

German human rights policy in a multipolar world

Germany has rarely used public shaming to condemn human rights violations, and it refrains from using leverage vis-à-vis rising powers. We argue that as Germany continues to search for a clear strategy of human rights promotion in a multipolar world, confidential dialogue and cooperation will remain central to its human rights policy, regardless of whether it is dealing with an authoritarian or a democratic country.

Introduction

Rising powers need not fear criticism of human rights abuses from Berlin, for trade trumps human rights in German foreign policy. This conventional wisdom is frequently invoked by human rights activists and journalists alike, but it is neither very informative nor entirely correct. While it is true that German decision-makers do not prioritize human rights concerns over other foreign policy considerations, including trade, this is hardly unique to an export nation like Germany. Governments rarely take potentially costly foreign policy decisions to further a moral objective, and Germany is no different. Nevertheless, German foreign policy does not invariably neglect human rights concerns in the country's relations with rising powers.

In this essay, we seek to elucidate German human rights policy vis-à-vis rising powers by examining policy documents and actual practice. Since we cannot do justice to all rising powers – countries of diverse characteristics and human rights conditions – we focus on Germany's relations with only two of them: China and India. Both countries are located in Asia. They are the two most populous countries in the world. Both are important trade partners of Germany, although the trade relationship between China and Germany is more developed than that between India and Germany. China is a one-party state, and India is a democracy – hence, the types of human rights violations differ between the two countries. Regardless of regime type, both countries are considered strategic partners by Berlin.

1 The authors would like to thank Thorsten Benner, Julian Lehmann, Philipp Rotmann and Lars van Troost for their helpful comments on an earlier draft of this article, and Esther Yi for her edits.

In addition to explaining the German approach to human rights violations by rising powers, we critically examine the impact of Berlin's actions. What could Germany do differently to better promote and protect human rights in today's multipolar world?

Germany's offer to partner with rising powers

In February 2012, the German government explained its approach to rising powers in a strategy paper that guides Berlin's approach to this day. Instead of using hitherto common terms such as "BRICS", "emerging markets", or "newly industrializing countries", the German government introduced a neologism: *Gestaltungsmächte*, which roughly translates into "powers that shape [the world]". The German government deliberately chose this term to highlight its view of rising powers as "more than just emerging economies. They are new players with a voice in the conduct of world affairs" (Bundesregierung 2012a: 5). The paper is framed as an "offer" from Germany to rising powers, inviting them to "enter into dialogue and cooperate in a spirit of partnership and equality" (Bundesregierung 2012a: 6). Highlighting the universal validity of human rights, it states that Germany is "opposed to cultural relativism when defining human rights" (Bundesregierung 2012a: 27). At the same time, the paper reassures rising powers that do advance a relativist agenda, notably China and Russia, that the German government seeks "a dialogue-based approach" that aims "to improve our understanding of our partners' traditions and cultures" (Bundesregierung 2012a: 28) – a statement that weakens the aforementioned commitment to universality.

By explaining that Germany reaches out to "reform-minded forces in society and government", the strategy paper sketches a theory of change on human rights protection. Instead of raising the costs of violations by using sticks, such as public shaming, Germany prefers to use carrots, notably by offering cooperation and dialogue. Berlin hopes to persuade: "[Germany] would like to convince others of its values and interests" (Bundesregierung 2012a: 7), and it wants "to advertise the advantages of tried and tested German and/or European solutions and successes in building modern legal orders" (Bundesregierung 2012a: 28). Especially vis-à-vis rising powers, where German leverage is undoubtedly limited, engagement on the benefits of rule of law is a feasible policy option, but it is fallacious to trust in this kind of engagement where governments oppose human rights.

Rule of law and human rights are not identical. Human rights are extra-legal, inherent rights, and they are valid even when domestic laws violate them. Another unspoken quandary is that a fully developed rule of law, with an independent judiciary that checks state action and places limits on government power, is not in the interest of authoritarian

rulers. Authoritarian rulers may rule by law, but they do not want to be constrained by it. China is a case in point, where years of trade and of engagement on rule of law have not led to greater respect for human rights.

In democracies like India, human rights continue to be an important tool for constraining government power. But a functioning democracy has institutional checks and balances as well as regular elections that effectively limit government abuse. With this in mind, human rights are arguably most important for the marginalized and disenfranchised in India. Human rights are not only extra-legal, but also counter-majoritarian norms that support minorities even where positive law or socio-political traditions discriminate against them. The principle of non-discrimination empowers ostracized groups, such as the Dalits in India. To some extent, such groups can be supported through cooperation projects, but when violations are based on systematic discrimination and persistent ideologies of exclusion, domestic activists look for allies, not for human rights education.

One possible way for states to lend support to human rights struggles is to monitor a given situation and to publicly echo local criticisms of rights violations, in line with international conventions. German foreign policy makers, however, frequently describe such naming and shaming as unhelpful grandstanding that obstructs bilateral dialogue. According to this view, shaming spoils opportunities to convince those in power of necessary reforms.

German policy debate on human rights violations by rising powers

As we examine the factors that shape Berlin's approach to international human rights promotion vis-à-vis rising powers, it is important to trace the ideas underpinning the German policy debate. We believe that it would be a mistake to point at only Germany's economic and strategic interests: values and international legal commitments also matter in Berlin's decision-making. All German foreign policy makers understand that the international codification of human rights was, to a large extent, a response to World War II and the Holocaust, imparting Germany with a sense of special responsibility. Notably, such historical references are often viewed with suspicion abroad, as pointed out by Markus Löning, the German government's former Commissioner for Human Rights (Löning 2014). At the same time, most of the German foreign policy establishment subscribes to modernization theory, or the prediction that economic growth will expand the middle class, which will eventually demand political liberalization. This, in turn, should engender human rights compliance. In German shorthand, this theory is called *Wandel durch Handel* ("change through trade"), suggesting a certain automatism that, critics argue, permits a passive response to human rights violations.

Proponents of *Wandel durch Handel* credit trade and engagement with the fall of the Iron Curtain and the Berlin Wall. But is it still an appropriate policy today? In recent years, leading German newspapers have repeatedly published debates on the place of human rights in external relations, but these debates rarely focus on specific human rights concerns and often exhaust themselves by creating abstract dichotomies between value- and interest-based approaches to foreign policy. The German Foreign Ministry echoes these debates in enigmatic statements such as “Germany’s foreign policy is value-oriented and interest-led” (Auswärtiges Amt 2013). Meanwhile, it remains unclear how values and interests should be balanced and how priorities are set. As Germany becomes more active on the world stage, with an ambition to shape globalization in collaboration with other nations, it can no longer afford such easy verbiage, nor will it be able to defend a foreign policy that focuses on trade and economic growth.²

Occasionally, human rights activists make more specific demands of the German Foreign Minister, such as to cancel trips or to publicly condemn human rights violations. For example, after the public executions of 47 people in Saudi Arabia in January 2016, activists called upon Foreign Minister Frank-Walter Steinmeier (Social Democratic Party, SPD) to cancel his participation in the Janadriyah Festival in Riyadh in early February. Steinmeier refused, explaining that it was the job of Germany’s top diplomat to continue talking with difficult partners. In response, Norbert Röttgen, chairman of the Committee on Foreign Affairs in the German parliament and a member of the Christian Democratic Union (CDU), said that the question was not whether Steinmeier should continue talking, but whether it was acceptable to stay quiet in public. Röttgen criticized the German tradition of silence in the face of human rights violations and demanded that German foreign policy take on a new tone (Röttgen 2016). While the balancing of different foreign policy priorities inevitably must be made on a case-by-case basis, notably vis-à-vis influential players such as rising powers, this episode shows that Germany is struggling to define a clear approach towards human rights – a debate, intensified in recent years, that is not neatly divided along party lines.

In a representative survey conducted in 2014, 66 per cent of German citizens said human rights promotion is a “very important” priority in foreign policy, and another 27 per cent said it is a “rather important” priority. Only 1 per cent found human rights to be “irrelevant,” and 6 per cent “not important” (Körber Stiftung 2014). These figures indicate a strong leaning towards human rights, but they say nothing about what Germans consider an effective strategy of human rights promotion. It is far from clear whether the German

² See Braml, Merkel & Sandschneider 2014 for a collection of essays by German policymakers on how to deal with authoritarian powers.

population would welcome a more public stance on human rights violations if such a stance were to threaten trade relationships and, ultimately, German jobs and wealth.

The German parliament remains satisfied with hosting a formal debate on German human rights policy every two years only. What is more, this debate mixes international and domestic human rights challenges and does not go into detail on foreign policy. The German government's human rights strategy, action plan, and report to parliament (Auswärtiges Amt 2014a) all mix domestic and international challenges until it is difficult to tell which challenges belong to which sphere. German policymakers and even German human rights NGOs should stop mixing their own domestic human rights agendas with international human rights challenges. To improve Germany's human rights promotion in a multipolar world, the German human rights debate needs, first and foremost, a clear focus on human rights promotion abroad, including on how to approach violations by rising powers and how to respond to authoritarian learning and counter-strategies, including collaboration by which they shield themselves against criticism.

Other states are arguably more alert to Berlin's human rights positions than domestic audiences are. In non-attributable conversations with one of the authors, German ambassadors reported that their interlocutors increasingly look to Berlin rather than Brussels to understand the European Union's red lines. Today, Germany cannot simply hide behind EU common positions. And while there exist EU country strategies on human rights promotion, these are consensus documents; as a result, they mention too many goals and thus fail to prioritize. Decisions in daily diplomatic practice are left to ambassadors. As the China case demonstrates, Germany is prepared to occasionally stick out its neck even when other European members stay quiet, but it continues to prefer a common European approach, not least because European unity limits the risk of negative repercussions. When human rights violations are condemned jointly by the EU, rather than bilaterally by individual member states, diplomatic or economic counter-measures are less likely. Therefore, even as German foreign policy may become more independent from Brussels in the future, it is in the long-term interest of Berlin to promote a common European approach to human rights. More often than not, however, the EU remains divided when it comes to the human rights violations of rising powers. The German Foreign Ministry could do more to steer the EU towards greater unity in human rights promotion, away from a low common denominator and towards clearer red lines.

German human rights diplomacy vis-à-vis China

Until the mid-2000s, Germany was at the forefront of downplaying human rights violations in the People's Republic of China (PRC) (Kinzelbach 2015: chapters 2–5). In 1995,

then Chancellor Helmut Kohl committed the taboo of visiting the People's Liberation Army (PLA) – the first Western head of state to do so since the Tiananmen massacre in 1989. Many German observers criticized the decision. Matthias Nass, China expert at the German weekly *Die ZEIT*, wrote: “Ever since the Tiananmen massacre, the people's liberation army is, for many Chinese, no longer an army of the people. It is not the task of the German Chancellor to rehabilitate it” (Nass 1995). Meanwhile, German correspondent Peter Seidlitz speculated about the economic interests behind Kohl's visit, which included “a big business delegation including the bosses of Siemens, Volkswagen, Krupp, Thyssen and Lufthansa” (Seidlitz 1995).

In 1996-97, Germany and a few other EU member states opposed the joint EU-United States sponsorship of a United Nations resolution on the human rights situation in China. Human rights activists perceived economic interests behind the decision (Human Rights Watch 1997).

In 1999, when the US asked the EU to support a UN resolution in response to the crackdown on the China Democracy Party and the persecution of Falun Gong followers, Germany opposed. In the seat of the rotating EU presidency, Berlin steered the EU away from the US proposal. Instead, then German Chancellor Gerhard Schröder initiated a Sino-German rule-of-law dialogue. Unlike the bilateral human rights dialogue, which is led by the German Commissioner for Human Rights Policy and Humanitarian Aid and supported by the Ministry of Foreign Affairs, the rule-of-law dialogue is led by the Ministry of Justice and focuses on a range of legal subjects, including commercial law. In a 2011 interview with a German daily newspaper, Zhang Sizhi, one of the PRC's oldest and most prominent lawyers, called the dialogue a waste of taxpayers' money: “This has been going on for more than ten years. But instead of improvements in our judicial system, it currently rather deteriorates” (Bartsch 2011).

The same holds true for the human rights dialogue between Germany and China. No detailed study on these talks exists, but we do know that they are structured similarly to the EU-China human rights dialogue, which has not proven itself an effective model. Confidential dialogues have actually helped the Chinese government keep criticism of its human rights violations out of the public domain, and they failed to engender specific human rights improvements (Kinzelbach 2015). A major impediment is the fact that the Chinese interlocutors – mainly from the Chinese Ministry of Foreign Affairs and Ministry of Justice – are overruled by the domestic security apparatus. By now, the German side knows full well that the Chinese party-state takes neither the human rights dialogue nor the rule-of-law dialogue seriously. But Berlin remains committed to the ritual, not least

for lack of a more compelling, alternative mechanism through which to express concerns and recommend human rights reforms.

While overall consistent, Germany's engagement with China has experienced some notable shifts. One such shift was the 2005 election of Angela Merkel (CDU) to the post of German Chancellor. Merkel has taken a more principled stance than her predecessors have. She has repeatedly raised human rights concerns with Chinese leaders and even met with the Dalai Lama. In a departure from the climate fostered by her predecessors, Helmut Kohl (CDU) and Gerhard Schröder (SPD), German diplomats can now credibly warn their Chinese interlocutors that human rights concerns will come up during official summits, in the event that they cannot be resolved at a lower level. This has occasionally led to greater cooperation from Chinese diplomats, who want to keep human rights concerns out of high-level talks.³

Another important shift is the German business sector's growing concern about developments in China. It is worried not only about the protracted economic slowdown in China, but also about the limits to rule of law and the lack of reform impulses. In June 2015, Jörg Wuttke, President of the European Union Chamber of Commerce and one of Germany's most experienced entrepreneurs in China, called the PRC National Security Law too broad and its definition of national security "so extensive in both wording and scope that we are in effect looking at a massive national security overreach" (European Union Chamber of Commerce in China 2015). In an interview with *The Washington Post*, Wuttke also stressed that China's proposed NGO law "doesn't fit in with the opening up of the economy" (Denyer 2015). While we do not want to imply that the German business sector has become a champion of human rights in China, it would be inaccurate to depict it as invariably negligent.

Germany's engagement policy entails not only trade and diplomatic talks, but also cooperation projects that are mostly implemented through Germany's political foundations, which are associated with Germany's political parties. The foundations are independent from the government, but funded through German taxes proportional to a given party's election results. China's new Overseas NGO Law would affect these foundations by subjecting their grantmaking to the supervision of Public Security Departments under China's State Council. Indeed, German foundations that fund human rights projects are increasingly alarmed by the shrinking space and concerned about the safety of their partners in China. For example, in April 2015, Guo Yushan and He Zhengjun from Transition Institute, a Chinese economic and social policy think tank, were arrested for alleged "illegal business activity". As part of the investigation, the Beijing Public Security Bureau

3 Non-attributable interview with a German diplomat in October 2014.

publicly singled out the Heinrich Böll Foundation (affiliated with the Green Party) and the Friedrich Naumann Foundation for Freedom (affiliated with the Free Democratic Party, FDP) among the foreign funders of Transition Institute (Zeng 2015).

During her trip to China later that year, Merkel reportedly voiced concerns about the draft law in her conversations with Chinese leaders. Her messages, while important, are not enough. Given the increasingly repressive environment in China, Germany should reconsider its own regulations for providing financial assistance to civil society organizations abroad. Where an independent civil society is under threat, and official transfers no longer possible, Germany needs operating procedures that are more flexible – including, where this is the only option, undocumented cash transfers. German foundations should also make sure to only fund independent NGOs, and not those set up by the party-state as a Potemkin village. By working with government-sponsored institutions like the China Foundation for Human Rights Development (with which the SPD-associated Friedrich Ebert Foundation holds a regular human rights dialogue), Germany makes itself complicit in the marginalization of independent human rights organizations in China.

Berlin may have a long track record of opposing loud European responses to human rights violations in China, but today, it is conspicuously one of the very few EU member states willing to make public statements. On International Human Rights Day in 2015, for example, the German ambassador published a critical statement about China – in sharp contrast to the apologetic stance of the United Kingdom, which had announced a golden era in Sino-British relations a few weeks earlier. Notably, however, the German statement did not only criticize; it also acknowledged that Gao Yu, a journalist convicted for disclosing state secrets, had been permitted, on humanitarian grounds, to serve her sentence outside of jail. Christoph Strässer (SPD), the German government's Commissioner for Human Rights Policy and Humanitarian Aid, had made repeated efforts in this particular case because of Gao's affiliation with the German broadcaster *Deutsche Welle* (Deutsche Botschaft Peking 2015).

A month later, the German ambassador Michael Clauss issued another strongly worded statement. This time, Germany criticized the detention and public parading on TV of Swedish and British citizens in China who had been detained for different reasons: one had given support to Chinese human rights lawyers, and the others were associated with a Hong Kong publishing house that regularly publishes books on alleged scandals involving Chinese leaders. In a highly unusual move, the ambassador's statement insinuated that China had breached the Vienna Convention on Consular Relations and made clear that Germany sided with European partners that were directly affected. "Legal guarantees on due process such as the free choice of a defense lawyer, access to the detained

person by such a lawyer and a fair trial have to apply to our citizens as they must apply to any citizen of China,” Clauss said. “Violations of these principles, if confirmed, would mean a new quality” (Deutsche Botschaft Peking 2016).

Both of these statements were carefully worded to avoid hurting Germany’s relationship with China beyond repair. Nevertheless, they are strong indications that Germany no longer refrains from issuing public criticism. They also show that the German media can shape government action on individual cases, and confirm that Germany continues to see the value of a common European position.

Last but not least, it is important to understand what Germany is *not* prepared to do. German criticism of China’s human rights violations remains isolated from other policy fields, thereby limiting its impact on Beijing’s cost-benefit calculations. The arrests of some 300 Chinese *weiquan* (rights defence) lawyers since 9 July 2015 offer a case in point. On 13 July 2015, German Minister of Justice Heiko Maas (SPD) called for their immediate release in a Facebook post, which is a strikingly informal venue for such a call (Maas 2015). That same day, German Vice Chancellor and Minister of Economic Affairs Sigmar Gabriel (SPD) was scheduled to travel to China with a high-ranking business delegation – and he went ahead, despite the news of the arrests. Gabriel ended up voicing fairly abstract criticism in the Great Hall of the People, such as the idea that Chinese society needed “air to breathe” (Heide & Scheuer 2015).

German politicians and businesspeople never tire of stressing the importance of rule of law for flourishing trade and investments, but they do not make trade conditional on functioning rule of law, and they certainly are unprepared to incur the diplomatic or economic costs of demanding human rights compliance. Based on what could be observed, Gabriel did not consider postponing his trip or negotiating any releases. In effect, his official visit, conducted at the high point of the arrests, reassured Beijing that even the most flagrant of their persecutory behaviour will not put Sino-German relations at risk.

German human rights diplomacy vis-à-vis India

Unlike China, India is a democracy. Accordingly, the human rights situation differs significantly. Although democracy correlates highly with the protection of human rights, a democratic system does not guarantee their full realization, as the case of India demonstrates. The country has seen widespread violations of human rights (Beer & Mitchell 2006) as well as impunity in response to violence against minorities by the police and by armed forces, especially under legislation such as the Armed Forces (Special Powers) Act

(AFSPA). What is more, pervasive poverty and inequality critically undermine the rights of Indian citizens (Human Rights Watch 2015).

Germany pursues a “low key” approach to human rights violations in India, largely because of its democratic credentials, and because India has a vigilant media and civil society as well as a proactive judiciary. Germany does closely monitor some of the more sensitive human rights issues in India, but it prefers to work on issues identified by the Indian government as requiring technical support or capacity development assistance.⁴

There was no perceptible shift in Germany’s approach after the 2014 election of Prime Minister Narendra Modi, despite his controversial human rights record. Like many other international actors, Germany views the election of the Modi government – with its agenda of development and of attracting foreign investment – as an opportunity to strengthen ties with India. Moreover, there continues to be a strong sense in Berlin that stepping up pressure and shaming the Indian government on human rights violations would not be a suitable or effective course of action.

Human rights are not a priority in bilateral talks, but select issues do get consideration. These issues are typically those that “get the most coverage in German media and the public sphere,”⁵ including child labour, violence against women, and freedom of religion (especially the rights of Christian minorities and, to a lesser extent, Muslim communities). For instance, the German embassy has been funding a campaign led by local NGOs against female foeticide and gender-based violence in India. While important, a focus on these issues comes at the expense of others that are more prominent within the Indian debate, such as caste-based discrimination, particularly against Dalits, and the violation of social and economic rights of communities displaced by large-scale development projects.⁶ For instance, Dalit activists reportedly have been trying to lobby the German government to apply pressure and often have been denied support, since their case is considered a “domestic” issue. Instead of seeking to primarily address the priorities of German citizens, a more effective German human rights diplomacy would focus on human rights issues that have already mobilized Indian civil society, thereby acknowledging local demand and supporting domestic change agents. It also means that Indian human rights activists should more actively try to influence the debate within Germany – in the event that they consider German attention helpful for their cause.

4 Confidential interviews with German officials in January 2016.

5 Interview with the speaker of the India co-group at the German Section of Amnesty International in January 2016.

6 Interviews with the speaker of the India co-group at the German Section of Amnesty International and Delhi-based NGOs in January 2016.

Some of the more controversial issues from the Indian debate were raised by the German government only at the multilateral level. Here, it occasionally uses mechanisms like the UN's Universal Periodic Review (UPR) to question the Indian government's legislation – for example, in May 2012, it tabled a question on the Armed Forces (Special Powers) Act and the Foreign Contributions Regulation Act (FCRA).⁷ The first law deals with special powers given to the Armed Forces in areas facing insurgencies, such as Kashmir. The latter seeks to impose restrictions on foreign funding to NGOs in India, which would negatively impact German political foundations operating in the country. Although the UPR procedure at the UN in Geneva allows not only for the tabling of questions, but also for the formulation of specific recommendations, Germany refrained from doing so, forgoing an opportunity to take a clear stance on the shrinking space for domestic NGOs and their international partners in India.

In the UN Human Rights Council, Germany's collaboration with other democratic rising powers like Brazil has been fairly successful. India, on paper, would also make a good partner in this forum. Germany and India have declared themselves “natural partners” with common values and a common interest in an international order based on principles of democracy, human rights, peace, and security (Auswärtiges Amt 2000). However, since India emphasizes not only human rights, but also non-interference as the guiding principles of its democracy (Stephen 2015), it is reluctant to hold other states accountable – not least because the Indian government faces a number of human rights issues in the domestic arena. Germany perceives India's insistence on sovereignty and non-interference to be stronger than that of most other rising powers, and as far as we can ascertain, there are no efforts underway from either side to forge closer collaboration on human rights at the multilateral level.

Given the coordination of authoritarian governments and the declining influence of European states in UN human rights bodies, it is an opportune time to reconsider the notion that India's non-interference policy prohibits any collaboration. Berlin could start by exploring opportunities for joint sponsoring of thematic human rights resolutions, particularly on issues that align with Indian priorities. Given that the public discourse in India is overwhelmingly focused on internal affairs, international human rights issues with linkages to domestic politics – e.g., labour rights, the treatment of overseas diaspora, the freedom of the press – would be more conducive to getting New Delhi's cooperation. While Germany and India have thus far not developed strategic collaboration in UN human rights bodies,

7 Office of the United Nations High Commissioner for Human Rights (OHCHR) (2012) 'Universal Periodic Review Second Cycle – India, Questions submitted in advance', UN Doc: A/HRC/WG.6/13/IND/1. Available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/INSession13.aspx>.

their votes have coincided on some issues in the past – for instance, the right to water and sanitation, which is a priority for Germany. This relatively non-controversial issue, as well as common positions on other economic, social, and cultural rights, could be used as a foundation for greater cooperation. Moreover a change in India’s usual reluctance to take a stand was visible in its support for the Human Rights Council resolutions on Sri Lanka (Ganguly 2013) which might signal a change in policy that creates an opportunity for Germany to engage with the country at the multilateral level.

In India, German political foundations arguably play a greater role in human rights promotion than the German embassy (though the latter does regularly meet with human rights defenders, in line with EU guidelines). The foundations are important because they often take up issues deemed “too sensitive” by the German government.⁸ For instance, the Heinrich Böll Foundation works on violations in the context of large-scale development projects, a realm where protestors have come under increasing pressure from the Indian government. And in 2008, the Friedrich Naumann Foundation supported the National People’s Tribunal on Torture, which exposed the widespread use of torture and impunity by the police and other law enforcement agencies in the country.

The foundations provide crucial support through funding and by addressing a wider range of issues than the German government, but their reach is limited. Not only are they limited in geographic and financial terms, but they are also impeded by the aforementioned Foreign Contributions Regulation Act. In interviews, staff members of German foundations working in India emphasized that it was impossible to support grassroots organizations in rural areas because these groups are usually not formally registered. Registration is required under the FCRA and is possible only after an organization has existed for more than three years; effectively, this means that grassroots organizations are off-limits as partners for German political foundations. Moreover, the foundations themselves had to reregister under the new rules, a time-consuming and ongoing process that involves the submission of extensive information on the foundations and their governing boards.

Although the shrinking space in India’s civil society sector is by no means comparable to the highly repressive situation in China, the German foundations that are active in India operate in a climate of uncertainty. At their request, the issue was raised at the German-Indian Intergovernmental Consultations in 2015, and the resulting joint statement acknowledged the important contributions made by Germany’s political foundations (German Missions in India 2015). While this official backing is encouraging, it remains unclear whether and how German political foundations – whose mandate is not limited to

8 Non-attributable interviews with German officials and foundation staff in January 2016.

human rights promotion – will adjust their project portfolios in the future. While restrictions on foreign funding in India are not new, the more recent FCRA (2010) and the subsequent process of reregistration have placed additional limitations on the promotion of human rights through project-based cooperation. According to our assessment, German foundations have become more cautious and, in some cases, engage in self-censorship, rather than demonstrating steadfast determination to exhaust the written rules in support of Indian human rights defenders. In this context, it is important to stress that Germany's political foundations act independently of the German government. The foundations are proud of their independence and intent on maintaining it. In the specific case of India, there was even a debate among German foundation staff about whether they should ask for political backing ahead of the intergovernmental consultations in 2015. In the end, they decided to ask for support, and the German government responded in the affirmative. The operational cautiousness described above is not due to a lack of support from the German government. In our reading, it is the result of operational decisions within the foundations, and these are mostly day-to-day decisions taken in the country offices, rather than strategic choices made at foundations' headquarters back in Germany.

Conclusion

Berlin's position on human rights violations by rising powers matters more than ever before. This relatively new development is the result of Germany's ability to shape common European positions as well as its own diplomatic and economic weight. Berlin's influence comes with not only greater responsibility, but also risks for its goal of expanding strategic partnerships with the "powers that shape [the world]". A public stance on abuses can backfire and burden bilateral relationships, for most governments of rising powers object to human rights monitoring as interference in domestic affairs. We argued that trade is only one factor determining Germany's guarded approach. Strategic partnerships with rising powers cover many policy fields, and Berlin views these partnerships as too important to risk creating conflict over differences on human rights.

In policy and practice, German politicians across party lines have long been hesitant to criticize human rights abuses in public, and many view public statements as unhelpful grandstanding. Particularly vis-à-vis democratic nations like India, public criticism is not considered an appropriate or effective course of action. And while some policymakers in Berlin recognize the ineffectiveness of the dialogue-rituals with China, they are nevertheless largely considered the best available option. In our assessment, Berlin's pronounced belief in the virtue of engagement has too often led to accommodative stances and to public silence. As the rising powers continue to rise, their domestic human rights ten-

sions are due to increase. Such a scenario will pose significant challenges to Germany's preference for confidential dialogue.

We also argued that Berlin's stance on human rights violations is significantly shaped by what catches the interest of the German public, rather than by civil society debates in rising powers. Thus far, Germany has faced little pressure and condemnation from international human rights NGOs, which have focused more on the European Union than on Germany. With Berlin's increased influence in Europe and, arguably, the world, however, its tradition of public silence in response to human rights violations will face increasing criticism. Nevertheless, we predict that in the absence of massive human rights crises in rising powers, the German government will continue to engage in non-conditional dialogue and technical cooperation, and it will be difficult to convince decision-makers in Berlin that public shaming, leverage, and issue-linking, as well as democracy promotion, are important tools for the protection of human rights.

The only actors that can push Germany towards a more outspoken stance on human rights violations are domestic civil society groups and dissidents in rising powers. To better understand how rising powers will shape the world, and whether or not they can be true "strategic partners", German foreign policy makers should take the domestic debates within rising powers – notably the civil society debates – more seriously. German cooperation projects should step up support for independent change agents, not for those in power. Where necessary, and with the required circumspection to avoid unintended harm, German political foundations should be allowed to use more flexible means to support small, unregistered grassroots organizations, especially in rural areas, as well as human rights organizations that are under pressure.

Although we are convinced it is critical to ensure that civil society actors from rising powers make their voices heard in Germany, we also believe that the German human rights community – and the international human rights community at large – could be more involved in German foreign policy debates and networks.

While German human rights NGOs are well-organized among themselves, such as in formal coalitions like the Forum Menschenrechte, their influence on foreign policy remains limited overall. Human rights NGOs have regular interactions with the Foreign Ministry – in particular, the human rights unit and the office of the human rights commissioner, in addition to occasional official meetings with the Foreign Minister. Such consultations are important, but informal contacts and discussions – including with diplomats who are not responsible for the human rights portfolio – matter even more. Unfortunately, human rights experts are hardly represented in Germany's foreign policy networks at the moment.

To overcome this divide, both communities need to open up. Only then can Germany meet the challenge of developing a principled and effective human rights policy in a multipolar world.