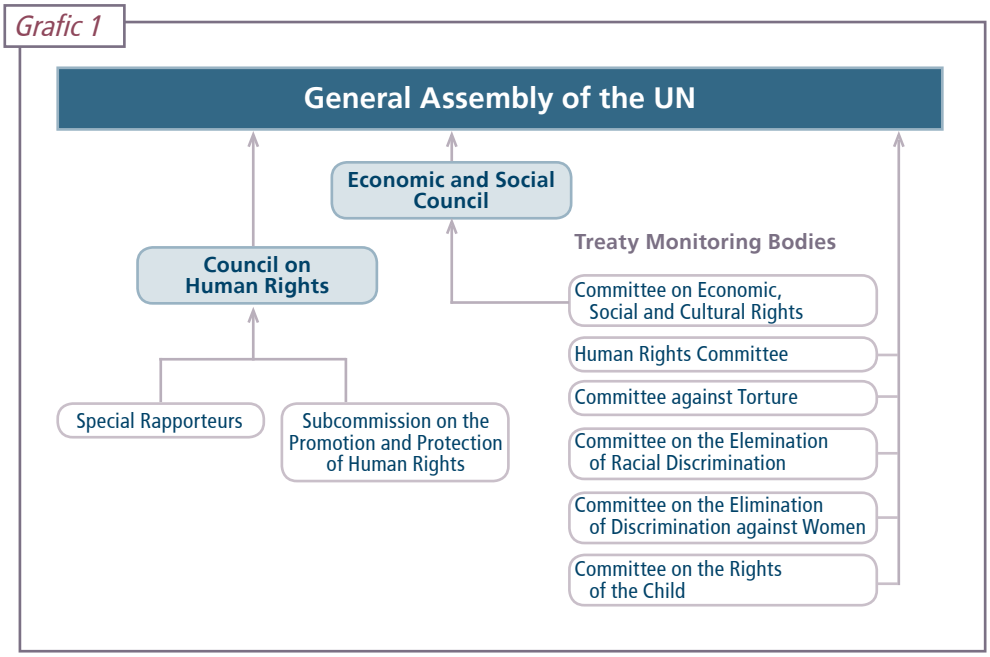
I.2 Human rights

The three core tasks of the UN are laid out in the preamble to the UN Charter, dated 26th June 1945 and in force since 24th October 1945. They read: "to save succeeding generations from the scourge of war", "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person" and "to promote social progress and better standards of life in larger freedom". Former UN Secretary-General Kofi Annan, in office until December 2006, endorsed these fundamental tasks for cooperation within the community of states in his report "In larger freedom: towards development, security and human rights for all" and modified their interpretation to suit modern-day challenges.[7] Over a period of approximately 60 years, an extremely complex and differentiated but almost impenetrably intertwined body of human rights standards has been developed within the UN system which, as the Office of the High Commissioner for Human Rights itself admits, is little known "outside academic circles, government departments and officials interacting directly with the system and specialised lawyers and NGOs",[8] and encompasses, alongside the Universal Declaration of Human Rights (1948), seven "core" treaties on human rights: the ''International Covenant on Economic, Social and Cultural Rights'' (CESCR, 1966), the ''International Covenant on Civil and Political Rights'' (ICCPR, 1966), the ''International Convention on the Elimination of all Forms of Racial Discrimination'' (ICERD, 1965), the ''Convention on the Elimination of all Forms of Discrimination Against Women'' (CEDAW, 1979), the ''Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment'' (CAT, 1984), the ''Convention on the Rights of the Child'' (CRC, 1989) and the ''International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families'' (ICRMW, 1990). In addition there is a plethora of agreements, additional protocols and declarations, such as the Vienna Declaration (1993) or the Millennium Declaration (2005), which further underscore the responsibility incumbent on governments to ensure respect for human rights.

Human rights policy within the UN system is thus informed by two "pillars". The first is the system whereby the UN Member States engage in negotiation within the Commission on Human Rights (CoHR), established in 1946 by the Economic and Social Council (ECOSOC) and now comprising 53 elected Member States, plus the Third Committee of the UN General Assembly. The second is the treaty body of human rights pacts and conventions

7] United Nations A/59/2005; the chapter „Freedom from want" seeks an answer to the challenges of development; the chapter „Freedom from fear" contains proposals for collective security, for the prevention of terrorism and on nuclear, biological and chemical weapons; the chapter „Freedom to live in dignity" focuses on the rule of law, human rights and democracy; and the chapter „Strengthening the United Nations" contains a proposal for a new beginning with a Human Rights Council.
8] Concept Paper on the High Commissioner's Proposal for a Unified Standing Treaty Body – Report by the Secretariat, Geneva, 22nd March 2006, HRI/MC/2006/2, p. 9.

Grafic 1



to which states subscribe and commit themselves through national legal action and ratification. As a result of sustained criticism which reached as far up the structure as the UN Secretary-General, in spring 2006 the Commission on Human Rights was replaced by the Human Rights Council, a body composed of 47 Member States elected individually on the basis of a regional allocation formula by a majority within the General Assembly. Committees of experts, normally composed of 18 members, were set up as support and monitoring bodies to oversee member states' compliance with their reporting duties, to submit comment thereon in the form of "final observations", and to issue "general comments" on transposing the standards into national policies. Since 1947 the Commission on Human Rights – and more recently its successor organisation, the Human Rights Council – has been supported in its work by the Sub-Commission on the Promotion and Protection of Human Rights.[9] It has likewise been supported by the treaty bodies of the second pillar since their respective inception: the Committee on the Elimination of Racial Discrimination (1969), the Human Rights Committee on civil and political rights (HRC, 1976), the Committee on the Elimination of Discrimination against Women (CEDAW, 1980), the Committee on Economic, Social and Cultural Rights (CESCR, 1985), the Committee Against Torture (CAT, 1987), the Committee on the Rights of the Child (CRC, 1991) and the Committee on Migrant Workers (CMW, 2004).[10] The original Secretariat for Human Rights, set up in New York in 1946, grew in importance to be succeeded first by the Division for Human Rights, then by the Centre for Human Rights (based in Geneva from 1974 on), and finally, as of 1997, by the likewise Geneva-based Office of the High Commissioner for Human Rights (OHCHR). The post of High Commissioner for Human Rights had been created previously, in December 1993, as an outcome of the UN World Conference on Human Rights held in Vienna in 1993. The post has been held since July 2004 by Louise Arbour, a Canadian national.[11] Under the provisions of Article 71 of the UN Charter, NGOs may also be invited to contribute to the negotiation processes within the UN system and have actively done so, an engagement which has found endorsement in the form of their being granted the right to speak and table motions within important

9] The mandate of the Sub-Commission on the Promotion and Protection of Human Rights was extended by the Human Rights Council on 30th June 2006 for "exceptionally 1 year" and is awaiting review. A majority perceives a need for a "think tank" which in future could be called the Human Rights Consultative Committee, but there is also resistance, e.g. from the USA and a number of NGOs, to the "useless" Sub-Commission. See Appendix: Organisation chart.

10] Preparations are ongoing for two further monitoring committees as the Optional Protocol to the Convention against Torture (OPCAT), which has not yet entered into force, envisages a 10-member SubCommittee on Prevention (SCP) for country monitoring visits, and the draft International Convention for the Protection of All Persons from Enforced Disappearance likewise envisages the establishment of a 10-member monitoring committee.

11] Her predecessors in this post were: José Ayala Lasso (1994–1997), Mary Robinson (1997–2002) and Sergio Vieira de Mello (2002–2003), who was killed in an attack while serving as UN Special Representative in Iraq.

bodies, but which has also led time and again to political controversy on the matter of their participation rights and the selection and coordination of NGO contributions.

As a value orientation, human rights lay the foundation of the democratic order and thus enjoy priority over other organisational principles of statehood such as nation, ethnicity, ideology, culture or even religion. Their primary function is a protective one, shielding citizens from the state and its possible claim to absolute power. They serve to constrain state hegemony and arbitrary rule by the state, to protect the individual as a "human" being, and provide the foundation for enshrining in law the relationship between state and citizen. They are the cornerstone for constitutionalising the international order as determined in public and other international law, including the ILO standards and the WTO rules. Human rights are thus highly political and correspondingly controversial. States are called upon "to respect" human rights, "to protect" human rights and to do everything in their power "to fulfil" human rights. The debates on the UN's 60-year track record of policymaking in the field of human rights focus on disputes about the universality of these rights' validity, their interdependence and status ranking, and particularly the relationship between state sovereignty, under the terms of which human rights fall within the "domestic competence" of states, and a common responsibility incumbent on the community of states as a whole for their protection and implementation, from which control functions and even – in extreme circumstances – the right to intervene could be inferred. It was at precisely this testing hurdle that the 53-member Commission on Human Rights established in 1946 ultimately failed, a body which for decades had performed invaluable work in establishing and shaping the UN human rights system. The Commission was accused of "politicisation", "selectivity" and partisanship, and its work was blocked and used to blockade the work of others to the point that finally UN Secretary-General Kofi Annan, in March 2005 in his report on UN reform, "In Larger Freedom", pointed out that some Member States were using the Commission "not to strengthen human rights but to protect themselves against criticism or to criticize others." He identified a resulting "credibility deficit" which "casts a shadow on the reputation of the United Nations system as a whole," and as a consequence proposed the replacement of the discredited Commission on Human Rights by a smaller, permanent Human Rights Council with members appointed by a two-thirds majority of the General Assembly. Following controversial negotiations within the General Assembly during 2005, a compromise was reached allowing for the election of the new Human Rights Council on 8th May 2006 and commencement of its work on 19th June 2006. Deviating from the original intention, with a membership of 47 the new Human Rights Council is almost as large as its predecessor; once again states with a dubious human rights record have been elected as members; and, because the regional formula now applicable in the General Assembly was likewise applied here, Africa and Asia together obtained a total of 26 seats and thus – strangely to the surprise of western diplomats – a majority; and 17 members are also members of the Organization of the Islamic Conference (OIC).[12] Provisions were made to extend the length of the new organisation's sessions to at least ten weeks in three session blocks – a move which presumably diminishes the possibilities for non-governmental organisations, especially those from poor countries, to participate in the work of the body – and to convene special sessions in response to crises[13]; and finally there is the most important innovation, namely the introduction of the "Universal Periodic Review" (UPR). At the same time, the General Assembly stressed that human rights are "universal, indivisible, interconnected, interdependent and mutually reinforcing" and that all states, even by taking account of "national and regional circumstances and different historical, cultural and religious backgrounds" are "obliged, irrespective of their political, economic and cultural

12] The OIC has 56 Member States; a list of OIC Member States which are also Member States of the Human Rights Council is available on www.ohchr.org/english/bodies/hrcouncil/membership.htm.
13] The first Special Session was held on 5th and 6th July on the "Human Rights Situation in Palestine", the second on 11th August on Israel/Lebanon, the third on 15th November on Israel/Palestine and the fourth on 12th and 13th December on Darfur.

systems, to promote and protect human rights and fundamental freedoms". The General Assembly also spoke out in favour of strengthening the "human rights machinery" of the United Nations, strengthening the Office of the High Commissioner for Human Rights (in Geneva) and "doubling the ordinary budget over the next five years".

One core element of UN human rights policy is standard setting, an activity which used to be conducted mainly by the Commission on Human Rights and is now incumbent on the Human Rights Council. Another core element is overseeing Member States' compliance with their obligation to report to the treaty bodies and their monitoring schemes, an activity which entails drafting "final observations" and providing assistance to Member States in the form of "general comments" on wording and implementing the standards at national level. Conventions, treaties, pacts and protocols are legally binding under public international law and therefore qualify as "hard law" once they have been ratified by a Member State or that Member State has become a signatory state to the respective deed. By contrast, declarations, principles, action plans and guidelines, which are increasingly being backed up by an expanding body of international common law, are not legally binding and qualify as "soft law" but nevertheless carry considerable legal and political clout. The 1948 Universal Declaration of Human Rights is a good case in point, likewise the Declaration and Programme of Action of the World Conference on Human Rights held in Vienna in 1993. The standard-setting function of the UN human rights system is perceived in various ways, with three basic positions emerging: some states want to confine the UN to standard-setting per se and leave states to implement those standards as sovereign bodies; by contrast others, and some NGOs too, consider that the bulk of the standard-setting work has already been completed and that implementation should now be the UN's main task; and thirdly, a number of NGOs perceive a need for new and more comprehensive standards in response to societal and political changes and challenges, though at the same time not questioning the urgency of implementing the existing body of standards.[14]

The UN's human rights treaty body system imposes on states legal obligations to promote and protect human rights, compliance with which is subject to monitoring by the committees of experts of the respective treaty bodies. States are obliged to submit periodic reports to the seven treaty bodies which, through an "objective" procedure, review the human rights situation and supply authoritative assistance for implementation at national level in their "final observations". Five of these committees of experts have inferred from their respective treaties the power to deal with individual petitions, four are entitled to deal with complaints from states against other states, and two have the power to investigate grave and systematic violations. However, the reporting and monitoring procedure of the treaty bodies is imperfect in many respects. Many states respond to their reporting obligations inadequately, respond defensively or fail to submit their reports on time.[15] The committees, for their part, incur delays in processing the reports, backlogs build up, and there is no systematic follow-up. A lack of coordination on reporting obligations between the various expert committees and a partial overlap in terms of their respective competences have resulted in duplication of work and a need for parallel data input which threaten to overstretch the patience of even the most cooperative states. Proceeding from the observation that "the system also faces challenges because many States accept the human rights treaty system on a

14] For example business and human rights, sexual orientation, the rights of indigenous peoples, disappearances, disability, etc., cf. International Council for Human Rights Policy: Human Rights Standards: Learning from Experience, A report co-published with the International Commission of Jurists and the International Service for Human Rights, Geneva 2006, p. 3.

15] „Figures from February 2006 indicate that 70 per cent of total number of state party reports due have been submitted … Of the initial reports that are due, 30 per cent have not been submitted. As of February 2006, only eight of the 194 States that are party to one or more of the seven treaties are up to date with their reports, with the remaining 186 States owing 1,442 reports to the treaty bodies. The committees have little real power to enforce States to comply with the procedures, but at the same time, with their current working methods, they could not accommodate full compliance by State parties reporting obligations", OHCHR, HRI/MC/2006/2, p. 7.

formal level, but do not engage with it, or do so in a superficial way, either as a result of lack of capacity or lack of political will. Some States fail to submit reports required by the treaties, and most submit them after considerable delay", the Office of the High Commissioner for Human Rights has proposed the setting up of a "unified standing treaty body" which would be responsible for monitoring all international human rights obligations, simplify access and help rectify the lack of visibility and authority,[16] combined with a corresponding restructuring of the reporting procedures. Variations of this proposal are currently being hotly debated – with broad resistance emerging primarily from the "African and Asian Group". The main bones of contention are powers, composition (as a standing expert body?), how the "specificity" of the individual treaties would be taken into account and the structure of the reporting.[17] This debate is extremely closely interlinked with the decision on the nature of the Universal Periodic Review (UPR), the backbone of the new Human Rights Council. After four informal consultations within the Council, a working group has been set up to take the matter further, but this working group is unlikely to be swift to reach agreement.[18] The course of the discussion is staked out mainly by the refusal of a large group of states to make the reporting more stringent and allow it to include inputs from experts and NGOs. The same conflict lines are likewise evident in the debate on the review of the "special procedures" mandates.[19] These are procedures whereby compliance with human rights standards is reviewed by special rapporteurs, special representatives (of the UN Secretary-General), independent experts or even by working groups which are convened to address specific aspects of human rights or draw up country evaluations and, within the context of their mandate, may also undertake fact-finding missions to individual countries – for which consent is frequently denied. The setting up of a working group to review these mandates had been an outcome of the restructuring of the working procedures for the Human Rights Council. Whereas in the case of the thematic mandates,[20] despite all the controversy the work style still provides evidence of professional objectivity, in that of the country mandates[21] the atmosphere is "literally hostile". "Many states from all regional groupings described the choice of countries for evaluation random. A large number of states flatly refuses to contemplate any form of country evaluation beyond the framework of the future Universal Periodic Review (UPR) mechanism."[22] An influential group of states is in favour of conducting country evaluations only on the basis of the non-public 1503 procedure,[23] which cannot be directly accessed by NGOs. The 1503 procedure is the oldest complaints procedure within the system[24] and is due for review under the terms of General Assembly Resolution 60/251 on the establishment of the Human Rights Council and the associated restructuring of powers and procedures. Although the initial sessions of the Human Rights Council have shown evidence of a desire for flexibility and consensus, it is as yet unclear whether the Council will be able to find practicable solutions to the upcoming highly political issue of revamping its rules of procedure, including those on the contentious matters of NGO participation, the UPR, the special procedures and the 1503 complaints procedure, or

16] Concept Paper on the High Commissioner's Proposal for a Unified Standing Treaty Body, HRI/MC/2006/2, pp. 7, 9.
17] Report of a Brainstorming Meeting on Reform of the Human Rights Treaty Body System, Triesenberg, Liechtenstein, 14–16 July 2006; A/58/123.
18] See: Friedrich-Ebert-Stiftung (FES)/International Service for Human Rights (ISHR): A New Chapter For Human Rights – A handbook on issues of transformation from the Commission on Human Rights to the Human Rights Council, Geneva 2006, Chapter 6, (pp. 73–86); cf. United Nations, Press Release Human Rights Council Discusses Modalities of its Universal Periodic Review Mechanism (HR/HRC/06/55).
19] Cf. FES/ISHR 2006, Chapter 3 (pp. 33–50).
20] Adequate Housing, African Descent, Arbitrary Detention, Sale of Children, Education, Enforced or Involuntary Disappearances, Extrajudicial, Summary or Arbitrary Executions, Extreme Poverty, Right to Food, Freedom of Opinion and Expression, Freedom of Religion or Belief, Health, Human Rights Defenders, Independence of Judges and Lawyers, Indigenous People, Internally Displaced Persons, Mercenaries, Migrants, Minority Issues, Racism, Human Rights and International Solidarity, Effects of Economic Reform Policy, Human Rights while countering Terrorism, Torture, Toxic and Dangerous Products and Wastes, Trafficking in Persons, Transnational Corporations, Violence against Women.
21] Belarus, Burundi, Cambodia, Cuba, DR Congo, Haiti, Liberia, Myanmar, Palestine, Somalia, Sudan Uzbekistan (Lists: OHCHR Webpage).
22] Theodor Rathgeber, Forum Menschenrechte, 2. Sitzungsperiode des UN-Menschenrechtsrates, Bericht, Schlussfolgerungen und Empfehlungen, S. 3.
23] Countries being processed under this procedure include Iran and Usbekistan; Kirgistan is being transferred to the public procedure.
24] FES/ISHR 2006, 67 ff.

whether, by contrast and reflecting its past, it will manoeuvre itself into a dead end. Some observers believe it is already in that dead end.

Setting aside the "action with respect to threats to the peace, breaches of the peace, and acts of aggression" which the Security Council may take under the provisions of Chapter VII of the UN Charter, the international organisations within the UN system lack enforcement powers and capabilities. In the social rights field, apart from the ILO's own procedures and recourse to the International Court of Justice, there is no international judicial, let alone policing body for enforcing standards and compliance with obligations. The human rights system itself is configured largely in the image of the political will of the Member States, some of which react extremely sensitively to public "blaming and shaming" and do everything in their power to avoid it. Blockading alliances and political and economic bartering are just some of the instruments customarily deployed, and they are effective. Here, a balance shift has occurred which operates to the advantage of countries which are inclined to indulge in blocking and delaying tactics but which are also undoubtedly not mistaken when they accuse western countries of one-sidedness and turning a blind eye. Whereas in the days of the Cold War it was true at the ILO that certain standards could be pushed through by a few western governments and union representatives backed up by the latter's eastern counterparts, thereby forcing the rival system to compromise, today the disputes are more open and fiercer and the weight of the employer side is stronger. And whereas back then the conflict lines within the human rights system ran more between the advocates of rights of political freedom (the West) and those of economic and social rights (the East and parts of the South), here too a new constellation has emerged. The "right to development"[25] – recognised since 1986 and further strengthened by the 1993 Vienna Conference on Human Rights – and the so-called "social pact"[26] are issues which are clearly high on the agenda of many poor and newly industrialising countries, in some cases so high that they are calling for a "right to international solidarity".[27] Whereas the ILO system of standards makes explicit reference to the UN human rights instruments and whereas political freedom rights are seen as having constitutive significance for freedom of association, there is a clear tendency among the Member States as a whole – the UN has 192 Member States, the ILO 178 (and the WTO 150) – to attach less importance to political rights and freedoms. Hardly a single human rights standard – from women's rights or the ban on torture up to the issue of sexual orientation – is uncontroversial, and the controversy sometimes brings about some unexpected alliances. Moreover, a growing number of states – not only Islamic countries (OIC members), but also the USA and some countries with a majority community espousing a strictly devout form of Catholicism – are bent on reassessing the importance of the issue of religious discrimination or freedom of religion and are thereby undermining the concept of the universality, equal status and interconnectedness of all human rights. The outcome of the conflict is open!

The establishment of the "International Criminal Court" (ICC) on 17th July 1998 on the basis of the Statute of Rome, which entered into force on 1st July 2002 and to which, on 1st November 2006, 102 states were party (though not the USA), marked the arrival of a judicial body with a high human rights relevance, serving as it does as the court of "last resort" in the prosecution of "persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes."[28]

25] General Assembly Resolution 41/128 of 4th December 1986; cf. Felix Kirchmeier: The Right to Development – where do we stand? FES Geneva, Dialogue on Globalization – Occasional Papers No. 23/July 2006.
26] Abbreviation for the International Covenant on Economic, Social and Cultural Rights of 16th December 1966; in force since 1976.
27] E/CN.4/Sub.2/2004/43 (Working Group); E/CN.4/2005/L.71 (Mandate); C/CN.4/2006/96 (Report).
28] Elements of Crimes, ICC-ASP/1/3.

Regional organisations have developed their own human rights instruments which fall beyond the scope of this paper. Europe in particular has some well honed mechanisms, but to some extent these operate in parallel to international mechanisms or with a certain functional overlap. A case in point is the Strasbourg-based Council of Europe, with 46 Member States, which since 1999 has had its own Commissioner for Human Rights and an efficient monitoring procedure in place and whose European Court of Justice, established in 1959, is increasingly being invoked as a supranational legal authority. The legal references for such judicial recourse are the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950/1953), the European Social Charter (1961, revised 1996), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the Framework Convention for the Protection of National Minorities. In addition, within the framework of the European Union (EU), such regional initiatives include the three pillars of the EC/EU treaties, the common foreign and security policy and police and judicial cooperation. Through its Charter of Fundamental Rights, the EU has endowed itself with a common reading on rights which has been adopted by the European Council and the European Parliament (7th December 2000). Since this process of Europeanisation, the necessarily closer coordination of European Union positions within the UN human rights bodies has unintentionally led to stronger "regionalisation" and "politicization" of policymaking in the field of human rights. And finally within this regional machinery category, there are the mechanisms of the Organization for Security and Co-operation in Europe (OSCE), which curtailed the principle of non-intervention in the internal affairs of other states in matters of human rights relevance back in 1991. Its principal rights and freedoms bodies are the Office for Democratic Institutions and Human Rights (ODHIR, Warsaw), the Conflict Prevention Centre (CPC, Vienna), and the High Commissioner on National Minorities (HCNM, The Hague). A further recent addition to the EU machinery is the Vienna-based Agency for Fundamental Rights, which commenced its work on 1st March 2007.[29] All this activity undisputedly raises the problem of ensuring adequate policy coordination and coherence and harbours the danger that new standards will fall short of the already established standards in terms of their stringency.

29] Cf. http://www.fes.de/handbuchmenschenrechte

II. Germany's policy – "Land of the good": respected, active, but short on profile?

Having lost World War I, Germany was not a founding member of the ILO when it was set up in 1919; never the less a decision of the first International Labour Conference allowed Germany to accede later that year. In 1933, after Hitler's seizure of power, Germany left the organisation, but was allowed to rejoin as early as 1951. Since 1954, by dint of its economic strength, Germany has held one of the 10 permanent seats on the Governing Body. Ranking behind only the USA and Japan, Germany is the third largest contributor to the ILO, its contribution currently amounting to CHF 32.2 million or 8.7 per cent of the organisation's ordinary budget. Further funds are made available for technical cooperation programmes or the ILO Programme for the Elimination of Child Labour.

Germany has ratified 77 of the 185 conventions, including all the core or human rights conventions. This score puts Germany in the top league. According to the ILO branch office in Berlin, Germany perceives itself as being not affected by 12 conventions, 34 conventions have been revised and 44 older conventions contain obsolete provisions and are therefore no longer ratifiable. The statement: „alongside these there are of course (a few) conventions which […] cannot be ratified for substantive reasons, for reasons of legal system compatibility or because of their terminological vagueness" could well constitute reason enough to raise eyebrows in some quarters. The ILO commands general support in Germany but is a little known organisation. Seen through German eyes, Germany's social standards are more stringent than the universal ILO standards, but the subjects of some conventions are controversial (e.g. public officials' right to strike, the ban on public service employment for certain individuals), and there are others (such as the Convention on Home Work), which Germany refuses to endorse. In line with ILO procedures, a „social dialogue" is conducted in the run-up to ILO meetings and it does indeed address matters of substance. But frequently this is perceived more as a „bureaucratic procedure", the political routine of going through the motions without any real sense of initiative or long-term strategy.

Germany has been a member of the United Nations (UN) since 1973 and over the years has become a party to all important UN human rights conventions. Since 1979 without interruption, Germany has been a member of the Commission on Human Rights. The fact that in the election to the newly established Human Rights Council for the coming three-year period held on 9th May 2006 in the UN General Assembly, Germany obtained 154 votes and thus a stronger endorsement than any other country in the region can be interpreted as acknowledgement of its international ranking and at the same time as an obligation to take the lead.

Human rights have become a "central category of politics". At the beginning of its 14th parliamentary term in autumn 1998, the Deutscher Bundestag (German Federal Parliament) upgraded the former Sub-committee of the Foreign Affairs Committee and renamed it the "Committee on Human Rights and Humanitarian Aid". The 2002 Coalition Agreement states: "The basic tenets for [the Government's] foreign policy are respect for public international law, taking a stand on human rights, a readiness to engage in dialogue, crisis prevention, renunciation of the use of force and confidence-building […]. The Government attaches fundamental importance to respect for human rights worldwide. The effort to safeguard international peace can be successful only if human rights are protected and implemented […]." The current Coalition Agreement between the two major parties forming the "Grand Coalition" emphasises: "Our policy on human rights is an important component of our policy to promote peace and security. Systematic viola-

tions of human rights can also pose a threat to peace and international security. Human rights are indivisible. Our foreign and development policies will not fail to respond when democracy, freedom, the rule of law and minority rights are in danger."

A characteristic feature here is the perception of human rights policy as being part of foreign policy, or even also of security and development policy. As a logical consequence of that perception, the Commissioner of the Federal Government for Human Rights Policy and Humanitarian Aid at the Federal Foreign Office, an official charged with helping inform human rights policy in foreign relations, has his office precisely where the title suggests. The Commissioner of the Federal Government for Human Rights Issues at the Federal Ministry of Justice is the plenipotentiary of the Federal Government at the European Court of Human Rights in Strasbourg – and enjoys an even lower public profile. This Commissioner also represents the Federal Government in matters falling under ECOSOC Resolution 1503, takes care of the periodical state reports and sits on the intergovernmental committees of the Council of Europe to advance the cause of protecting human rights. There is no or only very limited provision for domestic scrutiny, though a not inconsiderable role in this respect is played by two institutions: the state-funded, Berlin-based "Deutsches Institut für Menschenrechte" (German Institute for Human Rights), established in March 2001 in pursuance of a recommendation of the Bundestag, and the "Forum Menschenrechte" (Human Rights Forum), a forum for over 40 German non-governmental organisations set up in 1994 in the wake of the UN Conference on Human Rights in Vienna. "The Federal Government attaches major significance to cooperation with non-governmental organisations."[30] None the less, on 4th April 2001 the Bundestag urged the Federal Government to give domestic policy issues more prominence in its human rights reports than has hitherto been the case. However, a national human rights commission along the lines of those already existing in many European and extra-European countries which could operate as an independent advisory body neither exists in Germany nor is establishing such a body at present under consideration.

Germany's human rights policy is increasingly being pursued qua integration into the "dual" European structures, namely those of the Council of Europe and those of the European Union with their respective modus operandi – which, unlike the international procedures of the UN system, can only be outlined here. The necessary coordination of human rights policy within the EU and the furtherance of that coordinated policy by the respective EU presidency on the international stage logically means that, to the regret of Germany's partners, there is now very little evidence of a specifically German position and that emerging in its stead is the not always satisfying lowest common denominator agreed on by the Europe of 27.

30] Core report Federal Republic of Germany for state reports on the human rights conventions of the United Nations.

III. Multilateral and national scenarios – Human and social rights under threat

In the field of international human rights and social policy, dynamic forces operating at global, international and national level are today interacting in a manner that makes projecting any credible outline of clear alternative scenarios very difficult. Assuming that a country's foreign policy is primarily a function of domestic policy, it is true to say that it is subject to constant redefinition to take account not only of that country's own domestic issues but also of the domestic issues of other countries. The signals which a country's foreign policy sends out to the international community therefore tend to vary in the extreme. Consequently, it could be useful to examine the relationship between certain international factors and national developments within Germany.

III.1 Scenario 1 – Credibility crisis and a power shift: competition, values and interests

Crisis of multilateralism

However much human rights and international social policy reflects specific "cultures", this field of policymaking is not pursued in its own, totally compartmentalised space. It is an integral part of multilateral processes taking place within the various institutions and action fora of the UN, the IMF, the World Bank and the World Trade Organization (WTO) and is to some extent influenced by these processes. Unkept promises and crises in negotiations in these institutions and fora, such as the current crisis at the WTO[31], have repercussions on the human rights agenda. Countries belonging to the "poor world" which find themselves constantly confronted with new cautionings and demands tend to react with a policy of blockading whatever progress they can. Human rights negotiations are thus part of the struggle for a more equitable global order and therefore cannot be advanced without a new approach to global governance and a well-functioning multilateralism. Mutual respect and efforts to reconcile conflicting interests are the basic prerequisites here; arrogant attempts to impose diktats unilaterally are counterproductive. The failure to date to reform the UN, together with the lack of coordination and coherence in international governance structures[32] and the prevalence of unilateral power politics (keywords here being intervention in Iraq and Guantanamo Bay), are doing nothing but add to the general strain – and this at a time when the need for global governance and efficient multilateralism is becoming ever more acute. Human rights and democratisation policies have always been and remain an expression of constellations of foreign policy interests – and this remains the case even after the end of the East-West conflict. A re-evaluation of the status of these policies and a move up the political agenda will be forthcoming only when such an initiative is in the interest of the new powers and these powers are accorded their rightful place and an appropriately participatory role within the multilateral system.

Power shifts, new powers

Global power relationships are changing, not only in terms of relative economic strength but also in terms of the political clout wielded by the respective players. New economic powers such as China and India, energy-rich and commodity-rich producers such as Russia, and also Brazil and Iran are calling the existing "hegemony" into question and

31] Suspension of the World Trade Round – Multilateralism, Global Governance, and Development Policy in Crisis, Dialogue on Globalization, Briefing Paper, FES Geneva 2006, http//www.fes-globalization.org/publications/FES_BP_14_Adam_WTO_Suspension.pdf.
32] See UN Secretary General's High-Level Panel on UN System-wide Coherence in the Areas of Development, Humanitarian Assistance, and the Environment, chaired by Prime Minister Shaukat Aziz (Pakistan), Luisa Dias Diogo (Mozambique), Jens Stoltenberg (Norway), "Delivering as One", UN New York, November 2006.

often likewise the proclaimed – though not always consistently enforced – values of democracy and human rights. Power and interest politics is becoming both a feasible and attractive option for new players. The international system is thus becoming more multipolar, and a characteristic feature here is the return of superpower politics. The West's ability to shape the international agenda and constantly influence international politics is in decline.[33] A credibility gap for which western states are responsible is having its repercussions on them. Globalisation includes a cultural dimension which extends to things such as adopting or rejecting certain consumption patterns or trends in music style. Because cultural and religious considerations are continuing to acquire weight in the debate and are becoming a prism for interpreting and responding to conflict, they are now questioning the universality of human rights and social standards. Conspicuous here is the escalating confrontation between Muslim and western societies which, according to a High-Level Group appointed by the UN Secretary-General, is not "religious" but "political" in essence and for which, alongside the military intervention of the West in countries such as Iraq and Afghanistan, the "Arab-Israeli conflict is the critical symbol of growing alienation."[34] It has to be assumed in this context that the increasing scale of international capital investments in Germany and elsewhere in Europe originating from China, Russia and various Arab states will have an impact on the social system and labour and social standards in Germany and Europe which will in turn make safeguarding universal standards via the ILO all the more necessary.

Global competition for jobs

Given this backdrop, it is clear that the dynamics of global economic performance and the redistribution of opportunities for participating in economic and social progress are exerting a decisive influence on the making of human rights and social policy. Venturing global predictions is difficult here, but there can be no doubt that global competition for jobs will become fiercer and exert further pressure on wages and incomes in the future. In the next ten years, more than one billion young people who are today between five and 15 years of age will join the ranks of the labour force. Each year, that labour force will swell by about 50 million people – 97 per cent thereof living in developing countries – a number far in excess of the number of people leaving the labour force. More than 192 million people or 6 per cent of the global labour force are registered as unemployed, and over half of these are under 24 years of age.[35] The ILO's Global Employment Trend for Youth (2006) puts the figure for unemployed young people at 85 million, with a further 300 million underemployed people counting as belonging to the "working poor" earning less than $2 a day. This ILO institution considers that at least 400 million new and better paid jobs are needed to address this problem. The ILO World Employment Report 2004–2005 puts the number of working people living below the poverty line (one US$ per day) at 550 million and cites a total of 1.39 billion working people who are not able to lift themselves and their families above the poverty line of two US$ per day. But the 2.8 billion people who were employed in 2003 represented a higher employment figure than ever before.[36] Since 1990, 1.47 billion economically active people from the formerly closed economies of the former Soviet Union and its allies and from developing countries such as China and India have doubled the size of the global labour force – an indication of the emergence of a global labour market and correspondingly fiercer competition for

33] See: The New Global Puzzle – What World for the EU in 2025? Directed by Nicole Gnesotto and Giovanni Grevi, Institute for Security Studies, Paris 2006, esp. p. 196 ff., 193.
34] Report of the High-level Group „Alliance of Civilizations", 13. November 2006 (www.unaoc.org), UN Press Release; it is telling that three of the four special sessions of the UN Human Rights Council convened to date at the request mainly of Islamic countries with support from other regions have dealt with human rights issues in this context and assembled majorities for decisions which were rejected by western states as one-sided.
35] Changing Patterns in the World of Work, International Labour Conference 95th Session 2006, ILO Geneva, viii; cf. Working Out of Poverty, International Labour Conference, 91st Session 2003, ILO Geneva, p. 83; cf. World Commission for the Social Dimension of Globalisation: A Fair Globalization, Creating Opportunities for All, ILO Geneva, 2004, p. 44.
36] World Employment Report 2004–2005 – Employment, Productivity and Poverty Reduction, ILO Geneva, 2004, p. 24.

work. Poverty is the driving force behind this fiercer competition for work which is in turn leading to inequality in the distribution of income and wealth between countries and regions of the world, and increasingly also within individual countries.[37] Moreover, competition for work is not confined merely to unskilled labour but, because of the advances made in education, training and productivity, is increasingly extending to higher skilled employment and middle-income groups. In the medium term, the assumption has to be one of further pressure on wages, but in the longer term it can be assumed that there will be a relative rapprochement of incomes, at least at the higher skill level, a prospect which can only be considered desirable from the development viewpoint. On the whole, Germany is still a beneficiary of the globalisation process and, in terms of competitiveness, remains in a sound position – as evidenced by its substantial foreign trade surplus inasmuch as the latter can also be interpreted as the "importing of work".

On a wider stage, this trend has significant political implications. Given the inadequate supply of new jobs, countries are more inclined to engage in a "tug-of-war" for those which are available. The demand for equity in the operating mechanisms of the global market and for fair rules to govern globalisation is growing louder. Latent protectionist tendencies are rising to the surface and the dynamics of liberalisation of trade and capital movements are losing momentum. Normal business decisions on, say, outsourcing, relocating production or investing abroad are increasingly being criticised as generating employment abroad. The call for stricter control of immigration is acquiring a more pronounced xenophobic subtext and being voiced more often. Elections are being won or lost on the strength of the single issue of "more and better jobs", while confidence in the ability of governments, irrespective of their ideological leaning, to keep their promises is waning. Various forms of passive and active violence are on the rise and are reducing the space available for dialogue, conflict resolution and consensus-building.

In future, the global economic discourse will be decisively influenced by employment considerations and will take on board the correlation between economic growth and trade liberalisation. And there are indications that this will have a substantial impact on future WTO negotiations and even more so on negotiating agreements on trade and cooperation at the bilateral and regional levels.

III.2 Scenario 2 – In a double grip: ageing fast and heading towards the right and into social crisis?

Demographics and immigration

That Germany is ageing and shrinking is now accepted as a truism. The combined effect of longer life expectancy and lower birth figures is that the average age of the German population is continually rising. The population of employable age will therefore diminish considerably, with implications for life work time, the health care system and pensions.[38] That this must bring about reforms in the social welfare system is likewise foreseeable, but no such reforms could offer an immediate solution to the problem. Immigration could mitigate the downward population trend but not bring it to a halt. Immigration figures would have to rise to over 300,000 people per year until 2020 to do that, but even though this would result in a certain lowering of the average age of the population, it would not solve the problem as such because immigrants, with their sharply declining employment rate since the end of the 1980s, have become a drain on the social insurance funds rather

37] Cf. Note 35: Changing Patterns, pp. 4, 8.
38] Cf. Statistisches Bundesamt Deutschland „Bevölkerung Deutschlands bis 2050". 11. Koordinierte Bevölkerungsvorausberechnung, Wiesbaden 2006.

than a source of additional social funding.[39] Germany is integrating its immigrants into its social welfare schemes but not into its economy and society. Immigration is unlikely to be able to make a positive contribution towards solving the problem in the absence of a carefully formulated immigration policy which selects people for and integrates people into the labour market. Immigration will likewise be inadequate to the task of halting the trend, given its scale, as long as the existing system of social welfare benefits remains in place and no action is taken to remove the disincentives which are such a temptation to both the inbound and the resident population. The key requirements here are selection and differentiation and thus "discrimination". Without these key policy drivers, uncontrolled and rampant immigration is likely to be inevitable – with massive implications for the economic and social system and for politics.

Xenophobia is already a persistently strong groundswell in Germany. One belief shared by 43.8 per cent of Germans living in the east of the country and 35.2 per cent of those living in the west is that foreigners come to Germany only in order to milk the country's social welfare schemes. "The likewise racist perception of being overwhelmed by foreigners is shared by almost 40 per cent of the population nationwide."[40] This extreme right-wing, xenophobic view is particularly prevalent within a segment of society which, as a study commissioned by the Friedrich-Ebert-Stiftung estimates, accounts for 8 per cent of the population and refers to as the "left-behind precariat", namely the segment of society which has been personally exposed to social exclusion and degradation, which has the highest unemployment rate and which has a predominant tendency to be male and east German.[41] The left-behind precariat prototype resembles the extreme-right voter prototype, though it should be recalled that xenophobia must be seen to qualify as a "middle-of-society" problem if a total of 26.7 per cent of Germans are found to hold xenophobic views and a further segment concur at least in part with such views. "Xenophobia is the slippery slope into a closed, extreme-right-wing world view." The backdrop here is not so much any direct experience of competing with immigrants for jobs and social status but rather a perception and sense of being personally confronted with a conflict. If, in addition, the demographic composition of the population is seen as being an increasingly decisive factor of importance here and poorly skilled young males in particular experience rejection both on the labour market and with regard to partnerships,[42] it has to be assumed that, with persisting uncontrolled immigration and in the absence of reform to the social welfare system, this trend towards xenophobia will become more pronounced and ultimately lead to open conflict. "The high prevalence of xenophobia in Germany calls for political action."[43] Additional pressure can also be expected from the intergenerational constellation and the erosion, or at least the questioning, of the notion of solidarity based on the assumption of reciprocity: "The more Germany becomes a country of immigration and the more its citizens lose their sense of national identity, the faster the solidarity base underpinning the social insurance system will be eroded because that solidarity base is predicated on a national rather than a religious sense of community."[44]

Implications for human rights and politics

Given the situation outlined in the foregoing, pressure is being exerted on human rights and social standards from various quarters. While fiercer competition in both the global

39] GEO Magazin Nr. 05/04 „Deutschland 2020" – Demographie: Was Deutschland erwartet. www.geo.de/GEO/kultur/gesellschaft/2235.html

40] Study commissioned by the Friedrich-Ebert-Stiftung: Oliver Decker/Elmar Brähler in association with Norman Geissler: „Vom Rand zur Mitte – Rechtsextreme Einstellungen und ihre Einflussfaktoren in Deutschland", Berlin 2006, S. 38 f.

41] Study commissioned by the Friedrich-Ebert-Stiftung, Rita Müller-Hilmer, TNS Infratest: „Gesellschaft im Reformprozess" i.E. 2006; FES Presse, Kommunikation und Grundsatzfragen; SPIEGEL ONLINE 18. Oktober 2006, http://www.spiegel.de/politik/deutschland/0,1518

42] Frank Schirrmacher: „Nackte Äste – Die neue soziale Basis der NPD ist eine demographische", in: FAZ, 21. September 2006.

43] Cf. Note 40: „Vom Rand zur Mitte", S. 167.

44] Peter Koslowski: „ Das Ende der Sozialen Marktwirtschaft – Die Zeiten nationaler Solidarität sind vorbei", in: FAZ, 11. November 2006, S. 15.

economy and the global labour market is influencing the distribution conflict at the national level, the demographic trend suggests that there is a dynamic operating within sections of the older population, within the left-behind precariat and also within the "middle" of society which will not have a positive effect in terms of promoting human rights and social standards. More importantly, integrating a growing Muslim community into mainstream society will become an ever greater challenge, not only in Germany but also throughout the rest of Europe and in the USA.[45] The response to globalisation has to be far-reaching reforms to revamp the social security system, the labour market and the education and training system. "The challenge will be to foster economic competitiveness without endangering social cohesion. The outcome will be decisive both for Europe's internal stability and its capacity to generate the necessary resources to play a serious role in world affairs."[46] To date, the focus has been primarily on defensive measures to counter illegal immigration and protect national security interests; a scaling back of social rights and an erosion of human rights and refugee rights are accepted as part of the price payable for limiting uncontrolled and undesired immigration.[47] What is needed is a migration policy which takes account of future economic and social needs and offers immigrants an accepted place in society. This entails striking the right balance: getting the selection right and getting the acceptance right. The new leave-to-stay arrangement and a greater willingness to open up the labour market to immigrants are steps in the right direction. The response to xenophobia and right-wing challengers of human rights must neither be "populistic accommodation" nor can it be confined to regulatory measures ("not policing, but policy"). The response has to "mature into a substantive debate. It has to be politicised."[48]

The same applies to the application of agreed human rights provisions to the national and the immigrant population. The appropriate response to the challenging of statutory and human rights standards by the proponents of Muslim tradition should not be wheeling out the corresponding Christian positions but purely and simply the enunciation of a clearly stated human rights policy. The universal human rights conventions – the majority of which include Islamic states on their list of (at least formal) signatories – offer an irrefutable point of reference in this respect. A special need for action will be incumbent on states here in the form of promoting human rights education, protecting human rights via the existing body of laws and, more importantly, ensuring balance and tolerance in the dispute between different human rights postulates. As with the adage that freedom rights run up against their limits when they infringe the rights of others, freedom of religion needs to be balanced against freedom of expression and the non-discrimination principle against ownership rights. Enlightenment-inspired criticism of religion and rejection of belief in God and religion must both be possible in the same way as a personal rejection of homosexual orientations on the strength of religious views has to be possible, but so too must it be possible to protect those concerned from vilification, discrimination and violence. The protection afforded by the state for the recognition, defence and exercise of human rights has to be ubiquitous.

The arguments and characteristic positions currently informing the human rights discussion are thus increasingly impinging upon the territory of home affairs policy and the controversy concerning value systems and the legal system underpinning the democratic order. The way in which this home affairs conflict is solved will have a considerable influence on Germany's foreign policy and its international human rights policy. At a

45] Cf. Note 34: Alliance of Civilizations, section 6.20., p. 30.
46] Cf. Note 33: „The New Global Puzzle", p. 203; cf. Jaques Delors/Poul Nyrup Rasmussen: „Für ein neues soziales Europa", in: FAZ, 16. November 2006, S. 10
47] Daniela Kietz/Roderick Parkes, Die deutsche EU-Ratspräsidentschaft: Möglichkeiten und Grenzen einer ausgewogenen Inneren Sicherheits- und Migrationspolitik, Manuskript, Stiftung Wissenschaft und Politik, Forschungsgruppe EU-Integration, 2006.
48] Cf. Note 40: „Vom Rand zur Mitte", S. 166.

time when readiness within the German population to intervene abroad on human rights grounds is already diminishing, the immigrant community within the country will judge the German position on the basis of broader criteria and against the shadow cast by their country of origin and set stricter limits. That the demographic changes will have an influence on military capabilities is also likely given the diminishing size of the upcoming youth cohorts and the fact that in some urban areas youngsters from immigrant communities already account for the majority fraction of these age cohorts.

Integration entails more than learning the language and becoming involved in working life and society; it also entails participation in democracy. This in turn means not only acceptance of democratic values but also participation in democratic processes and procedures, particularly having the right to vote in elections and to stand for election. In view of the visible voter swing towards left-wing and right-wing populist and even extremist parties, for the centrist democratic parties their performance on integration represents an enormous challenge, not least because integration impinges upon central political issues against which other parties in a pluralistic competitive democracy can sharpen their profile. And it cannot be precluded that immigrants, especially those with an Islamic background, will strive to equip themselves with their own political representation by setting up their own parties, possibly modelled on the Turkish AKP, or even more radical forms of Islamic political expression. How politicians and the general public will handle such a development is a matter of major importance. On the one hand, there is no guarantee that this form of direct political representation will facilitate extensive political and social integration, but on the other hand there is no guarantee that it would not result in massive counter-reactions and spiralling confrontation. But it should be remembered that the only people who can be fitted into a democracy are those for whom a place within that democracy is made available.

A further issue for human rights policy, one which has hitherto largely been considered a taboo subject, is the fact that demographic change is generating a rapidly growing number of very old people suffering from dementia and in need of long-term nursing care. The question here is to what extent society, plus its statute books and value system, is equipped to deal with this challenge. The "right to live" might possibly have to be twinned with a "right to die" – accompanied by a clarification of the associated how and when.

IV. Options for action – New foundations for "better" and "more"?

Here, considerations on what options exist for taking action have to be restricted mainly to political processes and procedures; the breadth and complexity of the issue hardly allow for consideration of matters of substance and content. For these, given the fact that Germany is active and recognised for its activities in the two fields of international policymaking under review here – human rights and international social standards – the most that can be expected is "better" and "more".

IV.1 Coherence and active multilateralism

Ensuring policy coordination and coherence represents the greatest challenge to the international organisations and to policy-making in their member states. "In practice, the multilateral system is under-performing in terms of ensuring coherence among economic, financial, trade, environmental and social policies to promote human development and social progress."[49] Better coordination between international organisations is one thing, but the member states' formulating the policy of those organisations is quite another: the most that is possible is that which the (majority of the) states want. These member states are as a rule present in various international organisations and the principle which generally applies is "coherence starts at home". Without improved consultation and coordination procedures for each country's national policies there is a danger that international policy will remain inconsistent and partly self-contradictory. International policy should be seen and drafted as a "package", for there are indications which suggest that offers to negotiate and make concessions in one policy area will be met by a greater readiness by others to shift their position in another policy area. In Germany too, where coalitions are a constitutive element of government, better procedures for drafting and coordinating policies and more transparency in decision-making should be possible – at both the political and the administrative level – possibly along the lines of what is being attempted in other EU Member States. In Germany, one possibility in this connection might be the appointment at the Federal Chancellery or the Federal Foreign Office of a minister of state for international policy coordination. A further desideratum is that the established ministerial portfolios be broadened or reconfigured in view of the fact that the issues which are of critical importance today are more than likely to be located in border zones overlapping more than any one single portfolio.

IV.2 "Politicisation" of international politics

Germany is normally perceived within the international organisations as being a particularly loyal EU Member State, sometimes however as a country which "hides" behind the EU. The general expectation is for a more finely chiselled political profile which would also allow for more transparency and openness in decision-making processes both within Germany and in the coordination procedures within the EU. A sharper profile is important both for the way Germany is perceived internationally and for the process of legitimising policy-making within the country itself, inwardly throughout its democratic structures. Policy necessarily has to be enacted and then implemented by the corresponding institutions (ministries, embassies, other official bodies). But policy should not give the appearance of being "bureaucratic routine", which it is perceived as being whenever "the politicians" leave it bereft of presence and positioning. Two progressive phenomena are in evidence here which point in the right direction: firstly the more frequent initiatives by

49] Cf. Policy Coherence Initiative (PCI) of the ILO World Commission: A Fair Globalization, p. 134 ff.; ILO Governing Body: A stronger social dimension of globalization: Follow-up to the November 2004 meeting of the Working Party, Geneva, March 2005; Making decent work a global goal: Recent developments and a proposal for a Globalization Policy Forum, Geneva, November 2005;
cf. Note 32: UN Secretary General's High-Level Panel.

Member States to take the floor in the Human Rights Council to complement the inputs of the EU presidency, and secondly the initiatives taken by Germany vis-à-vis the ILO during its EU presidency and chairmanship of the G8. These advances should be encouraged and pursued on a systematic basis.

IV.3 Foreign policy and the policy dialogue

The dialogue on human rights is an important area of German foreign policy; it should be further consolidated and deepened and broadened in terms of its thematic coverage. The deepening process should take place primarily through "lead nations", countries which wield particular clout within their grouping at the Human Rights Council and are generally acknowledged as being the most inclined to engage in candid discussion. These countries can be readily identified. Regarding broadening the thematic coverage, this should entail paying more attention to issues which are of particular concern to developing countries, such as the right to development, economic, social and cultural rights, freedom of religion, tolerance and racism. This human rights dialogue should be positioned within the broader context of multilateral negotiations such as those on UN reform, WTO trade policy, ILO social standards, the Millennium Development Goals and development policy, and it should be addressed as a single complex. It should be expanded systematically to include the core labour standards and the social standards; in this connection it should examine issues such as implementation at the national policy level, the difficulties and resistance encountered thereby, and the possibilities of support being forthcoming from bilateral and international cooperation. The human rights dialogue should take place (with due coordination) at the level of government and parliament and with the involvement of NGOs and specialist bodies. This dialogue, which sometimes tends to slide into the proclamatory, formulated for the domestic audience and for media consumption, should be made more specific, should not primarily focus on difference, should avoid any hint of arrogance and should look instead for common features which facilitate collaboration at the practical level.

IV.4 Development policy

By international standards, German development policy has done an exemplary job in picking up the issues of human rights policy, core labour standards and social standards.[50] German policy within international organisations (e.g. the World Bank) and in bilateral cooperation programmes is highly prominent and enjoys recognition, but it requires political backing and systematic refinement if it is to be properly acknowledged for its merits and given adequate funding to make it effective. Cooperation with the ILO, dialogue with partner countries and involvement of the (German) business community, trade unions and non-governmental organisations in agreeing on voluntary codes of conduct and working on programmes are all positive approaches which could and should be pursued and intensified. The political consensus evident in a strategy paper on cooperation with ILO could be put to practical use in a framework agreement on technical cooperation and expanded to cover Decent Work Country Programs. Development policy has the possibility of exerting influence on democratic progress, social development, reconciling interests and migration pressure. Active support for "tripartite" cooperation and of human rights institutions and procedures at country level would unleash potential for change. The German system of political foundations and decentralised support for development via non-governmental organisations offer a sound platform for action in this respect. Human rights policy is in large part legal policy, with high priority being attached to the development and funding of independent and impartial judicial systems. There are

50] Cf. „Umsetzung der Kernarbeitsnormen in Entwicklungsländern – Aktionen und Maßnahmen", BMZ, Referat „Entwicklungspolitische Informations- und Bildungsarbeit", Bonn, September 2003.

signs at international level that multilateral and bilateral development cooperation could be structured in accordance with human rights considerations, for example by gearing it to the criteria formulated by the UN Working Group on the Right to Development, criteria which highlight the essentially legal nature of development and thereby establish a new understanding of rights and duties within the national and international context. Integrating these criteria into German development cooperation policy offers a credible opening for demanding minimum standards in the field of human rights, standards which are not only inspired by one's own sense of morals and ethics but are recognised as being of universal validity.

IV.5 Trade policy

European trade policy – and thus also German trade policy – is a field for which competence is incumbent on the EU Commission. In its trade negotiations, however, the leeway available to the Commission depends on the policies pursued by the EU Member States. The initiative to have social standards taken into account at the World Trade Organization (WTO) was rejected by a majority of the Member States on the grounds that this amounted to "covert protectionism" and that competence in this field rests with the ILO.[51] Systematic cooperation between WTO and ILO is at most rudimentary.[52] The competitive pressure generated by China has caused some developing countries to begin reassessing their position and generally led to more openness regarding the effects of further trade liberalisation on their development prospects and in particular on employment.[53] It might therefore be worthwhile reintroducing the standards issue, with the corresponding offers of compensation, in the re-launched multilateral negotiations of the Doha Development Round. In the forefront for re-introduction here are core labour standards such as freedom of association, the ban on forced and child labour, and non-discrimination, all of which are constituent elements of the body of core human rights. In view of the weakness of trade unions in many countries and the virtually insurmountable obstacles placed in their path, the right to set up independent trade unions and negotiate collective agreements must be given top priority in coping with the social challenges of globalisation and therefore be made a core element of all conventions. Other social standards such as those on health and safety at work, appropriate working hours and a living wage (Decent Work) could also be implemented without seriously compromising competitiveness and comparative advantage.[54] In bilateral and regional negotiations, social and environmental standards have already been given a more prominent position on the agenda, and since the election success of the Democrats in the USA, it can be assumed that stronger emphasis will be forthcoming on regulatory measures in the social and environmental fields.[55] As a general rule, the EU Commission is likewise following this line. However, the new "China Strategy" predicating a Partnership and Cooperation Agreement makes no commitment to address the standards issue. Although EU Commissioner for Trade Peter Mandelson, speaking in Beijing, did mention "fundamental rights" – in the context of opening up markets – and made a very cautious reference to the possibility of "unfair trade advantages" arising through "distorted costs and prices", the corresponding work-

51] The 1st WTO Conference of Ministers held in Singapore in 1996 stated: "We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration."

52] First joint study: „Trade and Employment – Challenges for Policy Research", A joint study of the International Labour Office and the Secretariat of the World Trade Organization, Geneva 2007.

53] The FES/Evian Group: Multistakeholder Dialogue III (Lausanne 10.–12. November 2006) „Global Trade, Economic Growth and the Globalisation of Employment" with international participation from the two sides of industry, NGOs, academia and WTO chief negotiators confirmed this new openness.

54] Cf. Werner Sengenberger: „Globalisierung und sozialer Fortschritt – Die Rolle und Wirkung Internationaler Arbeitsnormen", Friedrich-Ebert-Stiftung, Globale Gewerkschaftspolitik, überarbeitete Kurzfassung, September 2005.

55] Washington Post: Elections Alter Trade Climate – Democrats Eye Environmental, Labour Clauses; cf. T. Greven: Social Standards in Bilateral and Regional Trade and Investment Agreements, Friedrich-Ebert-Stiftung (Geneva), Dialogue on Globalization, Occasional Papers No. 16/March 2005.

ing document makes no reference to the rights issue. However, the working document does criticise China's failure to fulfil the commitments undertaken in conjunction with accession to the WTO, the curtailment of investment and property rights and the lack of protection for intellectual property. The only indication in the document of the standards issue is that the desired dialogue could also include "European and Chinese business, trade unions, NGOs and other stakeholders" when such inclusion is deemed to be "useful and appropriate."[56]

IV.6 Human rights standards for the business community

As a reaction to the growing economic and political significance of internationally operating corporations, efforts have been made within the UN human rights system over the past few years to encourage transnational and multinational corporations in particular to assume more responsibility in the human rights field and establish binding rules to govern their conduct in this respect. These rules are intended to complement and extend the reach of the ILO system of social standards, which is largely geared to internal corporate activities. The ILO published a Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy as long ago as 1977 and has continued to work on it ever since. One year previously, the OECD had adopted its Declaration on International Investment and Multinational Enterprises and published, as part thereof, its Guidelines for Multinational Enterprises, which were last amended in 2000 and issued in the form of "recommendations" of the OECD Member States to enterprises. The year 1999 brought the "Global Compact", an initiative of the UN Secretary-General encompassing ten principles on human rights, social policy and environmental policy to which more than 2,500 companies in 90 countries have since voluntarily committed themselves and thereby subjected themselves to an albeit very limited monitoring mechanism. By contrast, the proposed UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights[57] which were tabled by the Sub-Commission of the Human Rights Commission in 2003 were rejected by the Human Rights Commission in 2005 because of insufficient support from Member States, resistance from industry federations and an unenthusiastic stance by trade unions fearing a dilution of the ILO standards and procedures.[58] Non-governmental organisations, including the Deutsche Forum Menschenrechte, spoke out in favour of these proposed norms. At the suggestion of the Human Rights Commission, in 2005 the UN Secretary-General instituted a Special Representative on the Issue of Human Rights and Transnational Corporations and other Business Enterprises and appointed the Harvard political scientist John Ruggie to the post. The Special Representative has since filed an interim report, consulted with representatives of the two sides of industry and NGOs and held a series of regional consultations. He will communicate his report to the Human Rights Council in spring 2007.[59] Countries such as Germany and also the social partners will have decisive influence on the procedure adopted for thereafter, and they must take their responsibility here seriously. They need to adopt unequivocal positions and make a determined effort to ensure that the various relevant human rights and social policy instruments interact in a coherent and complementary manner.

56] Peter Mandelson: Europe and China: partnership, competition and leadership, Tsinghua University Beijing, 7th November 2006, SPEECH/06/658; Commission Working Document: Closer Partners, Growing Responsibilities – A policy paper on EU-China trade and investment: Competition and Partnership, (COM(2006)631 final), 24th October 2006.
57] Cf. Nils Rosemann: The UN Norms on Corporate Human Rights Responsibilities, Friedrich-Ebert-Stiftung (Geneva), Dialogue on Globalization, Occasional Papers Nr. 20/August 2005; T. Rathgeber: UN Norms on the Responsibilities of Transnational Corporations, ibid. No. 22/April 2006.
58] Discussion paper: „ILO – UN Normen – Synergien oder Konkurrenz?", submitted by Heidi Feldt acting for the Friedrich-Ebert-Stiftung (Geneva), IG Metall, Misereor 2006 (internet version).
59] The FES Office in Geneva directly supports the work of UN-SR John Ruggie by means of consultancy measures and public events; see www.fes-geneva.org; www.business-humanrights.org.

IV.7 Economic, employment and migration policies

Germany and Europe as a whole will have to make a swift and determined effort to revamp their economic, employment and migration policies. As laid down in the EU's Lisbon Strategy, Europe will have to develop faster into a "knowledge-based economic space" by means of "modernisation of the European social model, investment in people, and combating social exclusion". What is needed to achieve these goals is a higher rate of overall labour force participation, a higher rate of employment for women and men of all age brackets. This signifies a paradigm shift in terms of labour market policy, a shift away from protecting jobs towards more overall employment backed up by corresponding continuing training strategies. "We Europeans urgently need to re-set our priorities: away from protecting jobs and towards protecting people."[60] The necessary combination of flexibility and security is frequently referred to as "flexicurity", as flexibility founded on security. The aim is a state which is activating and effective, the "provident social state" which enables people "to cope with change responsibly and in a spirit of solidarity" and demands "fair and equal opportunities for every individual to participate in education, work, culture and the democratic process, irrespective of his or her social and ethnic background."[61] This policy revamping must be complemented by an immigration policy based on selective criteria, with the ILO social standards and the human rights standards remaining fully protected and refugees and asylum-seekers continuing to be able to find refuge in Europe. In human rights terms (habeas corpus), protecting such refugees and asylum-seekers has priority over protecting the state.

IV.8 Germany's ILO policy

Germany's ILO policy must become more "political" and more "public". Politics requires a public arena in order to seek and obtain support and legitimacy. Permanent and more transparent preparation procedures for coordinating German positions for the International Labour Conference and the ILO Governing Body could have a beneficial effect in this respect, especially if implemented within the tripartite, inter-institutional and general public context. International social policy must be given more prominence as a subject for deliberation within the Bundestag and its committees, preferably backed up by public hearings in the Labour and Social Affairs Committee with the involvement of the social partners and civil society organisations. Granting access to the ILO to national and international non-governmental organisations is and will remain a controversial issue as the social partners assiduously attempt to consolidate the existing, unique tripartite structure of the ILO. To its detriment, Germany's ILO policy shows a remarkable overestimation and under-use of the ILO – the organisation is believed to be able to do more to influence the social aspects of globalisation than it actually can without the necessary massive political support, and the social partners make inadequate use of the possibilities offered by the non-observance of conventions procedure for reasons of not wanting to offend vested economic and political interests.

To make Germany's ILO policy more "political" and "public", closer cooperation with economic partner countries in implementing international labour standards and strengthening social security standards could serve as an additional support measure. Likewise helpful would be an improvement in the degree of coherence between different policymaking fields and a coordinated approach to dealing with social issues at the European and international level. A country which wants to see social standards implemented in its own interests should also be willing to offer incentives and make concessions which are in the

60] Jaques Delors/Poul Nyrup Rasmussen: „Für ein neues soziales Europa", in: Frankfurter Allgemeine Zeitung, 16. November 2006, S. 10.
61] Kurt Beck/Franz Müntefering/Peter Struck: Der Vorsorgende Sozialstaat, Impulspapier zur Programmkonferenz „Der vorsorgende Sozialstaat" vom 25. November 2006 in Berlin, SPD Parteivorstand.

interests of its partner countries, e.g. in the negotiations at the WTO. Federal Chancellor Angela Merkel and the Federal Minister of Labour and Social Affairs Franz Müntefering have already spoken out in favour of "social and ecological minimum standards" at the WTO, the "implementation of social rules for the markets" and the "enactment of the proposals of the ILO World Commission" and have thus provided impetus and assumed responsibility for a more coherent international economic and social policy[62] which, however, must take account of the employment and development observation made by ILO Director-General Juan Somavia: "But rights at work are not much use if you do not have work."

IV.9 Germany's human rights policy

Human rights are assets destined not only for export: they need to be exercised both at home and abroad with equal intensity. For that reason, to judge the situation at home in an opinionated and arrogant manner would be indefensible. Given that the German judicial system with its guarantees of legal redress (including legal aid) right up to the Federal Constitutional Court does indeed offer an above-average level of protection for human rights compared with general European standards, and also that many cases taken to the European Court of Human Rights are taken there because some democratic states have no supreme courts to rule on administrative and constitutional matters, Germany theoretically has the possibility of doing more to urge others to do more and even playing a pioneering role, for example in the matter of the individual complaint procedure for economic, social and cultural rights or the Additional Protocol to the Convention against Torture. In the light of the already outlined challenges and threats to human rights policy at home, there is a need for a pro-active strategy here. Human rights must also be made a subject of home affairs policy. An important step here would be the drafting of a national plan of action for human rights – in line with the decision of the Bundestag of 13th March 2003.[63] The setting up of the Deutsches Institut für Menschenrechte and improved cooperation between the relevant Bundestag Committee, ministries and the Forum Menschenrechte have established a constructive climate of cooperation which could be further enhanced by the establishment of a national human rights commission,[64] directly accountable to the Federal Chancellery, which would bring together representatives of all major social groupings and work in close cooperation with the Deutsches Institut für Menschenrechte. The existing Commissioner for Human Rights Policy and Humanitarian Aid at the Federal Foreign Office should not be made obsolete by such a new body, indeed, the incumbent should be encouraged to contribute to its work. Communicating country reports to the Bundestag and expanding national delegations to the UN, the Council of Europe and the EU by adding representatives of civil society organisations (e.g. from the proposed national commission on human rights) as members or advisers are further conceivable possibilities. Giving more prominence to human rights education in all educational establishments is another possibility requiring urgent attention. Religious education, however, should be left to the respective faith communities. By contrast, civic education in human rights and democracy is a task incumbent on the state.[65] Human rights education is a matter of "training the eye" and developing a sense of justice, and every "civil servant" should participate in corresponding training programmes. After all, the state is required to "respect", "protect" and "fulfil" human rights, to face up to the issues of the future and strike the necessary balance between a variety of human rights. In some areas this will not be possible without casting doubt on

62] Reden, Internationale Konferenz des Bundesministeriums für Arbeit und Soziales zur sozialen Dimension der Globalisierung, Berlin, 22.–23. November 2006.
63] Cf.. Frauke Weber: „Ein Nationaler Aktionsplan für Menschenrechte in Deutschland?", Deutsches Institut für Menschenrechte, Berlin, September 2003.
64] Cf. Valentin Aichele: „Nationale Menschenrechtsinstitutionen in Europa", Deutsches Institut für Menschenrechte, Berlin, April 2004.
65] Paul Scheffer: Tolerance cannot be founded on fear – If you want to integrate the Muslims, you have to pay particular attention to strictly separating state and religion, in: FAZ, 21th October 2006, p. 40.

certain cherished "politically correct" positions. How well Germany succeeds in coping with the challenges of ever fiercer competition, a rapidly ageing population and the associated social conflicts for a share of the available resources and at the same time implements the social standards and human rights will be of decisive importance in securing peace within Germany and guaranteeing the country's ability to interact with integrity with the outside world.

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