



HUMAN RIGHTS BEFORE AND AFTER THE FALL OF THE BERLIN WALL

Nowadays we certainly cannot take it for granted that our understanding of human rights is accepted throughout the world. On the contrary, that understanding is much more at risk than it was 20 or 30 years ago. This is all the more true when hardly anyone dares to openly address this issue. But the basic approach is actually quite simple: successful human rights policy is about translating a fantastic idea into reality. This idea applies to everyone, regardless of whether they were born in Germany or Switzerland or in China, Zimbabwe, Cuba or North Korea. The political art of human rights policy consists of placing the individual at the heart of all efforts, while at the same time taking into account traditions, culture and religion. This is often particularly difficult when persuasive arguments are put forward by those who consciously disregard human rights for the sake of shoring up their own power.

By Günter Nooke



The Center for the Opening and Development of Latin America (CADAL) is a non-profit, non-partisan, private foundation with the mission of promoting democratic values; observing the political, economic and institutional performance; and make public policy proposals that contribute to good government and people's wellbeing.

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He was elected member of the Volkskammer through the opposition association "Bündnis 90". He was a member of the Parliament of the state of Brandenburg and headed the parliamentary block of "Bündnis 90".

He also played an active rol in the investigation of injustices committed during the dictatorship of GDR. In 1996 he joined the CDU, with other civic rights activists.

From 1998 to 2005 he was member of the Federal Parliament and deputy chairman of the CDU block and of the following parliamentary commissions: "Issues of the new countries", "Culture and media" and he was spokesperson on media and culture of the CDU/CSU block.

In 2006 Nooke was named Commissioner of Human Rights Policy and Humanitarian Assistance of the government of Chancellor Angela Merkel. He was replaced in that post by Markus Löning in 2010. Since 2010 he serves as a Representative of Chancellor Merket in Africa at the Ministry Economic Cooperation and Development (BMZ).

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The European Parliament chose this day to remember diverse past experiences in Europe and named it the International Day of Remembrance of Victims of Totalitarianism. Some left-wing politicians argued against mixing together victims of the German NS terror regime with victims of Russian suppression and their respective crimes against humanity. The historic perception is different in the different European nations. Many people suffered under the terrible crimes committed by Stalin and the communist leaders in Russia, for example the people in the Baltic States. Germans need to be aware of their responsibility for the unique event that was the Holocaust, also in the future. Coming to terms with the past is one of the most challenging tasks for nations like Germany with such a terrible history. And, please remember, we had two dictatorships in Germany, one before and during the Second World War and one after it, in East Germany, in the territory occupied by the Russians.

Finding adequate ways to describe complex histories is always a challenging task. And today we have to be aware of the historic situation. Sometimes it is more enlightened to compare dictatorships with each other rather than comparing a dictatorship with a democracy. At least from a German point of view, we are all – myself included and in this speech in particular – treading on sensitive ground.

I. The historical framework

Today, exactly 77 years ago on 23 August 1939, the Hitler-Stalin Pact was signed. It was a German-Soviet non-aggression pact and it paved the way for World War II. Hitler and Stalin agreed not to go to war with each other and to split Poland. The outside world was stunned by this agreement, given that Hitler and Stalin espoused diametrically opposed ideologies. Hitler started the invasion of Poland on 1 September 1939, the Red Army of the Soviet Union invaded Poland from the east 16 days later on 17 September 1939. Both dictators pursued courses defined by their own political needs.

On 7 October 1939, the Communist International welcomed the invasion as “an example of cooperation of socialist nations against Anglo-French imperialisms”. I have to check this because I do not know whether this is really meant to apply to the NS Regime as well. The Nazi Party was called the National Socialist German Workers’ Party.

That leads us to a first assumption: It is more important to differentiate between democracy, rule of law and protecting human rights on the one hand and totalitarian dictatorships with highly effective propaganda on the

other hand than to look at the incompatible, contradicting ideologies of authoritarian regimes.

On 13 August, we celebrated the fifty-fifth anniversary of the erection of the Berlin Wall in 1961. At the end of World War II, Poland’s borders had shifted westwards and Germany became divided into East and West. This happened because the Allies conquered Adolf Hitler and the Nazi terror regime in 1945 and because of decisions taken at the conferences in Yalta and in Potsdam. After World War II a period of Cold War began between the powers of the Western Bloc as represented by the North Atlantic Treaty Organisation (NATO) and the powers of the Eastern Bloc. A lot of the communications on both sides at that time were shaped by ideologies. But at the end of the day you could say that the US, Great Britain and France were striving for a free world with free markets. The Soviet Union, with its dictator Stalin and its socialist satellite states, was promoting a communist world system without personal freedoms or rights and with a planned economy.

As I have already mentioned, if we are going to be speaking about “Human rights before and after the fall of the Berlin Wall”, we have to be aware of this historical background. There was less legitimacy on the eastern side compared to the free world in the West.

That is due to the fact that human rights were not protected by the Soviet Union and its socialist satellites; rather, in that part of the world, elementary civil rights and liberties were heavily abused by state authorities.

Not all communist countries might be seen very much as being totalitarian states, like Germany under the Nazi dictatorship or China under Mao. But the German philosopher Peter Sloterdijk made a disturbing statement (in “Zeit und Zorn”) with regard to the NS Terror Regime, which was responsible for the murder of over 6 million Jewish men, women and children, as opposed to communist countries where dozens of millions died in China and the Soviet Union alone: “The ideology of classes called Marxism and Leninism and Maoism came at a far higher price than the ideology of races.”

II. Human rights in a communist dictatorship

After World War II, the four allies influenced development in West and East Germany in line with their own political agendas. Both sides were supported but also exploited by Washington and Moscow respectively. The West Germans acted freely and because of the benefits like the Marshall Plan and quick and successful economic development in the shape of the German Wirtschaftswunder.

West Germany got a new Basic Law, which guaranteed the rule of law, free and fair elections and the protection

of human rights.

To quote from the German constitution – The Basic Law, Article 1 – “Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority.

The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.”

On paper the first Constitution of East Germany sounds very nice too, even regarding civil rights and liberties. But the reality experienced in East Germany quickly became quite different.

In the late 1980s, I was involved in the civil rights movement. I became a member and founder of a small oppositional group under the umbrella of the protestant church in my home town Forst, on the border with Poland, not far from Berlin.

We wanted to open the country up, get rid of the dictatorship. The GDR was a true dictatorship! Even if, at that time, many Western diplomats didn't like to say so and after reunification some professors came up with all kinds of arguments designed to rebut this assessment of the East German experience. The GDR, however, used Marxist-Leninist terms, describing itself as a “dictatorship of the proletariat”. I was once told by an official in my hometown that we – a bunch of opposition activists, an ecumenical peace group – shouldn't be discussing civil participation. Here in the GDR “we don't have democracy, we have the dictatorship of the proletariat!” I was informed. And it was of course the state official, not the proletarians in our group, who dictated policies in the GDR.

To this day I am most grateful for such clarifications. Now, too, dictators and authoritarian rulers must be taken seriously, let me warn you. They are not democrats, but they are often extremely shrewd politicians who use their power with consummate skill. That still holds true, even when there is nothing new about the methods they use.

In the late 1970s and the 1980s, before the Wall came down, the socialist centrally planned economy in East Germany had obviously already lost the ideological battle against the social market economy in West Germany. This specific West German answer combines a free economy, which was much more innovative than central planning, with social responsibility, which also ensured the welfare of millions of workers during the first three decades after the Federal Republic of Germany was founded in 1949.

Of course, the economic challenges in the East were much bigger than in the West after the war. The Russians did not support economic growth. On the contrary, they rebuilt factories and railways in the destroyed regions

solely in order to produce goods as reparation and transport them to the Soviet Union.

But that was not so crucial for the people in the East. Millions left their homes for a better life in the West, where there was a prosperous economy and better living conditions. But after the Berlin Wall was built in 1961 they risked their lives just to get into the other part of the city of Berlin and to be free.

For me, and from a human rights perspective, the struggle between the East and the West was not about economic, social or cultural rights. It was about civil rights or personal freedoms.

But even with regard to social rights in the health sector, labor conditions, assistance for disabled people or the educational system, the situation in West Germany was much better than in the East.

The former GDR, the East German State, existed for 40 years. During that time round about 88,000 people were arrested as political prisoners or prisoners of conscience. There was no free speech, no freedom of the press or freedom of opinion. Children were indoctrinated with the ideology of “Marxism and Leninism”. Only a few people were actually murdered by the East German intelligence service, the Stasi, but it did happen. I shy away from comparing the situation in the 1970s or 80s in East Germany with what is happening in other countries today. Perhaps, the situation regarding civil liberties was better than North Korea in 2016 and worse than the situation in Cuba today. The new information and communication technologies have changed a lot of things.

Now, as then, however, we should not be under any illusions about the nature of certain political systems. It is important to think clearly, after all, even if – for diplomatic, political or economic reasons – one cannot always speak frankly.

III. The Peaceful Revolution in Autumn 1989 and German Unity on 3 October 1990

To speak about what happened before and after the fall of the Berlin Wall, let me tell you a short but essential story. I would like to call it “Freedom came before unity”. It is a personal story about the key message of our freedom revolution.

The collapse of East Germany started with rigged local elections in May 1989 and ongoing protests against the government. Many people fled the country via Hungary during the summer. The embassies in Budapest and Prague were overcrowded with those who wanted to escape. On 10 September 1989 Hungary officially opened its border with Austria.

But also inside East Germany more and more people were taking part in peaceful demonstrations in the streets. They were not thinking about leaving the communist state. One goal was to achieve more openness and freedom of opinion and the press. They wanted to change the political system. They were chanting “We are the people”. They were hungry for democracy and freedom. The peaceful demonstration which took place on Monday 9 October 1989 in Leipzig is the most important date when you are talking about the collapse of the East German regime. No one knew whether the forces of the state would intervene. After some other demonstrations on 7 October in Berlin and the little town of Plauen and the official acknowledgement of the opposition as negotiating partners on 8 October 1989 in Dresden, the rally on 9 October 1989 was in fact, also for me personally, the tipping point.

The situation had remained peaceful because there were so many ordinary people who had the courage to go out and join the Peaceful Revolution. On 16 October 1989, just one week later, double the number – namely 150,000 – demonstrated on the streets of Leipzig and many other cities in East Germany. On 6 November 1989 around 600,000 marchers demonstrated in the pouring rain.

“Freedom came first” when the Berlin Wall fell on 9 November 1989.

Before the Wall came down, people had been chanting “We are the people”, now they chanted “We are one people”, which meant the demand for German unity. After the fall of the Wall, free and fair elections took place. Intimidation was everywhere but people overcame their fear. After that day I personally no longer feared it might all end in a blood bath. Freedom came first: what people wanted in the first place was freedom: freedom of opinion, of travel, of the press, of the arts, of scholarship and research...

That’s why this day is so important.

But what are the lessons we should learn from “Freedom first”?

Then as now, totalitarian systems, dictatorships and authoritarian regimes as well survive only because people living in these oppressed societies are afraid to say what they really think and feel. That makes human rights so important. That is exactly the situation in several countries today where people are unable to say what they are really thinking because of a climate of fear. Often I have heard the opinion: The West won the Cold War. I think that’s not true.

That’s a typically Western view of things, history as heads of state see it. But up to 9 November 1989 their chief concern was stability. It was only when the Wall

came down that they realized how strong the desire for freedom and change was among ordinary people.

The winners of the Cold War were the people living in the oppressed countries of the Eastern bloc!

And also today, it will be the ordinary people living under dictatorships or authoritarian regimes who, in the long term, will emerge the victors in the struggles they are facing for the time being. The only question is how long it will take. And how much genuine, strong support others will give them.

But, for the time being, is it really right to transfer the lessons learned from the period of the Cold War to the present world?

IV. The complexity of the world in 2016

What about the situation as it is today?

East Germany, officially known by its leaders as the German Democratic Republic, the Soviet Union and – except for Cuba and North Korea – all the countries of the so-called Socialist World System vanished after 1990. Today, international terrorism, the Islamic State, or Daesh as it is sometimes called, and other terroristic and criminal groups are dominating the headlines on almost every continent.

After 1990, human rights received a boost. In 1989, Francis Fukuyama wrote an essay “The End of History?” which was published in the international affairs journal *The National Interest*. Fukuyama argues that the advent of Western liberal democracy may signal the endpoint of humanity’s sociocultural evolution and the final form of human government.

“What we may be witnessing is not just the end of the Cold War, or the passing of a particular period of post-war history, but the end of history as such: that is, the end point of mankind’s ideological evolution and the universalization of Western liberal democracy as the final form of human government.”

He was wrong in his argument. Currently, states are not being challenged by oppressed people from inside. Currently, democratic and non-democratic states are being attacked by International Terrorism. That does not mean that, everywhere, Islamists groups are the terrorists, as they are, for instance, in Thailand. Outside the Americas, however, Daesh is the most dangerous and it would seem the most attractive movement.

Today, human rights are caught in a downward spiral. Many people and therefore many governments have focused on security issues. But, they might be going the wrong way again.

The current world has become incredibly complex. There is no longer one simple solution, no single approach that

fits all.

Strong and weak national states have not found the way to work together to combat international terrorism. One reason for that could be described as follows: authoritarian governments are interested in using the term terrorist in a broader undetermined manner for the suppression of disagreeable people. Liberal democracies fear to speak publicly about the actual danger posed by real terrorists because they want to avoid a feeling among voters of even more insecurity. On the other hand, populist parties are interested in such discussions. Instead of adequately objective debates to find ways of dealing with these dangers, populists are creating unrest and even relatively stable democracies might become unstable.

There is a contradiction per se between human rights and security. Which approach is the best one depends on concrete conditions and environments. Human rights and security could become part of ideology used for specific interests and not for making sure that human beings can live in dignity.

V. The role of human rights today

In presenting the report entitled 'In Larger Freedom' in 2005, Kofi Annan used the image of world peace based on three pillars: security, development and human rights. He stated that we will not enjoy development without security; we will not enjoy security without development that means economic prosperity; and we will not enjoy either without respect for human rights. We could therefore say that the realization of human rights throughout the world is the most important prerequisite for human development (defined as freedom from poverty and suffering) and human security (defined as freedom from fear and violence).

In the past, defending human rights was a particular foreign policy focus of both the EU and Germany.

Despite advances, human rights are currently under threat from three angles. The first is a tendency to demand so much in the realm of human rights that, in the end, very little is achieved.

The second is a growing movement that prioritizes the rights of the collective over individual rights. This started with the right to development. Who is being addressed with development? For individuals it means self-fulfillment. But who can guarantee the welfare of a nation other than the people and its government? When I led the German delegation at the Human Rights Council in Geneva, the Organization of the Islamic Conference was advocating collective human rights and that's still

true today. This approach is not about protecting the rights of the individual; it is about protecting the right of a religious group. These group rights have nothing to do with the original concept of human rights. Individuals, not religions, have human rights. The individual has the right and the state is obligated to respect and protect that right.

The third angle is the need for security. Ordinary people are right when they want to be protected by the state. But how can a liberal state limited by the rule of law avoid the loss of lives when terrorists use suicide bombers?

Nowadays we certainly cannot take it for granted that our understanding of human rights is accepted throughout the world. On the contrary, that understanding is much more at risk than it was 20 or 30 years ago. This is all the more true when hardly anyone dares to openly address this issue. But the basic approach is actually quite simple: successful human rights policy is about translating a fantastic idea into reality. This idea applies to everyone, regardless of whether they were born in Germany or Switzerland or in China, Zimbabwe, Cuba or North Korea. The political art of human rights policy consists of placing the individual at the heart of all efforts, while at the same time taking into account traditions, culture and religion. This is often particularly difficult when persuasive arguments are put forward by those who consciously disregard human rights for the sake of shoring up their own power.

VI. Basic principles of human rights policy in Europe

Let me end with the following basic principles for better coordination of European Policy which I wrote in 2009. What I wrote describes an ideal situation from a human rights point of view. Politics needs such guidelines. But in the end a pragmatic approach and a concrete policy focusing on the actual dignity of human beings is needed even more.

1. Human rights are the core of EU foreign policy.

Human rights policy does not replace security and development policy. But human rights are an important pillar, alongside security and development

The protection of individual, inalienable human rights is the sine qua non for the co-existence in human dignity of nations and people across the world.

Efforts to combat terrorism and poverty must not violate elementary human rights. Due to its own history and values, Europe has a particular obligation to protect human rights.

2. Human rights are universal.

The EU member states are pursuing the protection of human rights first and foremost in their own countries and are taking care to face up to critical dialogue.

The same standards apply to EU member states as to all other countries. These standards must not be undermined by pointing to overriding goals or collective interests.

3. The idea of universality is the political core of the human rights concept.

Any attempt anywhere to relativize this idea must be clearly countered.

The protection of cultural diversity, traditions or religions as an alternative political concept to human rights is rejected. What is being advocated is a non-ideological human rights policy that allows for the diversity of cultures, religions and traditions based on the protection of elementary human rights.

That however requires concentration on elementary human rights as such. Only those rights that are without question basic human rights and not rights based on certain cultural or ideological ideas can be applied universally.

Discussions on the understanding of human rights are important. They should not be dodged by pointing to terms such as human dignity and respect.

4. Human rights are indivisible.

Economic, social and cultural rights create the prerequisite for exercising classic civil rights and liberties.

The indivisibility of human rights means individual rights or categories of rights must not be played off against one another. Indivisibility does not mean all rights are equally important. It is important to set political priorities.

5. Human rights policy must improve the situation of people affected by human rights violations worldwide.

Implementing minimum standards and concrete steps to protect elementary human rights in all countries have priority over extending the catalogue of human rights as regards content and over codifying them legally without mechanisms of sanction.

6. The governments of sovereign states bear primary responsibility for the protection of human rights.

It is essential for national governments, the European Council, Commission and Parliament to take a public stance on grave violations of human rights no matter where in the world they occur.

The gravity of the violation and not special, good or strategically and economically important relations to the state responsible should be the yardstick that is used.

Standing up for the protection of elementary human rights does not constitute unauthorized interference in the internal affairs of a state.

7. Human rights protection is not possible without stable states.

Stability, good governance, the rule of law, development and democracy are essential steps when it comes to anchoring and implementing human rights. On a case-by-case basis, it may seem better to pursue these goals in stages rather than simultaneously.

8. Strengthening the competences and the independence of the International Criminal Court in The Hague is a key part of human rights policy.

Human rights policy must combat impunity.

Grave violations of human rights such as war crimes, crimes against humanity and genocide must not go unpunished. The International Criminal Court in The Hague must be strengthened.

9. International human rights policy must not undermine the protection of basic rights and the rule of law in EU member states.

Maintaining scope for existence in a free, democratic and social state based on the rule of law is not something to be taken for granted.

UN resolutions can also impact the manner in which we live together in our own countries. Fundamental human rights standards in the EU cannot be played off against other goals of international politics.

Closing presentation by the author of the Conference on the International Day in Remembrance of the Victims of Totalitarianism, at CADAL, on August 23rd, 2016.