



The relevance of social human rights in rich countries like Germany compared to Cuba

(Presentation at the Jose-Martí-Konferenz, Havana, 2023)

Introduction

It is a great pleasure to participate this year for the third time on behalf of our foundation for Social Human Rights and Participation in the international solidarity-project of Jose Marti. My wife Azize Tank, former member of the German parliament (Left party and member of the committee for work and social affairs) will once again accompany me.

In my contribution today at the 5th International Conference for world balance, I want to address in particular two issues that should be debated in the global forum:

- The realization of basic human rights in the current conditions of the 21st century, in particular the social human right to social security for all;
- The role and challenges of new social movements against the backdrop of increasing social division in Germany and globally, especially with regard to the human right to work and housing.

About my person

H. – Eberhard Schultz, lawyer since 1978; working as a „human rights lawyer“ in Berlin; working in progressive lawyers' associations (RAV and Strafverteidigervereinigung); among others, member of the international defense team of the „Cuban Five“; participation in the „Conferencia Internacional Con Todos y Para el Bien De Todos“ 2016 and 2019 in Havana; board member of the International League for Human Rights; chairman and founder of the non-profit Eberhard Schultz Foundation for Social Human Rights and Participation with my wife Azize Tank, MdB a. D.; my son, Dr. Rainer Schultz is Center Director of the Consortium for Advanced Studies Abroad/Cuba Divisional Center (CASA-Cuba) in Havana in cooperation with Casa de las Américas.

1. Presentation of our Foundation for Social Human Rights

Our young charitable foundation, founded in 2011, is the only one in the German-speaking area that aims to contribute to the realization of Social Human Rights based on the UN Social



Pact of 1966. The comprehensive recognition and implementation of these rights as subjective rights, which can be legally enforced before the courts and the UN Committee if necessary, is a mandatory requirement of the international law. Especially in times of increasing social division in one of the richest countries in the world (in which exclusions of certain population groups and also racial discrimination by institutions are constantly occurring, as well as an increase in unemployment and homelessness) the realization of Social Human Rights for every human being is strikingly relevant.

The main focus of our work is public relations, also in cooperation with other human rights organizations and initiatives from social movements, sponsorship of social projects, symposia as well as conferences or discussions with experts from science, politics and NGOs.

2. Estimation of important factors for „world balance“

I would like to begin with highlights of important socio-economic factors on global and national levels.

Since the last conference, there have been positive as well as negative developments. I would like to start with the negative ones.

2.1. Increase of social division

The distribution of wealth in our world has continued to evolve dramatically: Here are a few highlights about the current situation in Germany: In our press release for the International Day of Human Rights on December 10th, 2022, we summarized the situation like this:

„Due to the consequences of the Covid pandemic and the ongoing war between Ukraine and Russia which furthermore deteriorate the increase of inflation and the precarity of living conditions, the celebration of the Human Rights Day this year will also barely take place. Although the enforcement of human rights seems more urgent in times like these, even small successes should be captured and properly celebrated: In November 2022, the additional protocol to the UN Social Pact was finally ratified after more than 10 years. This is an important and positive development because it finally makes social human rights enforceable by individuals and NGOs – a long overdue step towards the implementation of Social Human Rights. The approaching winter is expecting to lead to rapidly rising inflation, exploding living expenses and further increased social division. That’s why our repeated call for the common realization of the Social Human Right to Social Security for All remains more relevant than ever.



Shortly after our press release, the Secretary-General of the United Nations Antonio Guterres made an announcement on his behalf stated about human rights:

„The world is facing unprecedented and interlocking challenges to human rights... These trying times call for a reignition of our commitment to all human rights - civil, cultural, economic, political and social... On this Human Rights Day, we reaffirm the universality and indivisibility of all rights, as we stand up for human rights for all.“

Prof. Dr. Dr. hc. Eberhard Eichenhofer, an expert on social human rights, described the development in a lecture at our annual event last October as follows:

- I quote some excerpts:

„Difficult times are to be endured! The currency devaluation debases money claims. Those who receive wages, pensions or basic benefits currently are obliged to pay significantly more for essentials such as energy, fuel and food than they did months ago due to incomes that remain static and fail to keep pace with rising prices. If essentials become further expensive and incomes do not rise simultaneously, income recipients can not maintain a fair living of standard. This is a burden on everyone, but especially on those who were only able to afford bare minimum: The inflation forces nearly every person to operate with less money, thus for not only a few but many people their survival is at serious stake.“

Energy and food in particular have become significantly expensive

„The german newspaper „Süddeutsche Zeitung“¹ noted that between July 2021 and July 2022 prices rose considerably throughout that year e.g. heating oil by 102.6%, sunflower oil by 82.0%, natural gas by 75.1%, pasta products by 32.4%, whole milk by 27.4%, sliced cheese by 20.2% and wheat flour by 39.1%. Rising prices of energy and food as far as the declining purchasepurchasing power of the population result briefly and equally in the medium turn to severe recession in our economy.“

Fiscal consequences

„Rising energy and food prices is absorbed by/are devoured by a growing share of household income.“

¹ Vom 13./14. Und 15 August 2022, S.11ff



Policy options to counteract

„Inflation is changing the global economy. While the U.S. is self-sufficient in supply of energy, the European economy and society depended until recently on supply routes from Russia... Relief packages attempt to alleviate the financial burden triggered by general price increases through financial compensation of the government. Those packages are given as one-time payments to groups of presumed needs and the value of those payments are greatest among those who have the least because they relatively help them the most...“

The right to work

- *„There are numerous instruments for the purpose of implementing this right – job placement and unemployment insurance, labor protection and equal treatment law, collective bargaining law and co-determination at all levels...“*
- *These institutions are well developed in many societies and have already brought numerous improvements for employees. When they were created after the World War II, they were intended to ensure that every person capable of work² would participate in the reconstruction....“*
- *The right to work is therefore a cancellation of a society of inactivity and idleness. The right to work imposes obligations insofar as its fulfillment entails duties for the individual. Above all it fulfills the task of providing people with a livelihood through the exercise of freely chosen legal work but also healthy and fair conditions³*
- *„The right to work is thus directed to participation in gainful employment for the purpose of securing one’s livelihood. It establishes freedom of choice, but does not permit freedom from any participation in gainful employment. It obligates someone to accept gainful employment that is reasonable, just and secure. The wage must be adequate and the risk of unemployment has to be protected by social insurance or other social benefits...“*
- *„Accordingly, Article 7 of the Constitution of Brazil eloquently paraphrases this guarantee when it formulates that „wage earners must be able (capable) to satisfy*

² Alston (2005) 3 ff.

³ Mikkola, (2010) 138 ff.; Ssenyonjo (2009) 248 ff. 291 Mundlak (2007) 356. 292 Krennerich (2013), 180 ff.; Kaufmann (2007) 30; Verfassungen von Albanien (Art. 49), Argentinien (Art. 14), Australien (Art. 27), Belgien (Art. 23,1), Brasilien (Art. 7), Bulgarien (Art. 51), Dänemark (Art. 75,1), Finnland (Art. 18), Indien (Art. 41, 43), Italien (Art. 35), Kroatien (Art. 54).



them and their families' elementary necessities of life for housing, food, education, health, leisure, clothing, hygiene, transportation services, and social security; this includes regular measures to maintain purchasing power..."

The Right for Social Security

- *„The Right for social security⁴ is written down in Art. 22 of the UDHR, 9 of the Covenant, 12 of the ESC and 34 of the CFR. It is recognized in many ways. It found a deep and detailed exposition in the ILO Convention No. 102 (1952) on minimum social security requirements. According to Art. 22 of the UDHR, „everyone, as a member of society, has the right to social security and (...) is entitled to their claim. National measures and international cooperation as well as taking the organization and the resources of each state into consideration all lead to those economic, social and cultural rights which are essential to the dignity and free development of his personality..."*
- *„The circle of entitled people is thus defined universally and not nationally. Nevertheless it derives from not belonging to the state but to society. The universal character of the right to social security declares that different treatment in social security with regard to social status, sex, age, nationality or disability is not permitted. The social protection should especially be directed to those who work or live in a society without making any difference according to their social position. The persons to be protected are thus linked primarily by work or residence to the state granting social protection..."*
- *„The right to social security means protection against the social risks to which all people are exposed. Social security is financed by contributions. Human rights are therefore mostly only affected when informal or precarious workers, self-employed or disabled people as well as foreign workers are not adequately included in a social security system. Social security is provided, maintained, developed and supervised by state regulatory authorities through the social administration..."*
- *„In addition, there is a right to social welfare. It is circumscribed in Art. 25 UDHR and highlights: „(1) Everyone has the right to a standard of living adequate for the health and well-being of themselves and of his family, including food, clothing, housing, health care and necessary social services, and also the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in*

4 van Langendonck (1998) 477; Ders. (2007); Brunner (1971) 11 f.; Tomandl (1967) 7 f.



circumstances beyond his control. (2) Mother and child shall be entitled to special support and care. All children, legitimate and illegitimate, shall enjoy the same social protection.“

Our foundation has summarized this development in an appeal like this:

Call for the joint realization of the social human right to social security for all

"Everyone, as a member of society, has the right to social security and is entitled [...] to their claim, in which social and cultural rights are indispensable for his own dignity and the free development of his personality."

(Art. 22 UDHR)

This social right to social security, which was already proclaimed in the **Universal Declaration of Human Rights** (abbreviated to UDHR) of 1947 and concretized in the **International Covenant on Economic, Social and Cultural Rights** (abbreviated to UN Social Pact) of 1966, is more current than ever. This is being further underlined especially by rising living costs, which a veritable "horror list" (as of mid-August) shows:

- In heating and energy costs: natural gas + 75.1%, firewood + 56.0% and diesel +40.7%.
- For food: sunflower oil +82 % and whole milk +27.4 %.

This increase in the cost of living not only marginalizes the already poor, but also affects the lower and middle income classes the most. **Inflation** – being at its highest in the last 50 years - is influencing all aspects of life: more and more people have to take advantage of the food bank and are unsure how they are going to get through a cold winter. At the same time, the rich are getting richer and the social gap is widening. Social associations are therefore calling for urgent remedial action. The resources for this are available: 100 billion euro of our all tax money are exclusively spent on the armament! Giving away money to wealthy people and corporations is one thing (e.g. fuel rebates) but spending 100 billion € for armament without democratic decision-making and without clear aim is the other side of that medal. It is therefore not surprising that protests are increasing nationwide and strikes have been announced. According to a public opinion poll half of those interviewed persons have declared to take their demands to the streets.

So we are obviously marching towards a "hot fall." We propose an additional important instrument to strengthen the pressure on those responsible:



Art. 11 of the UN - Social Pact explicitly recognizes *"the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing but also to the continuous improvement of living conditions."*

Accordingly, the federal government is obligated under international law to implement the human social right to social security for all.

The **legal foundation** for the fight for better living conditions is therefore the UN Social Pact. Although Germany has ratified the Pact, it has not yet implemented many of the formalized human rights such as the right to social security.

We call on those affected and their organizations to join forces to hold the German government accountable for taking the necessary measures to ensure that the human right to social security is realized in these difficult times.

This appeal has so far been signed by numerous institutions and well-known personalities, I would like to mention here only one person: Jean Ziegler, the former UN representative for the right to food.

This valuation of our appeal is emphatically confirmed in the latest report of the renowned organization Oxfam from January 2023. It states that the global trend of dramatically growing social division can also be demonstrated in Germany:

- *"In Germany, 81 percent of the total increase in wealth generated between 2020 and 2021 went to the richest one percent, while the remaining 99 percent of the population received only 19 percent."*
- *"For every average per capita U.S. dollar of wealth gained by the poorer 90 percent of the world's population since 2020 a billionaire has gained an average amount of 1.7 million US-Dollars. The total wealth of all billionaires has increased by an average of \$2.7 billion per day."⁵*

5 <https://www.oxfam.de/ueber-uns/publikationen/oxfams-bericht-sozialer-ungleichheit-umsteuern-soziale-gerechtigkeit>



3. Regarding the State Report of the Federal Government particularly on the social Human Right to housing

As already stated at the last conference in 2019, regarding the deficits of the social human right to housing, we mapped out our parallel report in response to the State Report of the Federal Government to the UN Social Committee which states:

„Homelessness is a nationwide and especially in big cities a serious problem, which recently also affects an increasing number of refugees, migrant workers from Eastern European countries as well as other people without secure status. The federal government currently emphasizes that the responsibility to solve homelessness problems is the primary obligation of municipalities.“⁶*

In terms of estimated figures from the Bundesarbeitsgemeinschaft Wohnungslosenhilfe e.V. (BAGW) 860,000 shelterless people as well as 52,000 homeless people (2016)⁷ it is urgently necessary in a rich industrialized country like Germany to provide every person an enforceable right to adequate housing.

According to a study by the Eduard Pestel Institute only one in five economically weak households had the opportunity to obtain social housing (in 2012).⁸ The need for 5.6 million apartments was matched by only 1.6 million available apartments. To simply maintain the status quo 130,000 new apartments should be built every year. The situation is often particularly tricky in large cities, metropolitan areas and university towns.⁹ Since 1990, the number of social housing units has fallen by 60%; in 2016, there were still around 1.2 million social housing units obtainable.¹⁰

New social housing are insufficiently built and particularly public housing associations are being privatized where/in which government aids are tied to time-limited commitments that will eventually expire. This approach promotes the drastic decline in the number of social housing units by converting them into expensive condominiums or rental apartments.

6 Staatenbericht 2016 (Fn. 3), S. 57-8.

7 BAG Wohnungslosenhilfe e.V. (BAGW), Zahl der Wohnungslosen 2016, <http://www.bagw.de/de/themen/zahl_der_wohnungslosen/>.

8 Eduard Pestel Institut, Wohnungsmarkt <<http://www.pestel-institut.de/themenbereiche/wohnungsmarkt/>>

9 Ebd.

10 BAGW, Pressemitteilung: BAG Wohnungslosenhilfe: 860.000 Menschen in 2016 ohne Wohnung, Prognose: 1,2 Millionen Wohnungslose bis 2018 (14.11.2017) S. 2.



It was delightful for us and for other committed NGOs that the UN Social Committee took up the criticism in their concluding remarks. The German government is called upon to submit an urgent interim report on three issues which contains the current situation in care for older people, child poverty and the right to housing within 24 months.

Meanwhile the statement to the UN Social Committee within 24 months certainly has been finalized in written form – however only in English and for the average German citizen hardly discoverable. It states in general terms that the requirements will be implemented and that this is already being done. There are more detailed statements on the housing problem, which promise an improvement. In fact, however, according to experts these have not been realized.

It is also significant that one of the central requirements for the implementation of the social human right to housing and the controllability of the measures is not even mentioned in a reliable and detailed statistics. Therefore, we have great doubts about the seriousness of this promise from the federal government.

Regarding the social movements and the activities of resistance and protest in Germany, I refer first to my contribution at the last conference. Unfortunately, developments have become even more opaque/untransparent and difficult due to the consequences of the measures against the Corona pandemic and in connection with the war against Ukraine. Nevertheless there is a bright spot which is result related to the last federal election two years ago in Berlin: A referendum (simultaneously to the elections) was held on the demand to „expropriate Deutsche Wohnen & Co.“ – Deutsche Wohnen is one of the big players in the housing market, which with their prices and vigorous construction activities has contributed significantly to the fact that housing for the poorer part of the population in urban areas of Berlin is no longer affordable at all. This referendum was preceded by a campaign that lasted for years. The referendum received more than 60% of casted votes so that the government of Berlin is now obliged to implement this referendum. Such expropriation is intended to be noted in Article 15 GG of our constitution. The amount of compensations if they are necessary is already being strongly/highly/heavily debated. However, apart from instating a commission of experts, little practical action has yet been taken in this regard/matter. As a matter of fact not only are those large housing groups but also appropriate enterprise federations placing themselves massively against the expropriation or are doing everything in their power to prevent it from happening.

Additionally there is a current study of the Rosa Luxembourg foundation from December 2022 in which Dr. Andrej Holm (member of the board of trustees of our foundation) as an expert



regarding questions about housing in Germany substantially cooperated. On the 10th of January 2023 the newspaper Berliner Tagesspiegel also reported in one section of their article that „According to a study, tenants of apartments earmarked for communization could benefit from rent reductions. Housing supply could also increase.“

4. A ray of hope: extensive realization of important social human rights in Cuba

In my contribution to the last J.Marti conference I already listed the most important articles of the Cuban constitution concerning this complex topic. Additionally to it I would like to draw the attention to some notes about/of social human rights. There are important new developments due to the Code of Family Law. This contains some new regulations that are likely to be unique in the world. With regard to the realization of social human rights in Cuba, there are two areas that are undeniably and vastly superior to the regulations in Germany:

- the social human right to the best possible free health care
 - the right to free education for life
- Also the comprehensive social human right to social security for all (as I have explained it in connection with our appeal of last year) might be realized much more extensively in the poor Cuba which is already shaken up by the US-Embargo than in Germany as the richest capitalist country of Europe. However, right now is not the place to elaborate this in detail. Let us leave that to further debate.

In the meantime, there have been protests all over the world in connection with a large number of Cubans that have been arrested and put on trial – portrayed and condemned in many media and political circles in our country as a terrible violation of human rights. I am not an expert to neither assess nor refute this more precisely. However, I would like to point out context-based how the Federal Government treats this coherence in a state report on human governments.

This report describes a series of tightened laws, expanded tasks of the Office for the Protection of the Constitution and positive measures and projects that focus on combating right-wing extremism, anti-Semitism, and other forms of group-based misanthropy toward human beings e.g. measures or actions in educational work for example against Islamophobia.



It also states that Germany has ratified and furthermore already applies the UN Convention on the Elimination of Racial Discrimination (ICERD). However, Germany was „sentenced“ in the Sarrazin case by the UN committee which is set up specifically on the basis of this convention. Further proceedings against Germany are still pending. Additionally it is important to underline the following fact: „ *The authorized representatives of the Federal Government for anti-racism plan to convene an „expert council of anti-racism“*, which, inter alia, compile a definition of racism for administrative action – without mentioning that this definition not only already had been designed in science, but above all also and especially in the ICERD. It primarily forces us into doubting or being suspicious if the author of this report actually read or understood the convention?

And if the fact that Germany is seen as a „strong/powerful state“ without putting racism in police, security authorities and the judiciary into consideration, readers could nevertheless tend to think that this state report attempts to cover up and above all ignore institutional racism.

However the question of the purpose of this „State Report on Human Rights“ - and to whom it was actually written – remains to be asked. The report was not only published by the Federal Foreign Office but also personally introduced by the Foreign Minister Baerbock. As a mindful reader I then came across to a crowning conclusion of this document: a chapter of the document called „**Human Rights Worldwide**“ with reports about nearly three dozen states (can be found on the last 40 pages). There is a list of numerous states with more or less serious human rights violations: starting from Afghanistan to „China including Hong Kong“ (several pages) over Russia, Ukraine and Venezuela to the Central African Republic.

Significantly absent, however, are for example countries such as Brazil whose President Bolsonaro has even been openly called a „fascist“ by the president of the Brazilian Bar Association (one of the largest in the world) – not to mention the United States or Israel. Although throughout the reporting period and after exhaustive securities Israel has come to a clear conclusion, that the state/it is an „*apartheid system in violation of international law*“.¹¹ So it cannot be a coincidence that Israel is missing in the list of states. But does this not also bring back disastrous memories of the fact that in the last century it took decades until the apartheid system of South Africa was designated, condemned and fought as such – on a side note, by Germany even later than by the United Kingdom and others?

And finally, it is fitting that Germany’s foreign minister – shortly after the reporting period – explicitly rejected the UN resolution to combat racism.¹²

11 SWP Aktuell NR. 13 FEBRUAR 2022

12 Vgl. <https://fragdenstaat.de/anfrage/abstimmung-in-der-uno-gegen-die-verurteilung-des-nazismus/>



Those affected by institutional racism and their organizations are called upon to fight this double standard and duplicity.

For these presented reasons I cannot agree with the condemnation of Cuba that prevails in the „Western community of values“. Notwithstanding, I would like to highlight in this context an issue to finish my argumentation. Ironically on the 24th of December 2022 the voting result about the well-known condemnation of the U.S. embargo against the blockade of Cuba by the UN General Assembly finally appeared – that happened almost two months after the debate and the vote in which the U.S. was unanimously condemned. Even if the German Translation Service of the UN reports regularly reports political debates and their results but also translates all available documents. In November I had already reminded and inquired with astonishment in astonished why this report had not been translated and published by the Translation Service yet. At that time I did not get an answer to this appeal, however, on the so-called Christmas Eve I received the delayed translation. Neither can I say nor will I claim that it was due to my intervention. But still this small piece to an important chapter proves that it is worth being utterly vigilant and critical in order to continue fighting comprehensively for the enforcement of social human rights.

Havanna, den 24. Januar 2023

Eberhard Schultz,

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