

Germany: “Human Rights in Times of Terror” by Rolf Gössner

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20 August 2007

Rolf Gössner, *Menschenrechte in Zeiten des Terrors—Kollateralschäden an der “Heimatfront”* (Human Rights in Times of Terror—Collateral Damage on the “Home Front”), Konkret Verlag, Hamburg: 2007, 288 pages, €17

Human Rights in Times of Terror provides a comprehensive and detailed overview of the numerous restrictions and attacks on democratic rights that have taken place in the name of the fight against terrorism in Germany since September 11, 2001.

The author, Rolf Gössner, is an attorney, journalist and president of the International League for Human Rights. He has published numerous works dealing with the anti-terrorism laws and the role of the secret service and the police, and has often appeared for the defence and as co-plaintiff for the victims of police and judicial abuse.

The abundance of material presented by Gössner gives an insight into the frontal attack on fundamental democratic rights and the increase in state powers in Germany over the past six years.

However, one searches in vain in Gössner’s book for an analysis of the causes of this development. This weakness is already expressed in the title of the book. The term “collateral damage” is obviously meant ironically—it is the cynical phrase used by the authorities for the countless civilian victims of the wars in Iraq and Afghanistan. However, this term gives the impression that the massive increase in state powers is merely the result of a disproportionate, exaggerated reaction to September 11—a reaction that is sharply rejected by Gössner.

Gössner even goes so far as to claim that the “tendency for simple solutions and authoritarian policies in the fight against crime that exists in large parts of the population” is jointly responsible for the comprehensive stepping up of state powers. The population’s desire to “feel secure,” he maintains, is excessive and insatiable—“As insatiable as the security services....”

Thus he misinterprets what in other places in the book he at least suggests: that there are different motives for the most comprehensive attacks on fundamental democratic rights in the history of postwar Germany. The ruling circles are preparing for the social conflicts that will inevitably result from the increasing social inequality and mounting militarism.

Otherwise, how can it be explained—as Gössner points out in his book—that much of the new security legislation and measures are ineffectual in preventing terrorist attacks, but are aimed at wide layers of the population and can be used against a political and social opposition?

In only one place does Gössner carefully suggest this connection. “The preventive security measures of the state, as have been developed over a long time, seem to be growing to the same extent that the welfare state is being run down,” he writes, and asks: “Or is it primarily a matter of preventive crisis management and the preservation of power?”

Gössner, however, draws no conclusions from this and remains without any perspective. From whom does he expect resistance to this increase in the state’s powers and the dismantling of democratic rights? Surely not

from a population whose desire to feel secure he considers “insatiable.” All that remains are appeals to the reason of liberal elements in the ruling elite, in the state apparatus and in the judicial system. But these liberal elements have grown extremely thin in Germany, as Gössner should know from his own experience. They will further evaporate to the same degree that social conflicts intensify.

In the 1970s, the Social Democratic Party (SPD) conducted elections under the (false) slogan of “more democracy.” From 1998, under Chancellor Gerhard Schröder and his interior minister, Otto Schily, the SPD led the way in providing the state with increased powers. The same applies to the Green Party, which once advocated democracy and pacifism. And as for the Free Democratic Party (FDP), the only thing “liberal” about the party is its adherence to the free market.

The defence of democratic rights is inseparably bound up with the fight for the socialist reorganisation of society through the mobilisation of broad social classes. Historically, democratic rights in Germany were a product of the class struggle conducted under the leadership of the SPD when it was still a Marxist party. After the failure of the bourgeois revolution of 1848, the bourgeoisie and petty bourgeoisie made their own peace with the authoritarian state, but there is no mention of such historical issues in Gössner’s book.

In autumn 2001, and at the beginning of 2002, the SPD-Green Party government passed two anti-terrorism law packages in record time. Their consequences affect all sections of society.

Gössner was questioned as an expert witness by the Bundestag (parliamentary) committee on legal affairs regarding the first anti-terrorism package. He refused to appear for the second one, because he considered it an unreasonable demand to provide an “expert examination in just a few days of the civil liberty implications of over 120 pages of convoluted arguments imposing dramatic reductions in fundamental rights.” A thorough and serious examination of the issues was not possible in such a short time. In the hasty proceedings, Gössner sees the “disdain for parliament and parliamentary deputies.”

Many of the measures that were decided under the pretext of the fight against terrorism were then used for entirely different purposes. For example, the examination of bank accounts by tax offices and the social welfare agencies was used “to check up on taxpayers and those receiving welfare benefits.” “The number of bank accounts that have been investigated runs into the millions.”

Every major event, like the soccer World Cup last year, is used as a gigantic anti-terrorism exercise. The RFID (Radio Frequency Identification) chips built into the tickets meant that visitors to the games had to accept the restriction of their individual rights and provide detailed personal data when they purchased their ticket. More than 250,000 people who worked as part of the World Cup events had to undergo a police and secret service security examination.

Last autumn, the grand coalition government of the Christian Democrats (Christian Democratic Union-CDU/Christian Social Union-CSU) and

SPD extended the temporary measures contained in the old laws by a further five years and passed additional measures—the so-called counterterrorism auxiliary law. Among other things, it expanded the powers and authority of the secret services. The previous separation between the police and secret services was practically abrogated.

For Gössner, these laws have broken a taboo, which is of special significance when seen against the background of German history.

While ignoring the presumption of innocence, an “ever-expanding preventative strategy” regards “people as (potential) security risks and security as a super-fundamental right.” The institutionalised collaboration of the police and the secret services, as well as a more intense exchange of data, contradicts “the constitutional requirement for a separation [of these two arms of the state], a consequence of the bitter experiences with the Gestapo during the Nazi period,” which should prevent “an uncontrollable concentration of power of the security apparatuses.”

A further taboo that has been broken is “the militarisation of domestic security, at the centre of which is the deployment of the armed forces within Germany, something which has long begun.”

Gössner also submits the anti-terror laws from the 1970s—implemented in reaction to the attacks of the Red Army Faction (Rote Armee Faktion—RAF) and still in force today—to a critical examination. These include paragraph 129a of the Criminal Code governing the punishability of the formation of criminal organisations and membership therein, the law banning contact in jail between those convicted of terrorist offences and the principal witness, and the prohibition of multiple defences, which have “altogether had a fatal effect on constitutional procedures and on civil liberties.” What was introduced as exceptional legislation has “long become the norm,” Gössner asserts.

Gössner dedicates a detailed chapter to the effects of the anti-terror laws on foreigners and refugees.

Even before September 11, 2001, foreigners and refugees were subjected to intensive monitoring and examination by the security authorities. At the beginning of the 1990s, the fundamental right to asylum was so severely limited it was practically abolished.

Also from this period, the central register of aliens was developed into a database of all foreigners living in Germany, their German dependents, all asylum-seekers and refugees, as well as all persons “for whom a decision was made for or against their residency,” those who should be denied entry at the German border or about whom there are “doubts” regarding their entry into Germany.

Practically all state authorities have access to this central register of aliens: social welfare agencies and law enforcement agencies alike, the police and secret services. The routine recording of identification data and the storage of the fingerprints of all asylum-seekers and refugees on entry into Germany placed and places them practically under a general suspicion. The recording of biometric data on passports is now being gradually expanded to the entire population.

“Even if the anti-terror laws more or less affect all German citizens, nevertheless they are particularly directed against migrants, and among these, primarily Muslims and those who originate in Islamic countries,” Gössner notes. “They all are the actual losers of the state’s fight against anti-terrorism, in that the law places them under a general suspicion, declaring them special security risks and subjecting them to an increasingly rigid system of monitoring and control.”

In particular, police dragnets—i.e., wide-scale monitoring and raids without any particular suspicion or cause—are used particularly extensively against Muslims and in the vicinity of mosques. “Dragnets near to mosques usually involve hundreds of people and vehicles,” writes Gössner. “From 2003 to the end of 2005 alone in Lower Saxony, 14,000 people and 6,000 vehicles were monitored.”

In another place, he notes: “There is an enormous social pressure on Muslims and their communities to justify themselves and to dissociate

themselves from terrorism, particularly after a new terrorist attack, such as in London or Madrid—as if all Muslims were being held responsible for what ‘Islamists or Islamist terrorists do or plan,’ as the criticism runs of the chairman of the Central Council of the Jews, the now-deceased Paul Spiegel. And the often expressed demand from politicians and Christian churches that Muslims should cooperate more fully with the security services and report everything and everybody suspicious from within their community is not at all far removed from the demand for permanent denunciations.”

The dragnet fails completely in its alleged goal, the uncovering of so-called terrorist sleepers. A general trawl through electronic personal data for possible suspects is undertaken according to certain search criteria. “In North Rhine-Westphalia alone, the records of approximately 5.2 million people were searched, leading by mid-November 2001 to more than 11,000 cases being handed over to the Federal Bureau of Criminal Investigations; in the end, eight men were placed under close police observation, without any criminal proceedings resulting.”

Several sections of the book deal with the discriminatory naturalisation process for foreigners and the “guidelines” introduced in Baden Württemberg. This includes more than 30 questions, which those seeking to become naturalised must answer to the satisfaction of the respective official in order to gain German nationality.

Under the new immigration law of 2005, all applicants for German citizenship must complete a routine questionnaire for the secret services. In other words, the authorities responsible for naturalisation inquire from the secret service whether there is any information indicating anti-constitutional activities on the part of the person seeking naturalisation. It is clear that this procedure offers enormous scope for the authorities to act in a completely arbitrary manner.

Particularly hard hit are those who have suffered political persecution for their activities in oppositional organisations in their home country and who are seeking asylum in Germany. Depending on the vagaries of international diplomacy, they can find themselves on a United States, European Union or United Nations “terrorist list.” They are deemed to be potential terrorist suspects, which can threaten their very existence.

A further pernicious measure is the policy of “deportation-ready on demand,” or the revocation of asylum as an anti-terrorism measure. People entitled to asylum, who have often lived in Germany for many years, are again denied asylum.

Here also, Gössner provides some frightening figures: “While at the end of the 1990s nationwide there were barely 600 cases annually of asylum being revoked, in the year 2000 it was about 2,000 cases, but by 2003 it was over 8,000 and by 2004 was more than 18,300—an 800 percent increase in only six years. In 2005 and 2006, there were around 10,000 each year. In particular, those affected were people entitled to asylum from Iraq and Turkey, from Serbia and Montenegro, and from Afghanistan, as well as from Iran—albeit in smaller numbers. This rising tendency is accompanied by a drastic collapse in applications for asylum and those being granted asylum.”

The revocation of asylum also means the withdrawal of a residency permit. This weakens the protection of those concerned from being handed over to the state that persecuted them in the first place, meaning they constantly face the danger of torture, abuse or the effects of war.”

The terrorist lists established by the US government, the UN and the European Union following the 9/11 attacks lack any democratic legitimacy and can be exploited arbitrarily by the state.

In the Foreign Terrorist Organisations (FTO) file, the US government lists all terrorist suspects worldwide. According to the National Anti-terrorism Centre, it had grown by 2006 to include more than 200,000 people. By 2006, the UN terrorist list included more than 350 people, as well as 123 institutions, foundations and suspicious banking houses—frequently, however, without any firm proof.

The European Union terrorist list follows that of the UN Security Council. In accordance with official regulations, it forbids making available funds and other moneys to terrorists and their organisations. A decision of the European Council means that there are separate lists of individual terrorist suspects and organisations, which are published regularly in the Official Journal.

Rolf Gössner writes: “Finally, as so frequently is the case with anti-terrorism measures, we are in a legal limbo in which the harshest sanctions can be imposed arbitrarily and completely without control.” He then describes the case of a Swedish citizen of Somali origin, who was on the UN terrorist list for nearly five years without knowing why. “Since he never found out of what he was being accused, he also could not defend himself.”

Further chapters of the book deal with the growth of right-wing extremism and militarism.

Gössner describes the cases of Murat Kurnaz and Khaled El Masri, who were the innocent victims of the fight against terror and the close cooperation of the SPD-Green Party government and the US administration in the field of secret intelligence.

The book concludes by looking briefly at the new military doctrine and the transformation of Germany’s armed forces from a defensive force into an army of intervention. “The fight against terrorism has not only blurred the distinction between domestic and foreign policy and between defence and intervention, but has also weakened all principles of restricting the military and subordinating it to the constitution and international law—whether in NATO, the European Union or the German armed forces.”

Here, it is mainly a matter of using military force to secure economic and political interests. Europe is striving to develop itself as a military great power parallel to, but “in a distinctly alternative manner to the US,” writes Gössner.



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