



German Institute  
for Human Rights

# ANNUAL REPORT 2016



When we look into the faces of the elderly, we are looking into our own future. We learn that ageing is a law of nature and follows the universal principle of constant, irreversible change. Aging ends only when we die; this is good because without decay there would be no becoming, life would not be so precious. But it is our attitude and our judgments that make old age be something positive or something frightening.

From the foreword to "100 Jahre Lebensglück", Knesebeck 2017.

Karsten Thormaehlen

Karsten Thormaehlen has been photographing centenarians and listening to stories from their long lives since 2006. His award-winning portraits reflect the life experience of their subjects, their dignity, their zest for life, but also their vulnerability. He sees his work as calling on people to keep adjusting their habits and routines, and as an appeal for fulfilled and happy ageing.

The exhibitions and photography books that built the Frankfurt photographer's internationally reputation, "100 years of happiness" (2017), "Silver Heroes" (2012), "One hundred still dreams" (2011) and "Century Man" (2008), challenge the, usually negative, images of the elderly found in economically oriented societies and focus on encouraging and hopeful attitudes and perspectives on the last stage of life.

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## PREFACE

Those who seek to realise human rights for everyone in their own country have to know where the needs for action on human rights lie. Accordingly in December of 2016, the German Institute for Human Rights submitted a report on developments in the human rights situation in Germany. This was the first of the annual reports with which the Bundestag had tasked the Institute under legislation on the Institute's legal status and mandate the previous year. Well received in political and public circles, the human rights report was discussed in the plenary debate of the Bundestag on Human Rights Day and in many committees and was widely covered in the media. There was broad approval for our nuanced approach to the issue of refugees – a issue which dominated the reporting period, 1 January 2015 – 30 June 2016. The annual human rights report is an important addition to the many studies and statements that the Institute presents to the Bundestag and discusses in hearings there. We hope that the Bundestag will take up the findings from the 2016 human rights report once again after the 2017 parliamentary elections.

Human rights are part of the underpinnings of our state. The Institute was therefore joined with Forum Menschenrechte, the Federal Foreign Office, the Federal Ministry of Justice and Consumer Protection in October 2016 in celebrating the 50<sup>th</sup> anniversary of the two central human rights treaties of the United Nations: the International Covenant on Economic Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). The two Covenants embody the common values of humanity and constitute the foundation for the global system for human rights protection. Even for Germany, with its sophisticated regime for the protection of basic rights, the two Covenants are of great relevance, reminding us as they do that our basic rights are not subject to the whim of the legislature. At the celebration, around 300 people, politicians, scholars, members of the diplomatic corps and members of civil society, discussed the Covenants' significance and current human rights challenges. In their addresses, Zeid Ra'ad al Hussein, UN High Commissioner for Human Rights, and Dr. Frank-Walter Steinmeier, German Foreign Minister at that time, emphasised how vital it is, even in stable democracies, to reaffirm human rights every day. They reminded us that doing so involves more than declaring a commitment human rights. We must take human rights seriously as a standard for and a limit on state conduct, and make the values underlying them part of daily lived experience.

It is essential to establish and reinforce a culture of human rights of this kind in all areas of policy and life – particularly in times of uncertainty brought on by global changes and the threat of terrorism. Human rights counter the illusion of absolute security and closed borders with an assertion of faith in the creative powers of democracy, under which the public can participate in the search for appropriate solutions in myriad ways, and the human rights of everyone, including disadvantaged and marginalised persons, are taken properly into account.

The strength of a constitutional democracy lies in fact-based debate and the careful weighing of political decisions, including and especially with respect to human rights. The Institute contributes to these processes through its research and advising activities and through its human rights education. Our annual report affords an overview of this work and spotlights a few areas as examples. We hope you enjoy reading it, and that you find its content thought provoking.

Prof. Dr. Beate Rudolf  
Director

Michael Windfuhr  
Deputy Director

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## 2016 IN REVIEW

### January

#### **Discussions with the director of the EU Agency for Fundamental Rights at the Institute**

Michael O’Flaherty, the newly appointed director of the EU’s Fundamental Rights Agency, visited the Institute to discuss the refugee admission requirements in Germany, the situation of particularly vulnerable groups, the impact on the right to access asylum procedure of recent changes in the law, as well as recent developments at the EU level.

### February

#### **Safe countries of origin?**

In a statement on the Federal Government’s draft legislation classifying Algeria, Morocco and Tunisia as safe countries of origin, the Institute wrote: “The 1951 Refugee Convention and the European Convention on Human Rights guarantee everyone who is seeking protection against serious human rights violations the right to access an asylum procedure in which the application for protection will be examined individually and without bias. Thus the outcome cannot and must not be determined until official or judicial proceedings have been held. On the basis of UN reports on the human rights situations in the three countries at issue, the Institute considers the classification of these countries as ‘safe countries of origin’ to be incompatible with the requirements relating to asylum procedures arising from human rights and refugee rights.

### March

#### **Beate Rudolf elected to chair GANHRI**

Beate Rudolf, the Institute’s director, was unanimously elected chairperson of the Global Alliance of National Human Rights Institutions (GANHRI) in Geneva. On this occasion, she pointed out that: “the need for a strong voice for human rights everywhere in the world is particularly acute right now. It is apparent just how essential this is as governments grapple with displacement, refugees and migration, and civil society organisations in Europe and around the world face increasing restrictions. National Human Rights Institutions, as independent bodies, have a special responsibility to remind their states of their human rights obligations.”

### April

#### **Michael Windfuhr elected to UN treaty body**

EcoSoc, the UN Economic and Social Council, elected Michael Windfuhr, the Institute’s deputy director, to a four-year term on the UN Committee on Economic, Social and Cultural Rights (CESCR), which monitors the implementation of the International Covenant on Economic, Social and Cultural Rights worldwide.

### May

#### **National CRPD Monitoring Mechanism assesses coalition agreements**

The Institute’s National CRPD Monitoring Mechanism assessed the coalition agreements of the Länder governments following the parliamentary elections in Baden-Württemberg, Rhineland-Palatinate and Saxony-Anhalt. The question: do the coalition agreements take the central concerns of the CRPD into account? The findings: while Rhineland-Palatinate addresses equality for and inclusion of persons with disability as a cross-cutting task in many areas, the Baden-Württemberg and Saxony-Anhalt Governments do not yet assign appropriate priority to the rights of persons with disabilities in their government programmes.

## June

### **UN Special Rapporteur Heiner Bielefeldt speaks on freedom of religion around the world**

What general conditions promote the freedom of religion or belief? What are the typical problems associated with implementation in countries around the world? On 23 June, Heiner Bielefeldt, UN Special Rapporteur on Religion or Belief, spoke about the challenges associated with implementation. Heribert Hirte, Member of the Bundestag and Chair of the Stephanus Circle of the CDU/CSU parliamentary group, and Beate Rudolf, the Institute's director, welcomed more than 100 guests in the Jakob Kaiser Building of the German Bundestag.

## July

### **New sustainability strategy – Institute calls for human rights orientation**

The Institute issued a statement recommending the alignment of the national sustainability strategy with the recommendations made to Germany by UN human rights bodies. In 2015, UN member states agreed on global sustainable development goals in the 2030 Agenda for Sustainable Development. Germany plans to implement these Sustainable Development Goals through the further elaboration of the National Sustainable Development Strategy, first adopted in 2002.

## August

### **The Institute's library at the IFLA World Congress**

Libraries are powerful partners for the implementation of the 2030 Agenda for Sustainable Development. IFLA, the international library federation, emphasised this at its 82nd World Congress, which took place from 12 to 19 August in Columbus, Ohio, with more than 3000 persons from 142 countries attending. Anne Sieberns, the head of the Institute's library, participated as German member of the standing committee of the IFLA's Library Services for People with Special Needs Section. In an open event, the committee informed congress participants about the right of homeless persons to have access to libraries and information.

## September

### **The human right to education in the German school system**

How is the human right to education being implemented in the German school system? To answer this question, the Institute assessed studies on access to education from a human rights perspective and analysed the schools acts of all of the German Länder as well as the education plans of Bayern, Berlin-Brandenburg, Bremen, North Rhine-Westphalia and Thuringia with respect to freedom from discrimination. The results of the study, along with recommendations to various institutions at the national and Länder level, were presented in Berlin on 29 September.

## October

### **50 Years of the United Nations Human Rights Covenants**

Together with Forum Menschenrechte and several federal ministries, the Institute co-hosted a public conference on the significance of the two UN human rights covenants for Germany and current human rights challenges around the world. In his speech at this 3rd Berlin Human Rights Day, Zeid Ra'ad Al Hussein, UN High Commissioner for Human Rights, stressed the need for a new push to implement the international treaties, expressed his alarm at the increasing waves of racist and religious hatred and underlined the role of National Human Rights Institutions in promoting respect and protection of the rights of refugees and immigrants.

## November

### **Consultation on Complaints Procedures for Children**

On 16 November, the Institute's National CRC Monitoring Mechanism discussed access to justice for children and adolescents with over 90 representatives from Children's Bureaus and relevant associations and institutions, as well as young people from Freiburg and Berlin.

**December****Institute presents human rights report**

The Institute presented the first of what are to be annual reports to the German Bundestag about developments in the human rights situation in Germany. The report covers the period from 1 January 2015 to 30 June 2016. “The aim of this and future reports is to contribute towards ensuring that the human rights of all persons in Germany are genuinely respected and realised”, explained the Institute’s director, Beate Rudolf, at the Federal Press Conference on 7 December.

## THE GERMAN INSTITUTE FOR HUMAN RIGHTS

### **Promoting and protecting human rights**

The German Institute for Human Rights is Germany's independent National Human Rights Institution (section 1 of the Act on the Legal Status and Mandate of the German Institute for Human Rights (DIMRG: DIMR-Gesetz). It strives to ensure that Germany respects and promotes human rights domestically and in its international relations. The Institute also supports and monitors the implementation of the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child and has established monitoring mechanisms for these purposes

### **Research and advising**

The Institute carries out interdisciplinary and application-oriented research on human rights issues and monitors the human rights situation in Germany. It advises political decision-makers at the federal and Länder level, as well as courts, the legal profession, the business sector, and civil society, on matters relating to the implementation of international human rights conventions. The Institute reports to the German Bundestag and prepares submissions to international and domestic courts as well as international human rights bodies. It supports the efforts of stakeholders in the sphere of education to anchor human rights in initial and continuing education and training programmes for human rights-sensitive occupations and to design human rights education for use both within and outside of schools.

The Institute sees itself as a forum for exchange among government, civil society, research, practice, and both national and international stakeholders. It collaborates closely with the human rights bodies of the United Nations, the Council of Europe, and the European Union. The Institute is a member in the Global Alliance of National Human Rights Institutions (GANHRI), for which the Institute's director is currently serving as chair (2016–2019). It is also a member of the European Network of National Human Rights Institutions (ENNHRI).

### **Informing and documenting**

The Institute's public library provides access to research literature and periodicals relating to human rights. The library's holdings include the largest collection of human rights educational materials in Germany. With a multitude of Internet and social media offerings, the Institute provides information about human rights issues, documents the most important human rights treaties and reports on their implementation in Germany.

### **Politically independent**

A politically independent body, the Institute is committed solely to human rights. As a National Human Rights Institution, its work is based on the Paris Principles of the United Nations. The Act on the Legal Status and Mandate of the German Institute for Human Rights of 2015 governs the Institute's legal status, mandate, and funding. The Institute is structured as a non-profit association and obtains its funding from the German Bundestag; it also receives external source funding for individual projects. The General Meeting, made up of representatives of human rights organisations and human rights experts, makes recommendations concerning the principles of the work of the Institute; the Board of Trustees, whose members are drawn from civil society, academia, and the political arena, define the guidelines for its work.



**National Human Rights Institutions**

National Human Rights Institutions have been established in over 120 countries to promote and protect human rights. Their work is based on the Paris Principles. These principles, proclaimed by the United Nations in 1993, constitute the international standard for the role and the functioning of National Human Rights Institutions. Institutional independence is a central principle. The German Institute for Human Rights is in full compliance with this standard and has therefore been accredited with “A” status. Only National Human Rights Institutions that have this status have the right to speak before the UN Human Rights Council, for instance.

## BOARD OF DIRECTORS

### Interview with Prof. Dr. Beate Rudolf, Director of the Institute

**“Those who seek to realise human rights for everyone in their own country have to know where the needs for action to uphold human rights lie.”**

#### Interview with Prof. Dr. Beate Rudolf, Director of the Institute

**Last year, the German Institute for Human Rights presented a report on developments in the human rights situation in Germany for the first time. Why is such a report necessary?**

The Bundestag tasked the Institute with compiling annual reports of this kind in its legislation on the legal status and mandate of the German Institute for Human Rights, which it adopted in 2015. We see this as the expression of a basic attitude of reflective self examination at the Bundestag and thus of our parliament's understanding of itself as an institution governed by the rule of law. Because good policy requires a good knowledge base. Those who want to realise human rights for everyone in their own country – and Germany has committed itself to this aim in its constitution, the Basic Law – have to know where the needs for action to uphold human rights lie. To find this out, one has to look at the situations in which persons are living and assess the practical impact of legislation, administrative measures and policy strategies against the standard of human rights. Reporting on the human rights situation in their own countries is therefore one of the most important tasks of independent National Human Rights Institutions as defined in the Paris Principles of the United Nations, which sets the international standards for these bodies. The human rights report is an important addition to the many studies and statements that the Institute presents to the Bundestag and discusses in hearings there.

#### **A follow-up question: Are you satisfied with the response?**

Our human rights report was gratifyingly well received in political and public circles. It was discussed in the plenary debate of the Bundestag on Human Rights Day in December, and many media outlets drew on the report's content. There was widespread approval for our focus on the issue of refugees – the prevailing topic in the period under report. The Committee on Human Rights and Humanitarian Aid discussed the report in great detail with the Institute in May of 2017. The report figured on the agenda for several other Bundestag committees responsible for topics it covers, but none of those committees actually addressed it in any great depth. This was clearly due to the fact that the legislative period was drawing to a close, which meant that there would not have been time to adopt substantive initiatives to implement our recommendations.

*“Reporting on the human rights situation in their own countries is one of the most important tasks of independent National Human Rights Institutions.”*

We hope that the Bundestag will take up our findings again after the federal parliamentary elections. There is still a need for action on the human rights issues that we identified– for instance, the failure to systematically identify and care for particularly vulnerable refugees, the need to introduce and monitor adherence to national standards for the protection of refugees in initial reception centres and collective accommodation facilities, the need to review the expedited asylum proceedings with respect to due process and fairness, or the need to eliminate the exclusion of some persons with disabilities from exercising the right to vote.

Criticism of our choice of topics was also voiced occasionally. This should come as no surprise. An annual report is only able to capture a fraction of the important human rights issues that come up during the reporting period. It goes without saying that there are many other issues that would benefit from a human rights analysis. One need only look to the numerous recommendations issued to Germany in the past years by the human rights bodies of the United Nations and the Council of Europe to see that this is so. The Institute has systematically collected these recommendations in a separate publication and database, and we will be addressing the relevant issues over time.

**You took up the office of Chair of the Global Alliance of National Human Rights Institutions (GANHRI) in March 2016. Has this changed your view of the work of National Human Rights Institutions or how they operate?**

As GANHRI chairperson, I have a more direct view than I used to of the difficult conditions under which National Human Rights Institutions have to work in many countries – ranging from state interference in their activities to death threats against or even the murder of members of their staff. Far too often, governments and parliaments are unwilling to take up the findings and recommendations of their National Human Rights Institutions in any constructive way. Instead, they vilify them for their critical reports, claiming that they are fouling their own nests and labelling them enemies of the state, or agents of foreign powers. Or they undermine the NHRI's independence, through the appointments they make or the withdrawal of funding. National Human Rights Institutions, like other defenders of human rights, need solidarity and protection from the international community, civil society and their sister institutions.

My work as GANHRI chairperson has strengthened my conviction that there can be no democracy without human rights. Without human rights, democracy turns into the tyranny of the majority. Or it is hijacked by authoritarian rulers or movements that claim to speak for the “true people”, who use contempt for the individual to create *Feindbilder* and marginalise critics, and silence the voices of dissent through the abuse of government power. This is why democracy needs human rights as a standard against which to judge action by a state and as a limit on state actions. Democracy also needs a culture of human rights – human rights have to be intrinsic to the lived reality throughout the country. That entails public debate which is characterised by respect, critical media and a functioning state governed by the rule of law. Independent institutions in particular need to be defended. They often stand as the last bulwark against human rights violations and arbitrary action.

I have also seen how National Human Rights Institutions have stood up against governments that are hostile to human rights. Despite all the hostility, the Polish Commissioner for Human Rights has been defending the human rights of all and the independence of the Constitutional Court in exemplary fashion. The Philippine Commission on Human Rights has also earned my utmost respect due to the way it has kept on documenting the gravest violations of human rights despite an unparalleled campaign of defamation by the Philippine Government.

National Human Rights Institutions have an important responsibility to speak out on behalf of human rights in their countries, particularly at times when human rights are being fundamentally challenged. With their work to combat discrimination and promote the recognition of the equality of all human beings, NHRIs have to be the ones to counter the populist attempt to divide societies into “us” vs. “them” by advancing the universality and indivisibility of human rights. Only on the basis of human rights can social cohesion flourish and a society rise to meet the challenges of the future.

“National Human Rights Institutions, like other defenders of human rights, need solidarity and protection from the international community, civil society and their sister institutions.”

**In October of 2016, the Institute joined with Forum Menschenrechte, the Federal Foreign Office, and the federal justice and labour ministries to celebrate the 50th anniversary of the two central UN human rights Covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Why is it important that we be reminded of the significance of these Covenants? How are they relevant for Germany today?**

The two Covenants, the ICCPR and the ICESCR, embody the common values of humanity and constitute the foundation for the global framework for the protection of human rights. With them, the person becomes the focus: realising human rights for everyone becomes a binding responsibility of the states. Human rights therefore are at once the standard for and a limit on for state conduct. Even in Germany, which has a sophisticated regime for the protection of basic rights, the two Covenants are of great relevance: the Basic Law, Germany's federal constitution, explicitly embeds the basic rights – the constitutional rights – in international human rights. This means that the basic rights have to be interpreted in the light of international human rights.

These two international Covenants remind Germany that basic rights cannot be limited or taken away at the whim of the legislature. At the same time, interpreting the Basic Law in line with human rights presents an opportunity to learn from experiences in other countries. Legal practice in this country does not yet make sufficient use of this potential. The recommendations of the UN treaty bodies which review states' domestic implementation of the rights guaranteed in the two Covenants contain important calls for action needed in the areas of policy and legislation, which legislatures and executive governments at the national and Länder level should systematically address.

*“The two Covenants, the ICCPR and the ICESCR, embody the common values of humanity and constitute the foundation for the global framework for the protection of human rights.”*

**What are the human rights issues that should definitely have a place on the political agenda in the coming years?**

The legislative period currently drawing to a close created several tasks for the new parliament involving action on human rights. For instance, the human rights action plans adopted in 2016 will have to be implemented: the NAP on business and human rights and the updated version of the NAP to implement the Convention on the Rights of Persons with Disabilities. Addressing their weaknesses, both those identified already and those that are detected in the future, is part of this task. The implementation of the Istanbul Convention, the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, is also on the agenda, since the formal ratification of it by Germany is expected to be completed in 2017.

The federal parliament initiated a great deal of legislation in the 18th electoral term in response to terrorist attacks, often under great time pressure. This applies particularly to the creation of new powers for the police and intelligence agencies for the fight against terrorism. Now it is time to evaluate the actual impact of these new powers from the perspective of human rights and the rule of law, in order to assess their necessity and expediency. The Bundestag already took steps to strengthen control over the intelligence agencies in the 18th legislative period. The increasing extent of international cooperation among intelligence and security agencies is raising new challenges for the efficacy of national control mechanisms, and it is imperative that work on these continue.

“There is a need for swift action to examine the quality of asylum proceedings and decisions on asylum applications, in order to ensure that persons who need protection do in fact receive it.”

In the last two years, parliament has introduced a great many changes to the law governing asylum, and these have had a substantial impact on asylum proceedings. The reports from the field reveal a need for swift action to examine the quality of asylum proceedings and decisions on asylum applications, in order to ensure that persons in need of protection do in fact receive it without having to burden the courts in order to do so. Acting quickly to restore the possibility for refugees to bring their closest relatives to Germany, i.e. family reunification, is a matter of great urgency. Reason dictates that this is so, and so does the human right to family life: persons who fear for their families cannot direct all of their energies towards integrating in our society.

There are other urgent questions concerning the future that should also be addressed in the coming legislative period as well, questions that we must tackle at the national, European and international level: How are we to shape our future in light of the ageing of our society? How can we promote a sustainable economy that will mitigate the impacts of climate change? How do we – in Germany, in Europe and worldwide – want to structure migration? How can Europe show our solidarity and provide protection to refugees? How can we fight the root causes of displacement? How does Germany want to implement the 2030 Agenda for Sustainable Development internationally and domestically? The human rights dimension must be taken into account in the answers to all of those questions. Because without human rights, there can be no good, long-term solutions.

## **Interview with Michael Windfuhr, Deputy Director of the Institute**

**“Without an active civil society, human rights work is not possible.”**

### **Interview with Michael Windfuhr, Deputy Director of the Institute**

The conditions for civil society participation in political processes and debates have been continually deteriorating, even within Europe. More and more governments are significantly restricting the scope within which civil society can act. Internationally, these developments are being discussed using terms like “shrinking space for civil society” or “shrinking democratic space”. Michael Windfuhr explains in an interview why it is important that the United Nations, National Human Rights Institutions, and Germany address this worrying trend.

#### **The Institute worked on the topic of “shrinking democratic space” intensively in 2016. What exactly is the issue here?**

Finding sustainable and human rights-compliant solutions to the major challenges facing societies – such as the effects of climate change or the impact of digitalisation on labour markets – is going to require debates about our current political, social and economic situation and its future in which all key players, including civil society, take part. In many countries, though, civil society groups and organisations are unable to take part in these debates due to political and social pressure.

The Federal Government’s 12th Human Rights Report (2014–2016) describes the ways that the scope for civil society in many countries is being systematically restricted through a combination of repressive legislation on the funding and registration of civil society groups and organisations on the one hand and measures ranging from vilification campaigns and unfair judicial proceedings all the way to threats, violence and murder, on the other. Civicus: World Alliance for Citizen Participation has said that in 2016 civil society was able to act in complete freedom in only 26 of the 195 countries they rated, due in part to severe restrictions around the world on the rights to freedom of expression, association and assembly.

#### **What factors favour these restrictions?**

Rapid economic globalisation, lack of respect for and protection of the rights of vulnerable populations, an authoritarian populism of any stripe, and lack of the rule of law and/or weak state institutions are all conducive to the restriction of the scope for civil society. Authoritarian regimes deliberately limit the space for action by civil society: they want to prevent any criticism of the regime and preclude any accountability. This leads to a circling of the wagons, a siege mentality, where criticism of what are perceived as “majority opinions” is seen as “treason” or a “threat” and vilified. Then you’ll see smear campaigns targeting contributions from civil society, particularly in places where the media are unable to operate independently.

*An authoritarian populism of any stripe, lack of the rule of law and/or weak state institutions are conducive to the restriction of the scope for civil society.*

#### **Why is the Institute active in this area?**

Without an active civil society, human rights work is not possible. Many of our sister institutions have shown us that this is so, institutions that we have ties with through the Global Alliance of National Human Rights Institutions (GANHRI). Our sister NHRIs regularly report to GANHRI on restrictions being placed on civil society in their countries; in most cases they themselves are affected by these same restrictions. GANHRI submits a report on this topic to the United Nations each year; it has done

so since the Institute took over the chair of the GANHRI in March 2016. The report is submitted in the context of the High Level Political Forum of the United Nations in New York, where progress towards implementation of the Sustainable Development Goals (SDGs) is discussed every year. A critical public is essential for implementation of the SDGs, because public scrutiny is essential for holding states accountable at the national level, for instance if they are not implementing their climate policy, or delaying its implementation. When there is no scope for civil society, there can be no debate. This shows why the implementation of the SDGs hinges on respect for human rights – such as the freedom of expression and the freedom of association, in the case of civil society.

### **What is it that GANHRI hopes to achieve in this regard?**

GANHRI surveys of its members have found that restrictions are being put in place on civil society in all regions of the world – mainly by governments but also by non-state actors, such as armed groups or even businesses. These survey results are consistent with the findings of the three UN special rapporteurs who report to the UN Human Rights Council on the situation of human rights defenders, on the freedom of peaceful assembly and of association and on the right to freedom of opinion and expression.

For the time being, GANHRI is documenting and publishing such violations. It is imperative to speak out about the threats because otherwise the states that are responsible for the persecution or acts of oppression will not react. GANHRI has set itself the aim of making sure this important human rights issue has a fixed place on the international agenda. Also, as a global alliance, we have a duty to respond to the threats that our members encounter. The European Network of National Human Rights Institutions (ENNHRI) adopted a set of guidelines in 2016 on the support of national human rights institutions whose work was endangered as part of its “NHRIs under Threat” project.

### **In July 2016, GANHRI presented its first report on “shrinking democratic space” at the United Nations. What is the purpose of this report?**

With this [report](#), GANHRI is seeking to draw attention the changing environment in which National Human Rights Institutions do their work, raise awareness of the issue in civil society and document problems. Above all, it highlights how vital open debate in society is for the implementation of the SDGs. A transition towards greater sustainability is unlikely to succeed without support from society at large. The report also sets out the key ingredients for an enabling environment for National Human Rights Institutions and civil societies.

[A transition towards greater sustainability is unlikely to succeed without support from society at large.](#)

The Institute prepared the 2016 report on GANHRI behalf. A German version of the report was also released, in September 2016, in connection with a hearing on the protection of human rights defenders at the human rights committee in the Bundestag. It is a good source of information for the United Nations, but also for Germany, which is strongly advocating effective implementation of the SDGs.

### **What is a “conducive environment”?**

If National Human Rights Institutions and civil society are to contribute effectively to sustainable development they need an environment that enables them to do so. Among other things, this involves a supportive legislative framework, participation in policy development, planning and decision-making processes, access to an independent judiciary, independent National Human Rights Institutions and recognition of the importance of pluralism within a society. Conditions conducive to the long-term stability of civil society organisations are needed, and in some circumstances funding for civil society organisations is also necessary. Regional human rights protection also plays an important role, in the

European and African human rights protection system, for instance, because these systems are able to adapt the international standards to regional conditions and monitor compliance with them.

### **How did the Institute raise the topic in Germany?**

It did so in a variety of ways. In 2016, we evaluated the way in which the OSCE commitments in the area of human rights and democracy were being implemented in Germany, at the request of the Federal Foreign Office. In this context, we found that for the past several years, there have been increasing numbers of insults and threats against human rights defenders, including journalists, who stand up against right-wing extremism and for refugees. In addition, as I mentioned earlier, we published a statement in September 2016 for a expert consultation on human rights defenders held by a Bundestag committee. The statement gives a series of examples illustrating the severe restrictions being placed on civil society and National Human Rights Institutions. GANHRI plans to prepare a report on this every year because, regrettably, the topic is not losing its urgency, and we intend to bring the future reports into the discussion in Germany as well.

This is an important topic in Germany too, one we must not lose sight of. Hate crimes and hate speech, not from state bodies, but from private individuals, aimed at persons and organisations are on the rise, especially those aimed at persons who stand up for the human rights of particularly disadvantaged groups like sexual minorities, immigrants and refugees.

[Hate crimes and hate speech are on the rise in Germany too, especially those aimed at persons who stand up for the human rights of particularly disadvantaged groups.](#)



## THE INSTITUTE IN THE INTERNATIONAL CONTEXT

In accordance with the Paris Principles, the Institute works closely with the human rights bodies of the United Nations, the Council of Europe and the European Union. It is also a member of the Global Alliance of National Human Rights Institutions (GANHRI) and of its European counterpart (ENNHRI).

### **Cooperation with National Human Rights Institutions worldwide**

In March 2016, the Institute's director was elected to chair the Global Alliance of National Human Rights Institutions (GANHRI). The primary aims for her term as chair (2016 – 2019) are these: to intensify cooperation in eight thematic focus areas, to anchor the participation rights of National Human Rights Institutions (NHRIs) in the UN bodies in New York that deal with human rights; to strengthen cooperation with the UN human rights treaty bodies; to develop a robust organisational structure with good knowledge management and a solid financial basis; to increase the level of professionalism of communications; and to further strengthen the accreditation procedure.

The main focuses of the work of GANHRI are: defending and strengthening the space for civil society and NHRIs in countries throughout the world (shrinking space); refugees and migration; the Sustainable Development Goals and human rights; NHRIs in crisis and conflict situations; strengthening the rights of persons with disabilities; combating gender-based violence; the rights of older persons; and business and human rights.

As the NHRI holding the GANHRI chair, the Institute has a seat in all of the alliance's working groups. In its capacity as a member of the working group on business and human rights, the Institute was active at a two-day workshop held by that group in Rabat, which focused on access to remedies for persons affected by business-related human rights abuses. The Institute also compiled a report on behalf of the working group on Sustainable Development Goals (SDGs) for the UN High-level Political Forum on Sustainable Development in July 2016; the report presented the basic conditions for participation of civil society and the NHRIs in the development of relevant strategies and in the monitoring of the UN SDGs. For the report, the Institute gathered data from NHRIs in the countries that volunteered to undergo review by the High-level Political Forum on Sustainable Development. In September of 2016, the Institute presented a German translation of the report in the context of an expert consultation on the protection of human rights defenders held by the Committee for Human Rights and Humanitarian Aid of the German Bundestag.

Within the framework of the GANHRI working group on the rights of older persons, the Institute took part in an exchange among experts from Asia and Europe in Seoul in July 2016 and participated in a meeting of the UN Working Group on Ageing in New York in November 2016, where the Institute's work in this area was presented by the responsible member of the Institute staff. In meetings with the UN human rights treaty bodies and their chairpersons, the Institute's director pushed for concrete improvements to the possibilities for cooperation between NHRIs and these bodies.

In March 2016, Beate Rudolf was  
elected to chair the  
Global Alliance of National  
Human Rights Institutions

There was a great deal of discussion about strengthening the human rights dimension at the UN, including through strengthened participation rights for NHRIs, during conversations held in Geneva and New York with the highest levels of the Office of the United Nations High Commissioner for Human Rights, the UN Human Rights Council, the United Nations Development Programme (UNDP) and those representing influential states. The UN Human Rights Council's recognition that NHRIs must receive protection in their role as human rights defenders against acts of repression even as they help to protect other human rights defenders represents an important step forward. In addition, the Institute also sent a representative to a UNICEF seminar on cooperation with NHRIs that took place in November 2016 in New York, who gave input on the implementation of the 2030 Agenda with a particular emphasis on children's rights by the Institute and by GANHRI.

### **Cooperation with National Human Rights Institutions within Europe**

The Institute continued to participate actively in the European Network of National Human Rights Institutions (ENNHRI). It is a member of ENNHRI European Coordinating Committee, but no longer serves on the Finance Committee. In its role as a member of the working group on asylum and migration, the Institute actively contributed to the preparation of the statement on current issues in European refugee policy issued by the ENNHRI General Assembly.

[The approach of linking SDGs to human rights that the Institute developed was assessed as exemplary and adopted by other NHRIs in Europe](#)

Together with the British Equality and Human Rights Commission, the Institute took the lead within the ENNHRI legal working group in the preparation of two statements for submission to the European Court of Human Rights both of which address human rights issues associated with Internet surveillance by intelligence agencies. Working with the European Agency for Fundamental Rights, the working group carried out a professional training event on the significance and applicability of the EU Charter of Fundamental Rights that was subsequently presented in the Institute and elsewhere.

The Institute also participated in the newly formed ENNHRI working group on economic, social and cultural rights, having played a key role in its establishment. This group was created to foster the exchange of knowledge on human rights monitoring and on assessing the human rights impacts of economic policies. In this context, the Institute participated in a meeting with the European Network of Equality Bodies (Equinet), the European Agency for Fundamental Rights (FRA) and the Council of Europe to explore possibilities for cooperation and discuss possible focuses of such cooperation.

At the invitation of the National CRPD Monitoring Mechanism, the ENNHRI working group on the rights of persons with disabilities came together for its annual session in the Institute in November. The focus at the 2016 session was on the status of implementation of the working group's multi-year strategy. The session also included a seminar on access to justice for persons with disabilities, with input from experts, including researchers and persons working in the field.

As part of the ENNHRI project on the human rights of older persons in long-term care, the Institute prepared a country report for the project's comparative study. The findings from the research on Germany also served as the basis for an analysis of human rights in the residential care sector, which was published under the title "Menschenrechte in der Pflegepraxis. Herausforderungen und Lösungsansätze in Pflegeheimen".

At the Institute's suggestion and invitation, interested ENNHRI members gathered for a strategy meeting in February to discuss ways for National Human Rights Institutions to support their states implementation of the UN Sustainable Development Goals. The approach of linking SDGs and human rights that the Institute developed was assessed as exemplary and subsequently adopted by other NHRIs in Europe.

### **Evaluating implementation of the OSCE standards for human rights**

In the context of Germany's 2016 Chairmanship of the Organization for Security and Co-operation in Europe (OSCE), the Federal Foreign Office commissioned the Institute to evaluate the implementation of the OSCE human rights commitments in Germany. In doing so, it was following the example of Switzerland and Serbia, both of which conducted self-evaluations of this kind when they held the chair in 2014 and 2015, respectively. Voluntary reporting of this kind should be established as good practice for the state holding the OSCE Chairmanship, in order to strengthen the accountability and engagement of the OSCE states in the area of their human dimension commitments.

The Institute presented its extensive evaluation report in May of 2016. The Institute selected topics from the lines of the OSCE's work that are of relevance for Germany as the focuses of its report: non-discrimination and protection against hate crimes; human trafficking, gender equality, political participation for persons with disabilities and transparency with respect to the financing of political parties and to special interest groups. The Federal Government and 15 civil society organisations commented on the report.

In the autumn of 2016, the Institute presented both the report and the comments publically: at the OSCE's Human Dimension Implementation Meeting in Warsaw on 27 September 2016, where it did so jointly with representatives from the Federal Foreign Office, the European Network of National Human Rights Institutions (ENNHRI) and civil society, and at an international expert meeting with high ranking speakers organised by the Institute, which was held at the Federal Press Office on 12 October 2016 with circa 100 persons attending. Within ENNHRI, the Institute has been urging the National Human Rights Institutions of other countries to take up and encourage the adoption of this practice.

### **Cooperation with global and European human rights bodies**

Dr. Wolfgang Heinz, the Institute's senior policy adviser, continued to serve as a member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), and as its second vice-president as of March 2015. He led CPT delegations on visits to the Russian Federation (North Caucasus) and the United Kingdom. He also participated, in his capacity as a CPT member, in an international conference "on the police and international human rights law" hosted by the Brandenburg University of Applied Police Sciences; the papers presented were published as conference proceedings. He also contributed a paper on the role and procedures of the CPT to "rapport 2016: Un monde tortionnaire", which was published by the Action by Christians against Torture (ACAT).

With funds from the Federal Foreign Office, the Institute again supported Dr. Rainer Huhle, the German member of the UN Committee on Enforced Disappearances, and until July 2016, the mandate of Prof. Dr. Heiner Bielefeldt, the UN Special Rapporteur on Freedom of Religion and Belief, by carrying out research and holding events (see the section on international human rights policy).

## RESEARCH & ADVISING: TOPICS

### Internal security

As states continue to fight against criminality and terrorism, how can they live up to their human right obligation to protect without violating their duty to respect rights to freedom and protect against discrimination? The tension between security and freedom has been an important topic for policy makers since the terrorist attacks of 11 September 2001, as it has for the Institute, which was founded that same year.

Terrorist violence and fears of rising crime rates loomed particularly large in 2016: the jihadist attacks in Brussels, Nice, Würzburg, Ansbach and Berlin, the racist assaults on refugees, their lodgings and supporters, the sexual violence in Köln on New Year's Eve and the high number of domestic burglaries made internal security a central domestic policy issue in the year prior to the Bundestag elections.

In response, the Bundestag strengthened the federal police and the intelligence agencies, not only increasing their personnel and equipment budgets, but also significantly expanding their powers: blanket data retention was reintroduced, the groundwork was laid for the automation of the sharing of information gathered by German intelligence agencies at an international level, surveillance of telecommunication between non-German nationals who are outside of Germany was legalised, government agencies were granted broader access to the data of refugees, and it was decided to run systematic data checks on travellers crossing the EU's external border and store the data of airline passengers, including the data from flights within Europe.

State encroachments on the human right to privacy have increased significantly as a result. Restrictions on the classic rights to freedom are increasing as well though: the imposition of residence requirements and registration obligations, alongside "electronic shackles", are intended to allow authorities to restrict the movement of persons whom they consider to constitute a danger. It is now possible under some circumstances for such persons to be detained, even for longer periods of time, although they are not suspected of any crime.

Other countries have also reacted to the terrorist attacks with restrictions on human rights, in some cases even more extensive ones. France and Belgium both declared a state of emergency after the terrorist attacks, for instance, and in the United Kingdom there was even talk of "suspending" human rights.

The attention of European and international human rights bodies was therefore focused on the issue of respect for human rights in the context of the fight against terrorism on many occasions in 2016 as well. These bodies addressed topics such as risks for freedom of opinion and expression in the context of combating "violent extremism" and de-radicalisation programmes, and encroachment on the right to privacy and the secrecy of communication connected with covert actions and surveillance undertaken to protect public security. Human rights bodies also stressed the importance of taking the principle of proportionality and the risks of incorrect data processing into account in connection with border controls and the screening of refugees and underlined the imperative of avoiding violations of international refugee law.

[The tension between security and freedom is an important topic for the Institute. State encroachments on the human right to privacy have increased significantly.](#)

The powers of the intelligence agencies and the oversight thereof, which human rights require, was a core topic in the work of the Institute in 2016. The Institute was able to link its work on this issue

both to its earlier work on informational cooperation between the police and the intelligence agencies and to its work on legal protection. It therefore joined the British Equality and Human Rights Commission, the Institute in taking the lead in the preparation of an independent submission from ENNHRI to the European Court of Human Rights in the proceedings on *Big Brother Watch and Others v. the United Kingdom* in February 2016. In it, ENNHRI informed the Court about human rights-related developments and discussions about the right to privacy at the level of the United Nations.

Against the backdrop of the plans to legalise the Federal Intelligence Service's (BND) surveillance of telecommunication between non-German nationals outside of Germany, the impulse for which came out of the Bundestag Committee of Inquiry into the NSA affair, the Institute, working with civil society organisations, organised an expert discussion on human rights requirements this kind of surveillance. The meeting focused particularly on the question of whether the monitoring of communications between non-German nationals outside of Germany is permissible, if so, under which circumstances. In late September, the Institute was invited to participate in an expert consultation of the Bundestag Committee on Internal Affairs regarding the amendment of the legislation on the BND and the parliamentary control of the intelligence agencies.

Among other things, the Institute discussed the German constitutional requirement that the information of the police and intelligence agencies be separated and the dangers posed to this posed by automated platforms for the cross-border sharing of information among European intelligence and security agencies that are set up outside of the control of German oversight bodies. How to ensure effective oversight over the increasing international cooperation among intelligence and security agencies and what limits human rights impose on this cooperation are questions that will continue to occupy the Institute in the future.

The attack on Berlin's Breitscheidplatz put the spotlight on the new measures against persons considered to pose a danger. In February of 2017, the Institute released a brief position paper on the toughening of the rules for detention pending expulsion for non-nationals who constitute a danger. The Institute intends to continue monitoring and documenting both developments at the Länder level and the practical application of the measures for the restriction or deprivation of liberty of persons considered to pose a threat.

In addition, the Institute exchanged information and experiences relating to the topic of human rights in the context of the fight against terrorism with its sister NHRIs and civil society organisations. One venue for this exchange was a Council of Europe meeting on the role of National Human Rights Institutions held in April 2016 in Paris. How National Human Rights Institutions can effectively communicate the value of human rights in times of states of emergency and global uncertainty is among the important questions that the Institute must and will be addressing in the years to come.

## Rights of Older Persons in Long-term Care

**“We advocate a separate convention on the rights of older persons” Claudia Mahler, Policy Advisor**

There were 2.9 million persons who needed care in Germany in 2015, and their numbers were on the rise. Many older persons who require care are attended by relatives or care professionals. Dependent on support structures, they often find themselves in situations where their rights are not respected. The Institute first became active in promoting the rights of older persons and a human rights-based care system back in 2006.

**The Institute has also been a strong advocate for the rights of older persons at both the national and international levels since 2006. Why is this topic so important?**

Countries all over the world over are experiencing growth in the proportion of older persons in their population. Yet the rights of older persons have not yet been explicitly anchored within the international human rights system. There are practice-oriented documents based on human rights approaches, such as the European Charter of the Rights and Responsibilities of Older People in Need of Long-term Care and Assistance and the German Charter on the Rights of Older People in Need of Long-term Care and Assistance, but these are non-binding. Even Germany, a country in which a fourth of the population is aged 60 or older, is only slowly beginning to look at the realities of the lives of older persons.

There is a need for awareness raising and education in this area. Practices in the long-term care sector should more accurately reflect the fact that persons who need long-term care have rights, that they want to exercise their rights to privacy, autonomy, participation, mobility and health care and that they can do so, with assistance if necessary. In addition, forms of age-based discrimination, such as age limits for loan eligibility or for volunteer work, should be eliminated.

**The Institute is a cooperation partner in the EU-funded pilot project “The human rights of older persons in long-term care”. What are the objectives of this project?**

One aim is to expand the knowledge base on the human rights of older persons in residential long-term care. Another aim is to identify good practice examples and the basic conditions for successful implementation of human rights in the care system. The Institute has been working on the topic of human rights of older persons in long-term care since 2006, so we were happy to participate in the pilot study of the European Network of National Human Rights Institutions.

**What makes National Human Rights Institutions particularly well suited to this task?**

National Human Rights Institutions strive to promote the domestic implementation of human rights, as their mandates dictate. They make suggestions for human rights based legislation and advise on shaping policies and practices to be consistent with human rights, and they are a source of expertise on the monitoring of the implementation of requirements arising from human rights treaties.

“The rights of older persons have not yet been explicitly anchored within the international human rights system.”

NHRIs are the human rights experts on the ground, and all of the institutions that became involved in the EU project had already been working on the topic of human rights in long-term care in their own countries.

**For this project, you visited five care homes in different regions of Germany run by a range of organisations and institutions, where you interviewed the homes' directors and care staff, and residents of the homes and their relatives. What exactly was it that you wanted to know?**

We wanted to find out which basic legal and organisational conditions facilitate the realisation of human rights in institutional care, and which impede this realisation. Of course, we could only survey facilities that were interested in cooperating with us. We looked at the framework conditions for the implementation of these rights established there by the operators and the managers of the home. We also wanted to know how human rights, such as the rights to self determination, privacy and the highest attainable standard of health, were being implemented in practice in the daily routine in residential care. We asked the nursing staff and the recipients of care about their wishes for the future as well.

**In your study on human rights in care homes, you formulated recommendations on ways to strengthen human rights in long-term residential care. Where is a need for swift action by the Federal Government?**

In our study ("Menschenrechte in der Pflegepraxis – Herausforderungen und Lösungsansätze in Pflegeheimen"), we recommended that the Federal Government orient the quality criteria for long-term care towards human rights and set up an independent complaints body. There should also be more diverse offerings to reflect the diversity of persons who need long-term care. We also recommend strengthening the rights of people in care, upgrading the occupation of geriatric nurse and integrating human rights in the relevant training. Furthermore, we recommend that the Federal Government push for a separate convention on the rights of older persons. A convention that guarantees the rights of older persons in a nuanced manner could facilitate the design of human rights based policy that takes the needs of older persons fully into account.

[A convention that guarantees the rights of older persons could facilitate the design of human rights based policy that takes the needs of older persons fully into account.](#)

**What processes and topics would the Institute like to promote at the international level?**

The UN Open-ended Working Group on Ageing. This group is trying to determine which human rights instruments could be used to secure the rights of older persons and exploring the idea of creating a new convention on the rights of older persons. The Institute has been active within this working group since it was set up. It also speaks on behalf of the European Network of National Human Rights Institutions (ENNHRI) there and, since it took over the chairmanship of the Global Network of National Human Rights Institutions (GANHRI), on its behalf as well.

We will channel the results of this international process into the national discussion and advise the Federal Government, the Bundestag and civil society on this topic. We are pleased that both the Federal Government and BAGSO, the German National Association of Senior Citizens' Organisations, are taking an active part in the open-ended working group and that we can work with both of them to keep the national discussions moving forward. We advocate a separate convention for the rights of older persons because a human rights treaty would provide the strongest protection for the growing groups of older persons.

# The Human Right to Education in the German School System

## The human right to education in the German school system

Education is a human right and it is key to the exercise of other human rights. Without education it can be difficult, or even impossible, to participate actively in society. Education – especially human rights education – provides the foundation for an awareness of one's rights and the ability to actively exercise them.

One hears a great deal of discussion on equal opportunities in education in Germany, but it often lacks a human rights perspective. As a result, the question as to the basis on which one is to gauge fairness or whether opportunities are equal in education often goes unanswered. Human rights constitute a universal and legal binding standard for such judgements. The human rights-based approach can help assess whether the binding human rights requirements, particularly the right to education and the prohibition of discrimination, have been implemented in the education system, and it can help develop concrete recommendations and actions on that basis.

At the level of the United Nations, a specific set of criteria for the implementation of the right to education have found broad acceptance: the availability of educational institutions, their physical and economic accessibility, and the acceptability and adaptability of the form and content of education. Thus the human right to education relates both to the framework conditions of the school system and to the educational objectives, content and methods. The right to protection against discrimination in the context of education plays a central role here. The school system, including the content of education, must be free of discrimination. Moreover, education should actively contribute towards the elimination of forms of discrimination.

The Institute examined how the right to education is implemented and published the results of its investigation and recommendations on ways to improve implementation in a paper in the Institute's "Analyse" series ("Das Menschenrecht auf Bildung im deutschen Schulsystem. Was zum Abbau von Diskriminierung notwendig ist"). The study compiled the findings from studies on access to education and placed them within the human rights context. In addition, the school acts (*Schulgesetze*) of all of the Länder were analysed, as were the education plans of Bavaria, Berlin/Brandenburg, Bremen, North Rhine-Westphalia and Thuringia. The results were presented on 29 September 2016 at a conference co-hosted by the German Institute for Human Rights and the Berlin Social Science Center (WZB).

**Human rights education is the foundation for awareness of one's rights and the ability to actively exercise them.**

From the human rights viewpoint, discrimination includes not only intentional disadvantage, but also de facto disadvantage, such as the greater marginalisation of social groups that can result from the reflection of stereotyped or hierarchical notions about groups of persons in practices or in methods. Human rights-oriented research on education can identify this kind of structural and institutional discrimination and this knowledge can be used to develop solutions for education policy.

The analysis makes it clear that the German school system discriminates in a wide variety of ways. For instance, a failure to grant children with disabilities or refugee children full legal entitlement to attend a regular school is problematic from a human rights perspective. Forms of discrimination in the schools system are not limited to difficulty in gaining access to schools though. For instance, there continues to be a very close correlation between the socio-economic background of children and adolescents and how well they do in school. Action is also needed in the areas of educational objectives, content and methods though.



The full implementation of the human right to education fully requires functioning educational institutions and programmes throughout the country that make good quality education available. This applies to “welcoming” or preparatory classes as well. The assignment of children to different types of schools at an early age should be subjected to critical scrutiny. Forms of special schooling should be phased out. It is essential that no stigma be attached to programmes intended to improve the economic accessibility of education – such as the “education and participation package” – and that these programmes be easily accessible to the target groups. Finally, the freedom of religion and belief must safeguarded in the school context.

Educational materials must be examined with an eye to stereotyped or even demeaning images.

With respect to educational objectives, content and method, school acts, education plans and teaching and learning materials, as well as interactions in the daily school routine, should all be free from discrimination. For instance, education plans and school textbooks that frame migration only as a problem tend to have an exclusionary effect. Moreover, it is essential to take account of the fact that learning groups are less homogeneous these days; assignments should neither leave pupils with experiences of migration out of the picture nor draw extra attention to them in a stigmatising way. Thus school acts and education plans and materials should be subjected to critical review and revised if necessary.

Human rights call for the use of methods that understand pupils as autonomous actors who are themselves able to take action to eliminate discrimination. The explicit and comprehensive anchoring of human rights education facilitates this. The role of school education in this context is to impart knowledge about human rights. For only with such knowledge can pupils develop the skills and attitudes they need in order to take action on behalf of human rights and against discrimination. Inclusive and participative education contributes towards achieving the aim of human rights education of empowering individuals to participate actively and effectively in society.

Instructional material should be examined with an eye to whether it conveys stereotyped or even demeaning images or terms. In addition, discrimination and human rights should be discussed more frequently in the course of the daily school routine. It is not enough, for instance, to simply avoid the use of certain terms. Pupils should learn about the history of the terms and the discriminatory factors and risks associated with them. This provides pupils with the knowledge they need to analyse and overcome any prejudice they may have. Implementing the right to education without discrimination in the daily school routine requires a range of measures involving the review of teaching and learning material, the provision of information and advice for everyone involved in school life, the adaptation of the initial and continuing education and training of teaching staff and the consideration of the non-discrimination principle in the context of school development, school culture and school programmes.

Transparent and human rights-based monitoring of the German school system would facilitate the identification of existing needs for action in these areas and the targeted fulfilment of those needs. In accordance with the human rights principle of participation, all stakeholders in the education sphere should be involved in such monitoring. Also in accordance with the requirements of human rights law, a system of effective complaints bodies should be established for the school system throughout the country. The Institute will continue to work on these aspects.

## Ways for Children and Adolescents to Lodge Complaints

### Ways for children and adolescents to bring complaints

The UN Committee on the Rights of the Child has repeatedly recommended the establishment of a body to monitor the implementation of the UN Convention on the Rights of the Child (CRC) at the national level that would also receive and address complaints from children. Germany, too, has been urged to do this on several occasions, most recently in the Concluding Observations issued by the Committee in 2014, upon completion of its review of Germany's third and fourth State reports on its CRC implementation. In 2015, the Federal Government acted on the renewed urging of the UN Committee, entrusting the German Institute for Human Rights with the task of setting up a body to monitor UN CRC implementation, initially as a project funded by the Federal Child and Youth Plan. In a departure from the recommended action however, the Monitoring Mechanism was not entrusted with addressing complaints from children as defined in the UN CRC, i.e. from persons below the age of 18. The government's chief reason for deviating from the Committee's recommendation in this respect was the sophisticated rights protection regime already in place in Germany. In this country there are comprehensive legal remedies available to children acting with the support of their parents or another person legally responsible for them. At the federal and Länder level, children also have the right to petition, which they can exercise even without such support.

### Complaints mechanisms for children

In the spring of 2016, the CRC Monitoring Mechanism had an expert report prepared to answer the question of how Germany should respond to the Committee's recommendation to create a complaints body for children. The report included an survey of the existing mechanisms in Germany that allow children to lodge complaints and appeals. In addition to reviewing the judicial complaints/appeal mechanisms within the civil, family, labour, administrative, social and finance court systems, the CRC Monitoring Mechanism also examined and evaluated extrajudicial procedures: protest/objection procedures, petition, remonstrance and petition for administrative review. It also looked at a range of context-specific mechanisms: at day-care facilities, schools, the youth welfare authorities, local authorities, violence protection and data protection authorities, and social media, police and public prosecutor's offices, at work and in vocational education.

Unlike adults, children can only initiate complaint procedures before a court or vis-à-vis a government office in exceptional circumstances, and they must be at least fourteen years of age to do so. In Germany, as in most of the UN CRC signatory States, children can avail themselves of this "classic" method of bringing a complaint only by way of their parents or other persons with custody. The UN CRC explicitly welcomes this; thereby recognising parental responsibility for the realisation of the rights of their children (under Article 5 of the UN CRC).

However, the UN CRC calls for additional possibilities for children to voice individual complaints as well. This refers to ways for children to bring complaints that are easily available to all children and which allow a child's complaint to be dealt with effectively through child-friendly procedures, even when the matter at issue is more of a concern than a complaint in the legal sense. The idea is that there should be a direct procedure through which children can lodge complaints about violations of their rights under the UN CRC. With the entry into force of the individual complaints procedure under its third optional protocol, the UN CRC itself has afforded a means for children to bring complaints of this kind at the international level since 2012.

[The UN CRC calls for possibilities for children to bring individual complaints that are available to all children.](#)

At this time there is no procedure in Germany through which children can bring individual complaints at the national level that is comparable with the direct procedure for individual complaints. Ways for children to voice individual complaints are becoming more and more common at other levels though, particularly in institutions operating in the immediate environment of children, such as schools or day care centres. However, these usually take the form of complaints procedures within a single institution, rather than independent complaints bodies of the kind envisaged by the UN Committee, which would have the authority to instruct other bodies or to access records held at such bodies. Moreover, UNICEF's global comparative study "Championing children's rights" from 2012 has shown that complaints bodies for children need to be based in children's immediate environment and thus easily accessible in order to be useful. The CRC Monitoring Mechanism was only able to identify circa 100 local authorities (of the 11,000 in Germany) that have children's bureaus or children's commissioners which handle complaints from children regarding decisions taken by the local authority, and not all of the 100 we did find were independent, or even authorised to instruct other offices.

The complaint procedures that exist in other contexts are not reliably available to all children everywhere in Germany either. Not all of the Länder school acts (*Schulgesetze*) provide for a direct means for children to bring complaints via their student council, as Baden Württemberg's does, for example. Nor do all child and youth welfare authorities have internal complaints procedures.

### **Information and advice in children's immediate environment**

The CRC Monitoring Mechanism is actively promoting the establishment and development of child advocacy services at the local level, so that all children and their parents or legal guardians will in fact have access to the complaint procedures that exist in Germany. Child advocacy services have teams made up of professionals in multiple fields which provide information, advice and – where necessary – legal assistance to children and those legally responsible for them. These bodies are based in the immediate environment of children and do outreach work to make children aware of their services. Their commitment to taking children's side and working on the child's behalf is their most distinctive characteristic.

### **Independent complaints bodies**

The CRC Monitoring Mechanism also advocates the establishment of complaints bodies at the Länder level that would handle children's complaints effectively, in accordance with the requirements of the UN CRC and in a child-sensitive manner, when no other means are available. These complaint bodies would be impartial, differing in this respect from the child advocacy services in the local context.

### **Complaint procedures for children**

The CRC Monitoring Mechanism also advocates that all institutions frequented by children (whether they be stationary child and youth welfare institutions, sports associations or schools) set up complaints procedures, which it sees as necessary element in these institutions. The procedure should be child sensitive and transparent for children and young people and should ensure that children or young people who are under age are autonomous subjects in the procedure. The self-organisation of children and adolescents in groups is important in this respect, as it provides them with a space in which they can engage with one another and formulate shared concerns and demands.

### **Strengthening children in judicial procedures**

It is also important to strengthen the position of children within the complaints mechanisms already in place within the German legal system. In 2015 the Institute pointed out the needs that exist from the perspective of children in this area in a policy paper entitled "Kindgerechte Justiz". The CRC Monitoring Mechanism will continue to engage in discourse about strengthening the legal position of children in family court and criminal court proceedings.

## Rights of persons with disabilities

**“The Federal Participation Act is good news, now we need another one” Interview with Dr. Valentin Aichele, Head of the National CRPD Monitoring Mechanism at the Institute.**

**What is the significance of the Federal Participation Act (BTHG: Bundesteilhabegesetz) from a human rights perspective?**

From a social policy perspective, the Federal Participation Act is one of the most important pieces of legislation to come out of the 17th electoral period; it is bound up with the aspiration for greater self-determination and social participation of persons with disabilities. Self-determination is essential for human rights and thus is essential for the UN CRPD. Participation in the life of society should also be understood as a human rights objective.

**How will the new legislation affect the lives of persons with disabilities?**

The Federal Participation Act attempts to lay the groundwork for structural change towards a more inclusive society. One of the major improvements introduced by this legislation lies in changes it introduces to the way the income and assets of persons with disabilities are calculated. There are undoubtedly grounds for concerns about some other aspects of the legislation, but the Participation Act is nevertheless an important step, and one that was absolutely necessary with a view to CRPD requirements. For a strong push is needed to realise the right of persons with disabilities to self-determination in this country. Just how great the need for action in this area was became clear in the debates surrounding the Federal Participation Act. The legislation has been passed, but much of that need is still unmet. The Federal Participation Act is good news, now we need another one.

**What was the Monitoring Mechanism doing in 2016, during the critical stage of the legislative process?**

The National CRPD Monitoring Mechanism provided critical, expert input to support the process. As it does with respect to other issues, it engaged with persons with disabilities, civil society, the focal point for CRPD implementation at the Federal Ministry of Labour and Social Affairs and with the spokespersons on disability policy of all of the parliamentary groups. The CRPD Monitoring Mechanism submitted a written statement on the occasion of the first parliamentary reading of the bill and participated in the expert consultation of the Bundestag Committee on Labour and Social Affairs.

**The UN CRPD stands as a standard for all legislation affecting persons with disabilities. Is the Federal Participation Act consistent with the UN CRPD?**

In terms of its overall focus and in many aspects, certainly. It does have problematic aspects. We pointed these out during the legislative process, and parliament did not do enough to address them. I am referring to the pooling of benefits, for example, or issues relating to the determination of who is eligible for benefits. Processes are underway in this respect, and we must and will continue our efforts with regard to the rights of persons with disabilities in that context.

*“Self-determination is crucial for human rights and thus also for the UN CRPD.”*

“The Monitoring Mechanism’s job is to review and evaluate the laws with regard to their compatibility with the UN CRPD.”

### **What can the UN CRPD contribute towards the assessment of legislation?**

There are human rights requirements relating to participation and inclusion that states have an obligation to meet straight away. In addition to these, states are required take steps to gradually enhance participation in society – this is the human rights obligation of progressive realisation. The CRPD provision laying down this obligation is erroneously referred to as a “saving clause” in political parlance, which turns it on its head in a way, as it suggests an exemption rather than an obligation. Given that these two different standards exist, the first step in an individual case is to examine whether a state’s practices are in direct compliance with the UN CRPD. The CRPD provides standards, and the National CRPD Monitoring Mechanism’s task is to examine and evaluate legislation in depth with respect to its compatibility with the UN CRPD. However, analysing and assessing the extent to which the Federal Participation Act improves the framework for social participation of persons with disabilities, in their diversity, are activities to be performed over the course of the statute’s ongoing implementation.

### **The federal parliament laid down a schedule for implementation and accompanying control processes, including an evaluation process. What tasks await the new Bundestag?**

All of the parliamentary groups in the German Bundestag and the members of the Federal Council (Bundesrat) attached great importance to the Federal Participation Act prior to its passage. The parliamentary groups should place similarly high priority on the rights of persons with disabilities in the coming legislative period. There are several elements of the Federal Participation Act that have yet to be fully implemented, and the new Federal Government will have to steer and shape their implementation. Since a great deal is at stake for persons with disabilities and substantial sums are involved, actively and carefully shaping these processes in the coming years is an important responsibility for the new Bundestag.

### **How does the National CRPD Monitoring Mechanism intend to follow up on the implementation of the Federal Participation Act in the coming years?**

The Federal Participation Act will be used to pursue certain objectives, and these must reflect the requirements of the UN CRPD. So we will be monitoring the implementation over the coming years and providing critical and productive input to support it. So far we have not been involved in any of the processes that have been set up to support, coordinate and evaluate implementation, but that could still change. In any case, we will confer with civil society and others – e.g. representatives of the research community – within the framework of our consultations, and we will intervene when appropriate. We would be happy to make our expertise available to the parliamentary groups in connection with any legislative amendments, debates or hearings.

## Business and human rights

### Cooperation among National Human Rights Institutions

#### Human rights impacts of business activities

Global economic activity is often associated with negative impacts on human rights. Raw materials, like petroleum or coal, the basis for industrial production, are extracted largely in the Global South and processed in the Global North. While revenues from the extraction of raw materials are of key economic importance for many governments in the Global South, these activities also have harmful impacts on persons and the bases of their livelihoods.

In a research project funded by the Federal Ministry for Economic Cooperation and Development (BMZ), the Institute is investigating the human rights impacts of business activities in the extractive, textile and agrarian economic sectors, on a case-study basis and in cooperation with its sister institutions. In 2016, the Institute focussed on the human rights impacts of coal mining in Columbia.

#### Gaps in human rights protection

National Human Rights Institutions (NHRIs) have a key role to play for the implementation of the UN Guiding Principles on Business and Human Rights, which were endorsed by the Human Rights Council in 2011. While businesses operate in a transnational context, the legal basis for human rights and their enforcement is anchored in the laws of the individual countries. This gives rise to gaps in the protection of human rights. NHRIs work at the national level, but are networked with one another internationally. This means that they have the potential to examine business activities from the perspectives of the countries on both sides of the value chain and work together to promote the implementation and respect for human rights. Targeted cooperation among NHRIs can prevent some impacts from business activities that are detrimental to human rights and reduce others.

#### Cooperation with the Colombian National Human Rights Institution

Colombia is one of the world's largest exporters of coal and the source of one fourth of the coal needed by the German energy sector. Responsibility for the human rights impacts of coal mining falls on both ends of the supply chain: German and Colombian actors both have a responsibility to prevent and put an end to human rights abuses.

Cooperation between the relevant NHRIs holds out great potential: the Defensoría del Pueblo, Colombia's NHRI, collects information on the human rights impacts of coal mining from the local communities and civil society organisations, engages in conversations with the mining enterprises and seeks means of remedy. The Institute then engages – again with suggestions for means of remedy – with the German businesses involved.

Since both of the NHRIs have a mandate to advise their respective Governments, each can bring the human rights impacts of the work in Colombian mining operations into the political discourse in its own country and report on attempts to find solutions. This is a way for NHRIs to help states to close the gaps in the system of human rights protection that open up in connection with transnational business activities.

[Cooperation among National Human Rights Institutions can prevent impacts from transnational business activities that are detrimental to human rights.](#)

In May of 2016, workshops were held in the coal mining provinces of Cesar and La Guajira attended by representatives of mining enterprises, industrial associations, non-governmental organisations and with local politicians, representatives of the Government and of the regional offices of the Defensoría del Pueblo. Since all debates about coal mining in Colombia are highly politicised and many stakeholders are no longer speaking to one another, bringing together so many different individuals representing such a variety of interests and points of view was a considerable achievement. The Institute and the Defensoría also carried out training events in Bogotá for the staff of the 36 regional offices of the Colombian NHRI. Questions addressed in the training included: How is the systematic capture and documentation of the impacts of extractive activities possible? How does one start a dialogue with persons affected and with businesses? What remedy mechanisms can be set up at the local level?

### **Action plan for prevention in the coal sector**

The Defensoría del Pueblo is now going to develop an internal action plan for the prevention of human rights abuses in the coal sector. Through this plan, Defensoría intends to become more active in mediating among stakeholders and monitoring both human rights due diligence by businesses and regional authorities' fulfilment of the state's duty to protect. The Institute is supporting the Defensoría in this process.

Effective monitoring of transnational business activity demands enhanced capacities for the performance of risk analyses however, as well as more research and cooperation among various institutions and disciplines. The legal and procedural hurdles faced by persons affected by human rights abuses must be eliminated.

### **Cooperation throughout Latin America**

In March, the Institute surveyed the NHRIs of Colombia, Guatemala, Paraguay, Peru, Mexico, Ecuador and Bolivia about their needs with respect to cooperation. Collectively the NHRIs identified the following as the most important fields for cooperation in the field of business and human rights: monitoring, exchange of information, dialogue between civil society and businesses and the development of indicators.

#### **Key points for the cooperation**

1. Specifying contact persons: One person, identified by name, should be designated at each NHRI, and this person's contact information made available through the Global Alliance of National Human Rights Institutions (GANHRI).
2. Support from the top: The executive management of the NHRIs involved should express their support for the work of this contact person within the partnership in a written agreement.
3. Multi-stakeholder approach: NHRIs are in a position to bring together the perspectives of all stakeholders involved, and called upon to do so.
4. Involve regional networks: The countries within a global region vary in their histories and constitutional orders, but the human rights problems they are grappling with are often very similar. Results of cooperation should be communicated to other NHRIs over regional networks
5. Set priorities: the extraction of raw materials in Colombia is a complex and politically sensitive topic. The focus on one sub-topic (here, coal mining) makes the cooperation more manageable
6. Learning together and strengthening one another: NHRIs from home states and host states must engage on the basis of equality and learn from one another. Cooperation enhances the capacities on both sides.

## National Action Plan on Business and Human Rights

The Federal Government intends to promote the implementation of the [UN Guiding Principles on Business and Human Rights](#) through its 2016–2020 National Action Plan (NAP) on Business and Human Rights. The UN Guiding Principles are among the most important internationally recognised standards on the corporate responsibility to respect human rights. The Guiding Principles articulate a set of expectations for how businesses should conduct themselves with regard to respect for human rights.

In 2014, the Institute and the business network Econsense were both invited by the Federal Foreign Office to contribute in an advisory capacity to the design of a process to draw up a national action plan. In the spring of 2015, the Institute prepared a [national baseline assessment](#) (NBA) for the steering group. The NBA described the status of implementation of the UN Guiding Principles in Germany in 2014 and identified possible deficits in implementation in the form of areas requiring examination. In a later stage of the process the Institute was involved in the conceptual work for 12 consultations. The chief point of contention during development of the NAP was the question of whether human rights due diligence should be introduced as a legal requirement (unions, civil society) or whether it could be called for on a voluntary basis (business associations).

The Federal Government adopted its [NAP on Business and Human Rights](#) in December of 2016. The Institute issued a [statement](#) on the plan, characterising it as not very ambitious. The strength of the NAP lies in its articulation of the expectation that all German companies firmly establish human rights due diligence as part of their business processes and regularly review its effectiveness. The NAP states that half of the companies with more than 500 employees should have introduced human rights due diligence by 2020. If this target is not met, the Federal Government may take further action, up to and including statutory measures according to the plan. Another positive element is the aim of identifying relevant industries and sectors in which action should be taken to promote implementation of the UN Guiding Principles. In addition, companies are to receive support in fulfilling their due diligence requirements.

The NAP is weak when it comes to implementing national obligations in Germany. The Government's plan does not provide for any additional activities to combat wrongdoing that might be associated with economic activity within Germany. Effective oversight over potentially problematic economic sectors is lacking, for instance, as are advice services for at risk or disadvantaged groups of persons. The NAP does little to address the question of how the Government might improve enforcement of rights of persons whose human rights are abused by German companies outside of Germany, by facilitating access to the German legal system for instance. In this respect, German NAP falls short of the standard set by the action plans of some other countries, such as Finland or Sweden.

The implementation phase of the NAP began in 2017. The Institute is advocating the most ambitious implementation possible, one that takes the problematic aspects into account. One context in which it is seeking to do so is that of a consulting and research project funded by the Federal Ministry of Labour and Social Affairs, which it began working on in the summer of 2017.

[The Institute is advocating the most ambitious implementation possible of the National Action Plan for Business and Human Rights.](#)

In May 2017, the business and human rights working group of the CSR Forum of the Federal Government elected the Michael Windfuhr, the Institute's deputy director as its moderator. This working group grew out of the steering group which was involved in the preparation of the NAP. It advises the Federal Government on the NAP implementation with respect to its focus and execution.



## RESEARCH & ADVISING: DEPARTMENTS

### Human rights policy, Germany / Europe

#### Reporting on the human rights situation in Germany

The Act on the Legal Status and the Mandate of the German Institute for Human Rights (DIMRG: DIMR-Gesetz) tasks the Institute with the submission of an annual report on human rights situation in Germany to the Bundestag. After the entry into force of the DIMRG, the Institute submitted the first such report (January 2015 – June 2016) in December of 2016. The Human Rights Policy Germany/Europe Department coordinated the preparation of the report, which was presented at the Federal Press Conference on 7 December 2016. This 2016 report focuses on refugees and specifically on the situation of refugees in Germany. It also addresses the exclusion of certain groups of persons with disabilities from exercising the right to vote and the topic of business and human rights.

In addition to these thematic focuses, the report provided information on the position of Germany within the international system for the protection of human rights. In this context, the report presents the recommendations issued to Germany by international and European human rights bodies and describes the role played by Germany in intergovernmental bodies in the period under report. Summaries of the report have been released in German, English, Arabic and Plain German. The report was discussed in the plenary of the German Bundestag in December 2016 and again in the human rights committee of the Bundestag in May of 2017, and it received widespread coverage in the media.

The Institute also prepared a multitude of other reports on the human rights situation in its capacity as the German focal point of the research network of the EU Agency for Fundamental Rights (FRA) for incorporation into the annual report of FRA and into comparative reports on specific issues. The Institute's monthly reports to FRA on the refugee situation in Germany are one example. To prepare these reports, the Institute collects data and information from state bodies and civil society organisations, including current figures, the situation in reception centres and the political and social responses to the situation with respect to refugees in Germany. The synthesising reports of the Agency, which in addition to Germany cover Bulgaria, Greece, Italy, Croatia, Austria, Sweden, Slovenia and Hungary, can be retrieved from the Institute's website. Other reports dealt with victim's rights in criminal proceedings, children's procedural rights and rights to bring complaints, the law and oversight of intelligence agencies and detention of minors pending expulsion. In late 2016 the Institute also began work on two extensive qualitative interview-based studies on the victim's perspective on severe labour exploitation and on the rights of victims in criminal proceedings.

[The Institute prepared a multitude of reports on the human rights situation in Germany in its capacity as the German focal point of the research network of the EU Agency for Fundamental Rights.](#)

#### Gender-specific violence

In earlier years, statements and studies released by the Institute stimulated the debate on reforming Germany's criminal law to make the violation of the victim's sexual self-determination the core element of sexual offences, in line with the human rights requirements from the European Convention on Combating and Preventing Violence against Women and Domestic Violence (Istanbul Convention) and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In 2016, the Institute continued to follow up on the political process of reforming the criminal law – specifically, the amendment of the provisions on sexual offences, during its key stages: by submitting a statement on the draft legislation proposed by the Federal Ministry of Justice and Consumer Protection, held a series of consultation sessions and by participating in the expert consultations of various parliamentary committees, including the legal affairs committee. The legislation amending the provisions in question, which was ultimately adopted by unanimous vote in the Bundestag, represents a crucial advance for sexual self-determination in Germany, one that has earned considerable

international acclaim. It is worth noting that the discourse in political circles and in the media contained explicit references to a human rights treaty, the Istanbul Convention. The Institute will monitor how the legislation is applied in practice.

The change in the law on criminal sexual offences has also smoothed the way for German ratification of the Istanbul Convention. With regard to the Convention's implementation several questions arise with respect to the political coordination and independent monitoring in the policy field of gender-specific violence. On a commission from the Council of Europe, the Institute prepared an analysis of the challenges and experiences associated with the establishment of coordinating and monitoring mechanisms. The background to this is the extensive obligation arising for State parties from Article 10 of the Istanbul Convention, which very few States have implemented thus far. Article 10 requires the states to coordinate, implement, evaluate and assess measures to prevent and combat gender-specific violence.

[The legislation amending the law governing sexual offenses, which was ultimately adopted by unanimous vote in the Bundestag, represents a crucial advance for sexual self-determination in Germany.](#)

### **Asylum / Migration**

The Institute continued to follow up on the issue of protection against violence in refugee accommodation facilities, which it has worked on since early in 2015. In mid January 2016, the Institute and the Federal Commissioner for Migration, Refugees and Integration hosted an event on the situation of women in refugee shelters and ways to safeguard their rights. The event drew high-ranking speakers, such as Minister of State Aydan Özoguz, then Federal Minister for Women's Affairs Manuela Schwesig and Prof. Dr. Rolf Rosenbrock, the president of Paritätischer Gesamtverband, the national federation representing independent welfare organisations. The speakers described the status quo and the challenges posed for ensuring the rights to protection against violence, psychosocial support and healthcare for refugee women in Germany. The conference generated an extraordinary level of interest; 250 persons attended, while an additional 100 requests had to be refused due to a shortage of space.

The Institute took part in the debate on faith-based violence in refugee shelters within the context of events and expert discussions hosted by the Friedrich Ebert Foundation, the Stephanus Circle of the CDU/CSU parliamentary group, the Konrad Adenauer Foundation and the CDU/CSU parliamentary group. The Institute also released a short publication outlining the current situation and calling for the introduction of the requirement that all accommodation facilities develop violence protection plans and integrate the dimension of religion into them.

The Institute is also continuing its work on the implementation of the human rights recommendations relating to protection against violence in a variety of forums, such as the federal initiative to ensure protection against violence in refugee shelters and the federal-Länder working group on domestic violence. Particularly noteworthy in this context is the initiative launched by UNICEF and the Federal Ministry for Family Affairs (BMFSFJ) to protect children, adolescents and women from violence in refugee accommodation centres, which developed a set of guidelines for protection in refugee accommodation facilities. In a second step, these guidelines are being implemented in model regions, and being adapted to reflect issues specific to other groups, such as lesbians, gays and bi\*, trans\* and inter\* persons (LGBTI) and persons with disabilities; a concept for monitoring the implementation and effectiveness of the guidelines is also being developed. At this time, the Institute is represented in the core initiative and in its working groups on disability and monitoring.

The Institute prepared multiple statements in 2016 on the human rights assessment of a variety of draft and planned legislation: Asylum Package II, the legislation classifying Algeria, Morocco and Tunisia as "safe countries of origin" and on the legislation introducing restrictions regarding the place of residence of recognised refugees. On World Refugee Day, the Institute released an analysis of the

implementation of the EU-Turkey Statement of 18 March 2016 from the perspective human rights and refugee rights. Together with the CRC Monitoring Mechanism, the Institute's Human Rights Policy Germany / Europe Department raised the issue of the marriage of under-age refugees in Germany in its policy advising, media work and a position paper.

Other Institute activities centred on the right to family life for refugees, particularly in the context of the suspension of family reunification for beneficiaries of subsidiary protection. In December 2016, the Institute gave the introductory lecture at a related event in North Rhine Westphalia attended by the Bundestag members representing the constituency from all parliamentary groups. Also in December, the Institute published a statement discussing the topic from a human rights perspective, which is underpinning its ongoing policy advising.

### **Trafficking in human beings**

The Bundestag chose the topic of forced labour under the Nazi regime as the focus of its Holocaust Remembrance Day activities in 2016. The Institute contributed an input on forced labour and human trafficking around the world to the Bundestag's International Youth Meeting, which led to lively discussions among the young people participating.

The Institute is a member of the Federal-Länder Working Group on Human Trafficking of the Federal Ministry of Labour and Social Affairs and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. In this context, the Institute regularly contributes input providing a human rights perspective and contributes to strategy papers prepared by the working group.

The Institute published a paper presenting an updated version of its draft concept for a post of national rapporteur and national coordinating entity on trafficking in human beings, which it originally developed in 2015 for the BMSFJ. In the paper outlining the concept ("Konzeptentwurf für eine nationale Berichterstattstelle Menschenhandel und eine Koordinierungsstelle Menschenhandel"), the Institute presented proposals for the establishment of posts or entities of this kind in Germany. These proposals were developed on the basis of a comparison of the national rapporteurs and entities charged with coordination on this issue in other European countries and of formats for reporting on other issues that already exist in Germany. The Council of Europe Convention on Action against Trafficking in Human Beings and an EU directive provide for the establishment of posts or entities of this kind. These have not yet been implemented in Germany.

[The Institute is a member of the Federal-Länder Working Group on Human Trafficking of the Federal Ministry of Labour and Social Affairs and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.](#)

### **Protection from discrimination**

The Institute supported the regular review of implementation of the UN CEDAW by the Committee on the Elimination of Discrimination against Women within the state reporting process by advising civil society on the parallel reporting process and by submitting its own list of issues and parallel report to the Committee. The Institute was on hand during the sessions of the Committee to answer questions from its experts. In this context it was clear that our expertise and engagement in the state reporting procedure was highly appreciated by the Committee members.

In the Final Declaration of the Justice Summit of 17 March 2016, the federal and Länder justice ministers expressed their intention of developing specific further training modules for members of the criminal justice system on the subject of dealing with racially motivated offences. In doing so, they were reacting to the massive increase in attacks on refugees and their accommodation facilities. The Bundestag Committee of Inquiry into the NSA affair has also recommended that law enforcement agencies and the judiciary receive more training on racism, as have multiple European and international human rights bodies. In cooperation with the Federal Ministry of Justice and Consumer Protection (BMJV), the Institute began preparations for a project to develop training modules for officials of the criminal courts and public prosecutor's offices. These professional training modules are intended to help criminal court judges and public prosecutors to react appropriately to crimes

motivated by racism and hatred and to approach the experiences of persons affected by racism with sensitivity in criminal proceedings in order to facilitate effective and discrimination free access to justice for them. At the invitation of the BMJV, the Institute presented and discussed the plans for the project at the meeting of the federal and Länder officials responsible for professional training in July of 2016, whereupon the representatives of Berlin/Brandenburg, Bavaria and Lower Saxony indicated their willingness to serve as model Länder.

[The training modules are intended to help criminal court judges and public prosecutors to react appropriately to crimes motivated by racism and hatred.](#)

International and European human rights bodies have repeatedly called on Germany on multiple occasions to ensure that no prohibited “racial profiling” takes place in the context of identity checks or controls on persons. In late April 2016, the Higher Regional Court of Rhineland-Palatinate issued a ruling on a related case concerning controls on persons by the Federal Police (record number 7.A 11108/14.OVG). The Court ruled for the plaintiff, making it clear that controls on persons that are based on immutable physical characteristics such as skin colour violate the prohibition of racist discrimination anchored in Article 3, paragraph 3 of the Basic Law. The court said that there is discrimination if a person’s skin colour is a contributing factor for the decision to carry out the control regardless of whether it constitutes the sole criterion for doing so. In 2015, the Institute had submitted an amicus curiae brief to the court in this matter.

Racial profiling was also the subject of a talk given by the a member of the Institute’s staff at an event held at the Federal Anti-Discrimination Agency to mark the start of the International Decade for People of African Descent in Germany.

### **Human rights and internal security**

The Institute continued its work on the topic of independent bodies to handle complaints of police misconduct, which picks up on recommendations from European and international human rights bodies. In late February of 2016, at the invitation of the parliament of the Land of Schleswig-Holstein, the Institute prepared an opinion on draft legislation that would establish an independent commissioner for the Schleswig-Holstein police force proposed by the governing coalition. In addition, the Institute presented the results of its research on the design of bodies to handle complaints against police at civil society events and at the Austrian interior ministry’s 13th annual legal conference on rights protection. The research looked at the design of complaint handling entities of this kind in other European countries and experiences with their effectiveness, concluding with the development of a set of key points the design of effective mechanisms. The section headed Internal Security has information about the Institute’s work on human rights in the context of the fight against terrorism and on international coordination among intelligence agencies.

## **Gender diversity in the law: Interview with Petra Follmar-Otto, head of Human Rights Policy Germany/Europe**

**Human rights protect against discrimination and violence on the basis of gender, including the diversity of physical sex development and gender identity. In 2016, the Institute prepared a report on gender diversity and the law for the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, which described the status quo and presented model provisions that would recognise and protect gender diversity. What exactly was the subject of the study?**

In the study (“Geschlechtervielfalt im Recht – Status quo & Entwicklung von Regelungsmodellen zur Anerkennung und zum Schutz von Geschlechtervielfalt”), we investigated ways to improve protection and recognition of gender diversity in German law, with respect to physical sexual development and gender identities and expression. In particular, we focused on the rights of intersex and transgender/transsexual persons. The rule under civil status law requiring the space where parents enter the sex of their child to be left blank in the case of intersex children entered into force in 2013. The Institute examined its application in practice. This was the first provision in the law of the Federal Republic of Germany to acknowledge the existence of intersex persons – a first step, but far from sufficient, as our study makes clear.

### **Where do the problems lie? Who is being affected by this?**

One important aspect is the legal recognition of all genders on the basis of the right to self-determination. Only the categories of male and female are recognised in civil status law at this time. For persons whose bodies do not correspond with biological-societal expectations about these categories or who identify themselves as beyond of this binary view, there is no positive gender entry option available which has a standing equal to the entries “female” and “male”. The option of leaving the field blank is not sufficient either, because leaving the field blank makes no statement regarding gender. Moreover, the options for entering sex do not currently accord with the principle of self-determination. On the contrary, as things now stand, sex is assigned by an external party on the basis of biological criteria or, in the case of a sex change, on the basis of a psychiatrist’s report as required under the Transsexuals Act (Transsexuellengesetz – TSG).

The overriding human rights problem here, though, is the lack of protection of intersex infants and young children against surgical procedures that are medically unnecessary or could be deferred. These are procedures performed to change their physical sex to reflect the male or female standard that can result in physical and psychological harm that lasts a lifetime.

International human rights bodies view the performance of these kinds of procedures before children are old enough to make their own informed decisions about them as falling under the category of inhumane treatment and harmful practices. Despite the increased attention to the harmful consequences of these procedures in the past 15 years, both in medical circles and in broader public discourse, they are still being carried out in Germany, with no drop in numbers. A clear statutory prohibition would not only protect intersex children and their physical and mental integrity, but could also provide clarity for medical doctors and parents, relieving the strain on both.

“A gender-inclusive legal order is one that recognises and protects all sexes and the diversity of genders”

**In your report, you call for a reshaping of our legal order to make it gender-inclusive. What do you mean by that?**

A gender inclusive legal order is one that recognises and protects all sexes and the diversity of genders. The point is to have one set of provisions that apply for all genders rather than special provisions specifically for intersex and transgender persons. Because even though special provisions may be intended to protect rights, they may still end up having a harmful effect, a stigmatising effect. The rule about leaving the entry for gender blank in the civil status record is a case in point.

So our proposal in this specific regard is that the entry on sex be left blank for all children, not just for the group of intersex children. In a child's case, there is no legal necessity to record a gender in the civil status register. In addition, we propose setting up a simple, universally accessible process for assigning gender on the basis of self-determination, not a special procedure specifically for transgender/transsexual persons to change their legal sex entry and given name that is complicated and pathologises trans identity, like that required by the current Transsexual Act.

This kind of shift towards a gender-inclusive legal order is needed in all areas of the law – from civil status law to family law to non-discrimination and gender equality law, to the law governing social security law and that governing the penal system. With the aim of advancing the policy discussion on gender and rights, we developed an actual piece of draft for legislation on gender diversity that addresses several areas of law and presented it in our report.

**Is your report informed by the experiences of inter and trans persons?**

The right of groups who will be affected by a piece of legislation or a policy to participate in its development is a fundamental principle of human rights. The Institute therefore initiated a process of consultation with intersex and transgender persons and intersex- and trans-led organisations. We put the concept for the report and its intermediate results up for discussion at several consultation workshops. The comments and suggestions we received informed the report. We also asked a large circle of intersex and trans-led organisations, researchers and practitioners to comment on our draft gender diversity legislation and obtained very helpful feedback from them.

In addition, we carried out a great many interviews, including with intersex persons and parents of intersex children, in order to evaluate the current rule on leaving the entry on sex blank. In addition to the report, we will be publishing an analysis in 2017 which focuses on their perspectives and situation in life.

The term **intersex** refers to persons (inter\*, intergender, intersexual persons) whose anatomical/biological sex characteristics do not fit into typical medical and social categories of male or female bodies. This can be due to variance in their chromosomal makeup or gonads or to the anatomical development of primary or secondary sex characteristics. Thus the term relates to innate variations of sex characteristics.

The term **transsexual** refers to persons (trans, trans\*, transgender, trans-identifying persons) who do not identify (only) with the sex assigned to them at birth. Thus the term relates to the full spectrum of genders and gender identities.

## Human rights policy, international

### International security policies

War and terrorism regularly result in the abuse of human rights. Increasingly though, we are also seeing human rights infringements in the context of security policies and the fight against terrorism. In 2016, the Institute took part in stakeholder meetings at the Federal Foreign Office on the preparation of new guidelines for managing civil crises and posted a contribution to the debate onPeaceLab2016, a blog platform set up for the purpose. At a closed-door conference held by Forum Menschenrechte in September, the Institute provided an overview of the discussion on the right to peace within the UN. The Institute also sent a staff member to serve as panellist on the expert discussion hosted by the Green parliamentary group (Bündnis 90/Die Grünen) on the past fifteen years of the war on terror. In addition, the Institute prepared a paper entitled “Gender in armed conflict” that addressed the problem of sexual violence in wartime.

At the suggestion of the Federal Foreign Office, the Institute hosted the 9th Roundtable on the Internet and Human Rights on 30 November, an opportunity for representatives of the Federal Government, civil society and business to discuss current developments. Among the topics discussed were the new EU regulation on data protection, the Federal Intelligence Service Act (BNDG: BND-Gesetz), the Freedom Online Coalition and the recent UN resolution on the right to privacy.

### United Nations

The past year marked the tenth anniversary of the first session of the UN Human Rights Council, a subsidiary organ of the General Assembly. To take stock of the Council’s first decade and generate suggestions for improving the effectiveness of this central body, the Institute joined Forum Menschenrechte and the Friedrich- Ebert-Stiftung in hosting both a well attended expert conference and a public event in October. Germany and countries all over the world were represented among the speakers and their audience. The Institute published a related article entitled “Zehn Jahre UN-Menschenrechtsrat. Zwischen Politisierung und Positionierung” in the journal Vereinte Nationen.

### Business and human rights

Within the framework of a research project funded by the Federal Ministry for Economic Cooperation and Development (BMZ) entitled “National Human Rights Institutions as development policy partners in the implementation of the UN Guiding Principles on Business and Human Rights: Strengthening their work in sectors of particular human rights relevance, textiles raw materials and agricultural investments”, the Institute worked with the Defensoría del Pueblo, Colombia’s National Human Rights Institution, to hold a series of workshops on human rights in the extractive sector (see “Cooperation among National Human Rights Institutions” in the section headed Business and Human Rights). The fellowships awarded to journalists researching business and human rights topics by the Institute came to a successful end, culminating in four published articles. The topics: a dam project in Honduras and the murder of the head of the non-governmental organisation Copinh (Alexander Endres); labour conditions of women who work from home for the Indian shoe industry as part of supply chains, some of which lead to German companies, (Nicole Graaf); securing the border in Romania and the role of German/French Airbus in the supply of surveillance technology (Caroline Wiemann/Vanessa Vu) and bio-piracy and the stevia story (Sandra Weiss). All of the articles were published in well known media in 2016.

[The Institute is working to ensure a human rights based implementation of the 2030 Agenda in and by Germany.](#)

Together with the Global Compact Network Germany and the consultancy TwentyFifty, the Institute developed a brochure aimed at businesses on the assessment of human rights risks and impacts, which it presented at a jointly held event. Sibylle Baumgartner (Kuoni Travel), Dr. Bärbel Kofler (Member of the Bundestag and human rights commissioner at the Federal Foreign Office) and Cornelia Heydenreich (Germanwatch) were panellists at the well attended debate in July. At the invitation of the Global Compact Network Japan, the Institute spoke at a conference on human rights risk and impact assessment in Tokyo in March. The national action plans on business and human rights to be drawn up by Germany and Japan were the subject of discussion at meetings with representatives of the Japanese Government and civil society, as was continuing the focus on sustainable supply chains during Japan's presidency of the G7.

In November, the project team took part in the annual UN Forum for Business and Human Rights in Geneva, speaking there on the role of National Human Rights Institutions in ensuring access to remedies for business-related human rights abuse. Following approval of Germany's National Action Plan on Business and Human Rights, the Institute released a statement pointing out the strengths and weaknesses of the NAP.

[Gearing EU development funding towards human rights bears great potential for improving the implementation of human rights in the partner countries.](#)

### **Human rights in development policy**

The 2030 Agenda and the Sustainable Development Goals dominated much of the discussion on development policy again in 2016. The Institute is particularly committed to ensuring a human rights based implementation of the 2030 Agenda in and by Germany. It participated in the expert consultation on the issue of the Bundestag Advisory Council on Sustainable Development in March. In August, the Institute presented one statement on the draft of Germany's national sustainable development strategy and another on the Federal Government's report for the High Level Political Forum, at which states regularly report on the implementation of the Sustainable Development Goals in their own countries.

Financing development that is consistent with human rights is an important topic for development cooperation throughout the world, and thus also for German development cooperation. The Institute has been working on issues in this area for many years, through publications and contributions to discussions and debates. In 2016, for example, the Institute took part in consultations held by the World Bank on its new environmental and social standards in Brussels in January. At the invitation of the Bundestag Committee on Economic Cooperation and Development, it also discussed the new World Bank standards and those of the Asian Infrastructure Investment Bank with parliamentarians and representatives of the Federal Government.

In April, the Institute took part at the spring meetings of the World Bank in Washington DC and at a consultation on the Asian Infrastructure Investment Bank held by the German Ministry of Finance. The Institute was also represented at the annual meeting of the Asian Development Bank in Frankfurt, where it made several contributions to the discussion. The Institute released a publication describing the challenges for the Bundestag and the Federal Government arising from the World Bank's new environmental and social standards and from the development of such standards by the Asian Infrastructure Investment Bank. The Institute's position on this topic figured in many reports in the media.

In 2016, the EU was once again the largest donor of development aid. Gearing these funds towards human rights bears great potential for improving the implementation of human rights in the partner countries and improving the protection of human rights defenders. To this end, the Institute took part in a consortium with the Danish Institute for Human Rights and the Nordic Consulting Group, which offers training on the human rights approach in development work to EU delegations worldwide. In March, the Institute also took part at the EU Commission's annual CSO Forum in Brussels, presenting



experiences in German development cooperation with implementing a human rights-based approach at the meeting with civil society.

### **Children's rights in development cooperation**

The Institute has been cooperating in the area of children's rights with the GIZ, Germany's state-owned development cooperation services provider, since 2015. The cooperation takes the form of consultancy on the preparation of an action plan on children's rights in development cooperation of the Federal Ministry for Development Cooperation (BMZ) and the preparation of publications on children's rights. In consultation with the UN Committee on the Rights of the Child, the Institute compiled six summaries (3 in English, 3 in German) of General Comments issued by the Committee: on health (no. 15), on children's rights during adolescence (no. 20) and on harmful practices (no. 18). The summaries were published in early 2017. The aim was to put the authoritative interpretation of the Convention on the Rights of the Child in these areas into a format facilitating its practical application. Together with the GIZ, the Institute led a training event for the working group on the rights of children and adolescents of the Federación Iberoamericana del Ombudsman (FIO). The three-day training event in Lima focused in particular on the participation of children and adolescents and on methodological capacity building.

With a final workshop and release of a publication, the Institute completed its BMZ-funded research project on the participation of adolescents in an advisory capacity as a contribution towards implementing the rights of children and young people in German development policy in 2016. At the March workshop, the young people created, with professional assistance, a video presenting their key messages on the participation of children and adolescents in development policy. A survey of the various forms of participation of children and young people and an assessment of the youth consultation on development policy were the subject of the publication that brought this research project to a close, which was released in November.

### **Freedom of religion**

The mandate of Prof. Dr. Heiner Bielefeldt, UN Special Rapporteur on the Freedom of Religion and Belief, came to an end in July 2016 and with it the Institute's work on this topic, which was funded by the Federal Foreign Office. At the end of his period in office, the UN Special Rapporteur took stock of the situation with respect to freedom of religion around the world at a well-attended event in the German Bundestag, which was co-organised by the Institute and Prof. Dr. Heribert Hirte, Member of the German Bundestag, and the Stephanus Circle of the CDU/CSU. Working with the Konrad Adenauer Foundation, the Institute also held an event on the relationship between freedom of religion and freedom of expression, in which Prof. Dr. Bielefeldt discussed this topic with Prof. Dr. Christian Walter of the Ludwig-Maximilians-Universität of Munich.

## Human rights education

Human rights education is an important prerequisite for the realisation of human rights. The aim of human rights education is to raise awareness of and promote human rights and empower people to take action on behalf of human rights. Human rights education contributes to reducing all forms of discrimination and preventing violations and abuses of human rights.

Human rights education is a lifelong process and must address all age groups. It plays a role in all educational contexts and is of relevance for many occupational fields, such as social work, nursing, administration, the judicial system and law enforcement, and the military. Human rights education in Germany constitutes an important element of the Institute's work. The Act on the Legal Status and Mandate of the German Institute for Human Rights (DIMRG) reaffirmed this priority. The Institute's Statutes, reflecting the intent of Bundestag resolution which established it, emphasise that "[a]ccess to information is important. No less important is anchoring the significance of human rights emotionally in hearts and minds at an early stage, so as to contribute to a critical and open-minded general public in Germany that is guided by human rights." The Institute thus strives to strengthen and further develop human rights education in Germany. In 2016 the major focus of the Institute's endeavours in this area was on the development of materials, human rights education in early childhood and the human right to education.

[Human rights education contributes towards the elimination of all forms of discrimination and the prevention of human rights violations and abuses.](#)

By developing new materials, the Institute is helping to raise the level of professionalism in human rights education. Some of the materials in use are outdated, some contain problematic content. In terms of methodology, they are often aimed at apparently homogeneous learning groups, thus failing to take into account the possibility of diversity in the lives and experiences of learners. For instance, groups of pupils often include persons who have experienced discrimination or been affected by human rights violations or abuses.

The material contained in publication "Menschenrechte – Materialien für die Bildungsarbeit mit Jugendlichen und Erwachsenen", released by the Institute in March of 2016, is intended for use in educational work with adolescents and adults. The materials can be used for education in schools or in non-school settings. They are suitable for work with persons aged 15 or older; no prior knowledge of human rights is required. Six modules, each made up of an introductory text, numerous exercises and worksheets and suggested further reading, illuminate the following topics: human rights in general, protection against discrimination, access to justice, disability and inclusion, children's rights and participation, as well as flight and asylum. A glossary explains key human rights vocabulary. The material was very well received, as the order and download numbers testify.

The Institute also worked on the translation and adaptation of the 2nd edition of "Compass" in 2016. These are the human rights educational materials for older children and adolescents published by the Council of Europe. The German edition, "Kompass", will be published in cooperation with the Federal Agency for Civic Education (bpb), the Pädagogische Hochschule Luzern and the Council of Europe in 2017. Its release will be accompanied by workshops for disseminators.

Human rights education in early childhood was another major focus of the Institute's work in this area in 2016. Increasingly, experts see early childhood education as playing a major role for effective human rights education, and rightly so, because important foundations for the development of skills and attitudes that foster a culture of human rights are laid in early childhood. Human rights should therefore be made an integral part of the daily educational routine. An important prerequisite for this is that education explicitly on human rights be systematically anchored in the education plans and programmes. The topics of participation, inclusion and education for sustainable development offer

useful starting points in this respect. The Institute held two workshops on early childhood human rights education in 2016: an evening event with day-care professionals (from Kitas) on realising children's rights in the daily life at day-care, and an expert discussion with participants from the research and professional communities. It also released a short publication on human rights education in early childhood entitled "Menschenrechte von Anfang an – Die Bedeutung frühkindlicher Menschenrechtsbildung" in December. The publication argues that human rights education is not too demanding for young children provided that a positive approach to questions of fairness, recognising diversity and children's rights is chosen and experienced. Strengthening the rights of children goes hand in hand with strengthening the human rights of adults, with the aim of shaping everyday life based on children's and human rights. Experiences with human rights education can be a motor for the development of a child-care culture characterised by respect for human rights.

In the autumn of 2016, the Institute published its study on the human right to education in the German school system ("Das Menschenrecht auf Bildung im deutschen Schulsystem. Was zum Abbau von Diskriminierung notwendig ist"), which investigated what it will take to eliminate discrimination in German schools. The study was presented in September at a conference on the significance and reception of the human rights approach in research on education held by the Institute and the Berlin Social Science Center (WZB). Many prominent researchers from the field of education participated in the conference, where they contributed to a lively discussion, touching on topics like the concept of discrimination and possible human rights-oriented indicators in the field of education. Both the conference and the study were very well received. The documentation of the conference will be released in 2017. The Institute will continue to work on this topic, because education is the prerequisite for exercising human rights.

The work of the Human Rights Education Department frequently takes the form of policy advising and networking activities. Committed to getting human rights education more firmly anchored in school acts (*Schulgesetze*), and in education plans and curricula, the Institute advises political actors and institutions on this issue. Furthermore, the Institute sees itself as a forum for exchange on human rights education and works closely with civil society, universities, other National Human Rights Institutions and a wide range of national and international organisations and institutions in this area. Through its networking activities, the Institute strengthens coordination, mutual exchange of information and experiences and professionalism in the area of human rights education.

The Institute's activities in this area also include the organisation of an annual meeting of its human rights education network. To mark the 50th anniversary of the first UN human rights Covenants in 2016, the Institute focused on the Covenants' significance for human rights education at the Berlin Human Rights Day. The meeting inspired participants to think about ways to tie the human rights treaties explicitly into their educational work effectively. This question will be explored in greater depth at future meetings of the network.

## National CRPD Monitoring Mechanism

### **Inclusive labour market – Recommendations from the UN Committee on the Rights of Persons with Disabilities**

In 2015, the UN Committee on the Rights of Persons with Disabilities reviewed the implementation of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) in Germany, concluding this review by making several recommendations, which are to guide the further implementation of the UN CRPD in Germany. In accordance with its mandate, the National CRC Monitoring Mechanism of the German Institute for Human Rights is examining whether and to what extent the Federal Republic of Germany is acting on these recommendations, particularly with respect to contentious areas.

Against this backdrop, the National CRPD Monitoring Mechanism published a position paper in 2016 on the question of an inclusive labour market versus separate structures for persons with disabilities (“Inklusiver Arbeitsmarkt statt Sonderstrukturen. Warum wir über die Zukunft der Werkstätten sprechen müssen”) which highlights the need for debate on the future of the sheltered workshops in Germany. After releasing the paper, the Institute engaged in policy advising discussions with various actors on this question, which remains unanswered. The recommendation of the UN treaty body to phase out sheltered workshops while opening the general labour market to persons with disabilities was raised and discussed by the National CRPD Monitoring Mechanism in various forums, including at Werkstätten:Tag (the congress of the national association of sheltered workshops) in September 2016.

### **Evaluation of an action plan at the Länder level**

Action plans for CRPD implementation have been a focus of the National CRPD Monitoring Mechanism since it was first established. Over the years, it has undertaken a wide range of advisory and evaluative work in this connection. In 2016, this expertise led the Thuringian Ministry for Labour, Social Affairs, Health, Women and Family to commission the National CRPD Monitoring Mechanism to evaluate Thuringia’s action plan for CRPD implementation.

[Whether inclusion becomes a lived reality depends largely on the legal provisions in place.](#)

As part of its evaluation of the Thuringian plan, the CRPD Monitoring Mechanism examined the how the plan ties in with the UN CRPD. It also made suggestions with respect to incorporating the 2015 recommendations of the UN Committee on the Rights of Persons with Disabilities into the work on updating the action plan. Methods used in the evaluation included the analysis of the relevant literature and documents and the conduct of interviews with experts on participation and managing the implementation of the measures contained in the plan as well as other topics. The results of the evaluation were presented at a conference at the building of Thuringia’s State Parliament and published in a subsequent report.

### **Standards testing: Establishing a legal framework consistent with the UN CRPD**

The advisory activities of the National CRPD Monitoring Mechanism also include the review of statutes and regulations with regard to whether they are in line with human rights standards. This is because CRPD implementation in Germany is being effected largely through the amendment of statutes and ordinances. Whether inclusion becomes a lived reality depends largely on the legal provisions in place.

The analysis of the compatibility of existing statutes and regulations with the UN CRPD therefore serves to identify areas where changes are needed and thus ultimately to improve the structure of the legal framework. The obligation to adapt statutes and regulations to conform with the UN CRPD applies to the Länder as well as the national government. The National CRPD Monitoring Mechanism has many years of experience in standards testing and has advised authorities and legislative bodies of many Länder, most recently Berlin and Thuringia.

The UN CRPD lays down an obligation to take measures to ensure accessibility (Article 9) so the Länder have to make adjustments to their legal frameworks, particularly in the area of building and the protection of monuments, to anchor the principle of accessibility in accordance with the UN CRPD. For instance, building codes should require a high percentage of accessible housing units, and an entitlement to reasonable accommodation should be laid down in the law governing the protection of monuments. The National CRPD Monitoring Mechanism drew up numerous recommendations and expert reports in these areas in 2016: one example is an expert report on the Thuringian building code and the monument protection act, prepared as part of a project commissioned by that federal state, another is a comparative report examining accessible building in multiple Länder prepared in the context of the Berlin project.

### **Housing for persons with disabilities in Berlin**

“Wohnen und Leben in der Gemeinschaft: Ein unerfüllter Auftrag der UN-Behindertenrechtskonvention in Berlin?” (Homes and lives in the community: an unfulfilled mandate of the UN CRPD in Berlin?) is the title of the 2016 report on the realisation of the right to live independently and be included in the community. This report analyses developments in the area of housing for persons with disabilities in Berlin between 2011 and 2016. Methods used included written inquiries to competent bodies and the analysis of social statistical data and parliamentary documentation, as well as interviews with selected experts. It emerged that the percentage of people living in institutionalised housing is lower in Berlin than anywhere else in Germany. However, the report clearly indicates the need for strategic political action to realise freedom of choice and inclusion in the community for all Berlin residents, regardless of how much support they need. In addition to affordable and accessible housing, the availability of support services locally, including personal assistance is of particular importance in this respect; accessible institutions, facilities and services, such as schools, libraries, supermarkets, district centres, doctor’s offices and means of transportation, are also of great importance.

[The National CRPD Monitoring Mechanism has many years of experience in standards testing and advises Länder administrations and legislative bodies.](#)

### **National and international cooperation**

Thanks to its national network and exchange with national stakeholders, the National CRPD Monitoring Mechanism regularly receives information on the state of UN CRPD implementation. At the sixth meeting of the National CRPD Monitoring Mechanism with federal and Länder disability commissioners on 21 April 2016, the focus was on the recommendations issued to Germany by the UN Committee on the Rights of Persons with Disabilities, the Federal Participation Act (BTHG: Bundesteilhabegesetz) and the topic of refugees with disabilities. The civil society consultations held three times each year and the annual symposium for the staff of the federal and Länder disability commissioners also serve to advance the discussion of disability rights issues.

In addition, the Institute remains in continuous dialogue with other national CRPD monitoring mechanisms in Europe. In November 2016, the National CRPD Monitoring Mechanism organised a two day seminar and discussion meeting, within the framework of European Network of National Human Rights Institutions (ENNHRI), which was devoted to various international issues associated with the right of persons with disabilities to access to justice (Article 13, UN CRPD).

## National CRC Monitoring Mechanism

Germany has ratified the UN Convention on the Rights of the Child (UN CRC) and its Additional Protocols and has committed itself to respect and uphold children's rights. The Institute has been entrusted with following up on the implementation of the UN CRC in Germany with a critical eye, and it established the National CRC Monitoring Mechanism for this purpose in late 2015. In addition to setting up its organisational/institutional structure and taking the first steps in the substantive work it was created to do, one of the main focuses of activity at the National CRC Monitoring Mechanism during the first two years (its development stage) was on establishing lines of communication with four stakeholder groups: federal, Länder and local legislators: state bodies; civil society organisations, including those of children and adolescents; and research institutes.

As part of this work, in early 2016, the National CRC Monitoring Mechanism visited the offices of the spokespersons for policy on child and youth and family affairs for all of the parliamentary groups represented in the Bundestag and held consultations with the four stakeholder groups named above. It held child-friendly participation workshops on ways for children to bring complaints, which were led by children and young people themselves. The National CRC Monitoring Mechanism put the insights it gained through these activities up for discussion at a consultation event held with civil society organisations, again with the children and young people involved playing an active role. This consultation was scheduled – as was that of the event to mark the opening of the National CRC Monitoring Mechanism the year before – to coincide with date the adoption of the UN CRC by the General Assembly of the United Nations, a date which the National CRC Monitoring Mechanism will continue to use for consultations with civil society in the years to come. Children's rights-based research on refugee children was the subject of a consultation event with researchers. An expert discussion among representatives of the domains of policy, research and civil society on the topic of children of persons in detention served as the prelude to what will be a more in depth engagement with this topic in 2017.

[The information sheet “How to register your newborn” was published in German, English, Arabic and Farsi.](#)

Wholly in accordance with its mandate follow up on the realisation of children's rights in Germany with a critical gaze and to act as an independent body to watch over the consistency of state action with the Convention's requirements, the National CRC Monitoring Mechanism received information about grievances and problems associated with the realisation of children's rights from civil society organisations and individuals on many occasions. Reflecting the large numbers of children who, alone or with their families, sought asylum in Germany in 2016, it was frequently their rights which were the focus of the concerns reported to the National CRC Monitoring Mechanism. In view of this fact, the National CRC Monitoring Mechanism decided to examine the conditions in which refugee children are living in Germany should within the framework of its first activity as it takes up its work.

### Information sheet for refugees

Again and again, we received reports from paediatricians and midwives that the newborn children of refugee mothers and fathers frequently lacked birth certificates, often for longer periods of time. The UN Committee on the Rights of the Child has reprimanded Germany regarding this problem on multiple occasions, most recently in the context of the Committee's review of the State's report on CRC implementation in 2014. The National CRC Monitoring Mechanism is therefore providing information to parents and professionals about the current legal rules governing the registration of newborns whose parents cannot produce identity documents. The information sheet “How to register your newborn” was published in German, English, Arabic and Farsi and sent to maternity clinics in the cities from which problems had been reported. The information sheet was also made available for download on the Institute's website. The considerable amount of positive feedback from reception

centres and other civil society bodies made it clear that there is a great need for information on this issue throughout Germany.

Specific obstacles complicating the issuance of birth certificates for children whose parents cannot provide proof of identity were identified through discussions between the National CRC Monitoring Mechanism and the bodies with supervisory authority over the registry offices in individual Länder. The National CRC Monitoring Mechanism will be addressing these obstacles in 2017 with the aim of preparing recommendations for action by policy-makers.

### **Map of children's rights in Germany**

Through a survey of the Länder ministries of culture and social affairs, the National CRC Monitoring Mechanism gathered information on how the Länder are implementing the right to access to education (in pre-school day care and in schools) for refugee children. Since access to education for refugee children varies greatly from one federal state to another – despite the fact that standard legal provisions are in place, at least for the child-care system – the National CRC Monitoring Mechanism drew up the “Landkarte Kinderrechte”, a map charting children's access to education in Germany. The information obtained from the survey for each federal state is presented in map format at [www.landkarte-kinderrechte.de](http://www.landkarte-kinderrechte.de). The National CRC Monitoring Mechanism will continue to use the “Landkarte Kinderrechte” to present information about the implementation of children's rights across the country in the future. In 2016, data was analysed for future versions of these maps, which will spotlight children's rights under the Länder constitutions and parent-child visitation periods prescribed in Länder legislation governing prisons.

The information on the implementation of children's rights across Germany is presented in map format at [www.landkarte-kinderrechte.de](http://www.landkarte-kinderrechte.de)

### **Analysis of living conditions**

For the first of what will be a series of analyses of living conditions, the National CRC Monitoring Mechanism surveyed refugee children who live with their parents in collective accommodation facilities. Hence this analysis affords refugee children the opportunity to be heard, unlike earlier research conducted on their living conditions. In workshops held in two collective accommodation facilities, the National CRC Monitoring Mechanism asked girls and boys aged 6–17 about their experiences and their assessment of their situation in the collective accommodation facility, using a range of child-sensitive methods. This approach allows the National CRC Monitoring Mechanism to fulfil its own obligation under Article 12 of the UN CRC to provide children and adolescents the opportunity to be heard in any matter affecting them. The results of the analysis of living conditions and the survey of the Länder ministries of culture and social affairs on education for refugee children were reflected in the Institute's report on human rights and led to invitations to the National CRC Monitoring Mechanism to participate in expert consultations in the Bundestag and in the parliaments of individual Länder.

The living conditions analysis is an inquiry into a specific group of children whom the National CRC Monitoring Mechanism has identified as being particularly vulnerable with respect to the realisation of one or more children's right, due to the circumstances in which they are living. In order to gain better insight into the reality of these children's lives, despite the lack of data, the National CRC Monitoring Mechanism conducts sample, qualitative surveys, in which it interviews professionals or groups representing children's interests or the children and young people concerned themselves.

## Library

**“Human rights play an important role in the international work of libraries” Interview with Anne Sieberns, Head of the Institute library**

**The Institute’s library has been active in the IFLA, the International Federation of Library Associations and Institutions, for some years now. What does the IFLA do?**

The IFLA is a politically independent, non-governmental organisation that has been promoting the development of high quality library and information services since 1927. It has members in over 150 countries. It therefore sees itself, and rightly so, as being the voice of libraries, their staff and their patrons.

**What specifically does the IFLA do for human rights?**

Human rights play a very important role in the international work of libraries. The focus is on the right of access to information as well as the right to education and cultural participation for all persons. Libraries are key institutions for the national implementation of these rights. For instance, the IFLA successfully advocated the inclusion of the access to information and information technologies in the Sustainable Development Goals (SDGs) of the UN 2030 Agenda.

The IFLA has an advisory committee on freedom of access to information and freedom of expression that strives to defend and promote the right to freedom of expression and access to information, explicitly invoking Article 19 of the United Nations Universal Declaration of Human Rights. Human rights play a role in the work of some of its other sections and committees as well, in connection with data privacy, intercultural library work, gender and LGBTI issues, or the protection of indigenous cultural heritage. In the public library section, offerings for refugees were at the top of the agenda in 2015/16.

*“All libraries have to respect and safeguard the right to access to information and participation in cultural life.”*

**Why did the Institute become active in IFLA?**

The Institute’s library first sent a representative to the IFLA World Congress in 2010, with the aim of gathering information about library services for persons with disabilities. There are several IFLA bodies working on the topic of accessibility. One of these is the advisory committee on copyright and other legal matters, which was involved in the negotiations on the Marrakesh Treaty of the World Intellectual Property Organization. The international entry into force of this treaty, which among other things allows for the cross-border exchange of accessible books, was celebrated at the IFLA World Congress in 2016. There was some criticism regarding fact that the European Union and its member states had at that time not yet been able to agree about the treaty's ratification.

**You have been the German representative on the committee of an IFLA section that focuses on library services for “people with special needs” since 2013. Which persons, or groups of persons does that term refer to?**

The section you are referring to, the LSN section, works to encourage improvement in access to libraries for people who cannot use the offerings and services of libraries due to a disability or to their living conditions, or whose access is restricted. These include persons with physical disabilities or learning difficulties, persons who are deaf, persons in hospitals and nursing homes, prison inmates and persons who are homeless. The interests of persons who are blind or have impaired vision are represented by another IFLA section, which works closely with the LSN section.

**What specifically does the LSN committee, which has an international membership, do?**



The committee has been issuing English-language guidelines and recommendations for library services for the target groups I mentioned above for over 20 years. Other publications include a checklist for barrier-free access to libraries and a hand-out about easy-to-read materials. In 2015, it released a publication on library services for persons with dyslexia that aroused great interest around the world and which, thanks to the DZB (German Central Library for the Blind) will soon be available in a German translation. All publications and translations are available for download free of charge at the IFLA website: [www.ifla.org/lisn](http://www.ifla.org/lisn).

**The LSN Committee met at the Institute in February 2016. What was on the agenda at this meeting?**

The committee drew up a set of recommendations for library services for persons experiencing temporary or long-term homelessness in 2016. It had collected and analysed reports from around the world on experiences in this area. At the meeting in Berlin, we discussed the main focuses of the publication on this issue which we plan to release in late 2017. We want to ensure that all libraries respect and safeguard homeless persons' rights to access to information and participation in cultural life. Those two rights are crucial for the exercise of other rights. So this is a way that libraries can play an important role for the social (re) integration of persons who are homeless.

**What projects does the LSN Committee intend to work on in the years to come?**

We want to completely overhaul the recommendations on library services for the deaf that were issued in 1991. We will also be presenting a checklist for the design of barrier-free library conferences at the 2017 World Congress in Wroclaw, because it is imperative that our profession becomes far more inclusive and diverse. I am very glad that I will be able to continue working on the committee. The IFLA has approved my second term in office, at the suggestion of Medibus, which is the federation of libraries for the blind and producers of Braille media and audio books in the German speaking region (Mediengemeinschaft für blinde und sehbehinderte Menschen e.V.).

**What did the Institute library do to promote accessibility in libraries in 2016?**

On 12 September we advised staff from the Uzbek National Libraries and university libraries on accessibility. In October, we were represented with a talk on the UN Convention on the Rights of Persons with Disabilities at a library conference in Vilnius, Lithuania. And on 14 November we held a professional training event for research and public library professionals at the Institute, this time on the topic of designing barrier-free events.

The Institute's library is a specialised library and service facility that is open to the public. It provides access to print and electronic media on human rights, including the collection of materials on human rights education and on the UN CRPD that is unparalleled in Germany. The library hosts readings, offers training events on internet research on human rights and actively promotes greater accessibility in libraries through professional training events.

## Communication

The Communications Department is responsible for the Institute's media relations and activities, social media activities, and the Institute's website. It runs the Institute's internal publishing unit and designs and organises barrier-free conferences, lectures, expert discussions, workshops and readings independently or in cooperation with the Institute's policy advisers. It regularly offers a small fellowship program and hosts seminars on current issues relating to human rights, both aimed at journalists. It is also involved in the Human Rights Film Prize and presents a film series on selected human rights topics.

The Communications Department also works with the development and relief agency Bread for the World to prepare the programme of the Werner Lottje Lecture, at which current challenges for the protection of human rights defenders are discussed. Every two years it prepares the concept for and organises Berlin Human Rights Day, a forum used by the Institute to place current issues in human rights on the social and political agenda.

["I am very sharply alarmed by the increasingly widespread shockwaves of racial and religious hatred and xenophobia." Zeid Ra'ad al Hussein, United Nations High Commissioner for Human Rights](#)

### **Third Berlin Human Rights Day – Conference on 50 Years of UN Human Rights Covenants**

The two central UN human rights treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, turned 50 years old on 16 December 2016. With the Federal Foreign Office, the Federal Ministry of Labour and Social Affairs, the Federal Ministry of Justice and Consumer Protection and Forum Menschenrechte, a network of human rights organisations in Germany, the Institute co-hosted an international conference entitled 50 Years of the UN Human Rights Pacts in Berlin on 6 October 2016 to mark this occasion. This event also served as the 3rd Berlin Human Rights Day. Around 300 politicians, researchers, ambassadors, and human rights activists took up the invitation to discuss the Covenants' significance, both for Germany in particular and around the world, as well as current human rights challenges.

### **Web dossier**

As a way of acknowledging the importance and impact of these two UN Covenants, the Institute created an extensive dossier entitled "50 years of the UN human rights Covenants" and made it available on the Institute's website.

Five video interviews were produced for the dossier, featuring human rights activists from Germany, Scotland, Kenya, Mexico and the USA, including Mary Robinson, the former UN High Commissioner for Human Rights. In the videos, the activists talk about the Covenants' importance for their human rights work. A "trailer" including statements from each of these activists was also produced for the opening of the conference.

The dossier also contains the conference programme, the texts of speeches given there – including those of Zeid Ra'ad al Hussein, UN High Commissioner for Human Rights, Dr. Frank-Walter Steinmeier, Germany's foreign minister at that time, and Beate Rudolf, the Institute's director – a photo gallery, audio recordings from the conference, all of the live tweets from the conference under the #UN\_Pakte50 hashtag, as well as short biographies of the speakers, and, of course, information about the Covenants.

The dossier can be found at [www.institut-fuer-menschenrechte.de/aktuell/veranstaltungen/berliner-menschenrechtstag/berliner-menschenrechtstag-2016/](http://www.institut-fuer-menschenrechte.de/aktuell/veranstaltungen/berliner-menschenrechtstag/berliner-menschenrechtstag-2016/)

#### **Fourth Research fellowships for journalists**

In February 2016, the Institute called for applications for research fellowships for journalists for the fourth time. The Institute's aim in awarding these research fellowships is to encourage journalists to approach current topics from a human rights perspective. The fellowships are awarded for outstanding research concepts for journalistic pieces. The Institute offers a seminar on human rights to all fellows before they begin writing their pieces.

The topic for the 2016 research fellowships was "Business and human rights – Transnational economic linkages and their effects on human rights". A five-member panel assessed the research concepts submitted. The panel was made up of: Yasmin El-Sharif, head of the business desk at SPIEGEL ONLINE; Jule Reimer, business and society editor, Deutschlandradio; Donata Riedel; financial and business policy correspondent, Handelsblatt; Ulrich Schäfer, chief business editor, Süddeutsche Zeitung and Dieter Schnaas, chief reporter, WirtschaftsWoche.

The fellowships were awarded for research concepts for journalistic pieces on the following topics: Agua Zarca dam project in Honduras (category: online), employment conditions of home-workers in the Indian shoes industry (category: print and radio), Romanian border security (category: online), bio-piracy – who owns the active substances in plants? The indigenous Guarani people vs. Coca Cola (Category: print and radio).

You can read the pieces published by the fellows at [www.institut-fuer-menschenrechte.de/presse/recherche-stipendium/recherche-stipendium-2016/](http://www.institut-fuer-menschenrechte.de/presse/recherche-stipendium/recherche-stipendium-2016/)

The Communications Department worked with the international department to carry out the project. Information on the 2016 research fellowships: [www.institut-fuer-menschenrechte.de/presse/recherche-stipendium/recherche-stipendium-2016/informationen/](http://www.institut-fuer-menschenrechte.de/presse/recherche-stipendium/recherche-stipendium-2016/informationen/)

[The Institute's aim in awarding these research fellowships is to encourage journalists to approach current topics from a human rights perspective.](#)

#### **First report on the human rights situation in Germany**

The German Institute for Human Rights presented the first of what are to be annual reports on developments in the human rights situation in Germany on 7 December 2016, at the Federal Press Conference. The central focus of the report, which covers the period of January 2015–30 June 2016, is on the issue of refugees. It addresses two other issues as well: the exclusion of 84,500 persons with disabilities from exercising their right to vote, and the preparation of a German national action plan for business and human rights. Summaries of the reports in German, English, Arabic and Plain German were produced for the presentation, along with a variety of fact sheets for the media. The report and its topics figured in the reporting of many media outlets.

#### **Twitter**

@DIMR\_Berlin

#### **Websites**

[www.institut-fuer-menschenrechte.de](http://www.institut-fuer-menschenrechte.de)

[www.institut-fuer-menschenrechte.de/leichtesprache](http://www.institut-fuer-menschenrechte.de/leichtesprache)

[www.ich-kenne-meine-rechte.de](http://www.ich-kenne-meine-rechte.de)

[www.inklusion-als-menschenrecht.de](http://www.inklusion-als-menschenrecht.de)

[www.aktiv-gegen-diskriminierung.de](http://www.aktiv-gegen-diskriminierung.de)

[www.landkarte-kinderrechte.de](http://www.landkarte-kinderrechte.de)

## FACTS & FIGURES

### Annual Financial Statement 2016

#### Income

Institutional allocation from the federal government	€2,510,000
Income from projects with third-party federal funding	€1,221,203
Income from projects with third-party Länder funding	€217,945
Mixed income (third-party mandates, fees, misc. earnings)	€966,078
<b>Total income</b>	<b>€4,915,225</b>

#### Expenditures

Human rights policy Germany / Europe	€ 434,887
Mandates of third-parties/ projects funded by third parties, Human Rights Policy Germany / Europe	€395,429
International human rights policy	€266,681
Mandates of third-parties/ projects funded by third parties, International human rights policy	€924,120
Human rights education	€177,442
Mandates of third-parties/ projects funded by third parties, Human rights education	€32,919
Communications	€395,388
Mandates of third-parties/ projects funded by third parties, Communications	€49,884
Library	€184,978
Administration (overhead)	€808,308
Board of Directors / Management	€376,505
Mandates of third-parties / projects funded by third parties, Board of Directors / Management	€20
National CRPD Monitoring Mechanism	€321,893
Mandates of third-parties/ projects funded by third parties, National CRPD Monitoring Mechanism	€175,102
Mandates of third-parties/ projects funded by third parties, National CRC Monitoring Mechanism	€371,669
<b>Total expenditure</b>	<b>€4,915,225</b>

**2016 Result**

€0

## NOTES TO THE ANNUAL FINANCIAL STATEMENT

The German Institute for Human Rights received an **institutional allocation** of 2,520,000 euro in 2016. The German Bundestag provides this core funding to the Institute every year. It is intended to ensure that the Institute has adequate financial resources, as required for an independent national human rights institution under the Paris Principles of the United Nations.

In addition to the institutional funding, the income section includes three other positions used to record **third-party funding**.

- (1) A total of 1,221,203 euro were taken in by way of **projects with third-party federal funding**. Income derived from these third-party funded projects is reported separately in the annual financial statement because separate accounting on this funding vis-à-vis the funding body is carried out for each of these projects. The expenditures associated with these projects, like the institutional allocation, are subject to the Federal Budget Code.
- (2) The income derived from **projects with third-party Länder funding** is also reported separately, again due to the separate accounting. These expenditures are subject to the Budget Codes of the relevant German Länder. In 2016, 217,945 euro from the budgets of German Länder funded third-party-funded projects.
- (3) The **“mixed income”** is made up of income derived from mandates from third parties. Added to that are fees for lectures given by members of the Institute’s staff. The “miscellaneous earnings” item is used to record income such as lump sum administrative fees charged to third-party funded projects, which flow into the institutional allocation. Mixed income for 2016 comprised a total of 966,078 euro.

The income derived from **projects with third-party federal funding** funded the research input supporting the work of the UN Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, and of the German member of the UN Committee on Enforced Disappearances, Rainer Huhle. This position also records income for research relating to the National Action Plan on Business and Human Rights, the preparation of the OSCE evaluation report and for the Berlin Human Rights Day, as well as for the secretarial support for the GANHRI chairperson. The Federal Foreign Office was the source of the funding for this support and these mandates. The German Institute for Human Rights also received funds in 2016 from the Federal Ministry for Economic Cooperation and Development (BMZ) for three research projects on the topics research support for the GANHRI chairperson and business and human rights, and youth consultations, and also funds from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) for a project on the topic “gender in the law” and for the UN CRC Monitoring Mechanism.

**Projects with third-party funding from the Länder** (2) were awarded to the National CRPD Monitoring Mechanism by the Land of Berlin and the Land of Thuringia.

Income derived from mandates from third-parties that is included in the accounting for the institutional funding are recorded as **“mixed income”**. This income is made up of funds from GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit) for four projects – “Implementing a human rights-based approach in development policy”, “Children’s rights”, “Land” and “UN CRPD in development cooperation” – and of funds from the European Union Agency for Fundamental Rights (FRA) for reporting in the FRANET network, which the Institute took on for FRA in 2016. Additional income was derived from third-party mandates awarded to the Institute by the European Network of National Human Rights Institutions (ENNHRI) relating to the rights of older persons and also from the Council of Europe, Lucerne University of Applied Sciences and Arts and from Amnesty International for the human rights education materials “Kompass”.

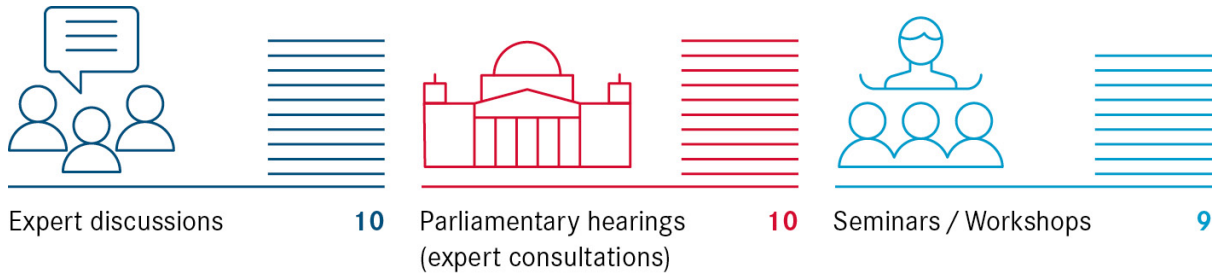
The Paris Principles call for national human rights institutions to be financed primarily through institutional funding, to ensure that they can freely choose the topics and areas of their activity. Third-

party funding, which as a rule is tied to a specific purpose, should play a subordinate role vis-à-vis the institutional funding. This conditions was fulfilled again in 2016. Institute income derived from projects with third-party funds in 2016 (in all three categories) made up approximately 49 percent of its total income. In these activities, the Institute sought and acquired funding from third parties to support the implementation and intensification of its work on topics and areas that the Institute itself had already chosen and defined as priorities. The Institute would like to express its sincere gratitude to all funding sources for their support of its work.

The **summary of expenditures** indicates the amount of financial resources available for the work of each of the Institute's departments. The item "administration (overhead)" includes the Institute's running costs – e.g. business needs, rent and related ancillary payments, utilities, services (IT) and miscellaneous administrative expenses (experts, bank fees, etc.) – and also membership dues as well as expenditures associated with all departments.

The financial report of the German Institute for Human Rights is examined by two auditors appointed by the General Meeting. The annual General Meeting is responsible for formal approval of the actions of the Board of Directors. The General Meeting has issued its approval and confirmed that all allocations were used efficiently and economically.

## Events in 2016



### Our partners for events

- Amnesty International
- Anti-Discrimination Office Saxony
- Berlin Social Science Center (WZB)
- Black Diaspora School, Each One Teach One e.V.
- Centro Regional de Empresas y Emprendimientos Responsable (CREER)
- Children's Advisory Council of the Freiburg Children's Bureau
- Defensoría del Pueblo
- Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)
- European Network of National Human Rights Institutions (ENNHRI)
- Federación Iberoamericana del Ombudsman (FIO)
- Federal Commissioner for Migration, Refugees and Integration
- Federal Foreign Office
- Federal Foundation for the Study of the Communist Dictatorship in Eastern Germany
- Federal Ministry of Justice and Consumer Protection
- Federal Ministry of Labour and Social Affairs
- Forum Menschenrechte
- Foundation Remembrance, Responsibility and Future (EVZ)
- Friedrich-Ebert-Stiftung
- Friedrich Naumann Foundation for Freedom
- German Youth Institute (DJI)
- Global Compact Network Germany
- Heinrich Böll Stiftung
- Helga Breuninger Stiftung
- Human Rights Centre of the University of Potsdam
- Humanist Union
- Humboldt-Viadrina Center on Governance through Human Rights
- International Federation of Library Associations and Institutions (IFLA)



- International League for Human Rights
- Konrad Adenauer Foundation
- Network of African National Human Rights Institutions (NANHRI)
- Reporter ohne Grenzen e.V.
- Stephanus Circle
- University of Kassel
- Whistleblower-Netzwerk

## Overview of events

Topics of events open to a broader community or the public at large. Internal events were also held.

14 Jan. 2016 | Berlin

**Women in refugee accommodation centres: Identifying the status quo – safeguarding rights**  
Conference held jointly with the Federal Commissioner for Migration, Refugees and Integration

14 Jan. 2016 | Berlin

**Meeting of the network for early childhood human rights education**

10 Feb. 2016 | Berlin

**Prosecution of serious violations of human rights**

The panel discussion was part of the event series Transitional Justice: Instruments – Experiences – Challenges; in cooperation with the Federal Foundation for the Study of the Communist Dictatorship in Eastern Germany, the Humboldt-Viadrina Center on Governance through Human Rights and the Foundation Remembrance, Responsibility and Future.

17 Feb. 2016 | Berlin

**21st Civil Society Consultations of the National CRPD Monitoring Mechanism**

Consultations with disability policy associations

19–20 Feb. 2017 | Berlin

**IFLA Library Services for People with Special Needs Section (LSN)**

Conference of the standing committee of the LSN section of the International Federation of Library Associations and Institutions hosted by the library of the German Institute for Human Rights

24 Feb. 2016 | Berlin

**Hearing of the Parliamentary Advisory Council on Sustainable Development**

Public hearing on SDG implementation, with appearance of Dr. Anna Würth as expert

17–18 Mar. 2016 | Berlin

**Youth consultation: implementation of the rights of children and adolescents in development cooperation**

Focuses: respect for children's rights during flight of refugees and participation of children and adolescents in development policy

21 Apr. 2016 | Berlin

**Implementing children's rights in the daily routine at day-care facilities (Kitas)**

Expert discussion in cooperation with educator Gerburg Fuchs

21 Apr. 2016 | Berlin

**6th meeting of the National CRPD Monitoring Mechanism with federal and Länder disability commissioners**

Expert discussion

03 May 2016 | Berlin

**Human rights of older persons**

Expert discussion

10 May 2016 | Berlin

**Failure of the Arab Spring: what went wrong with the Arab rebellions**

Reading and discussion with Julia Gerlach in the Institute's library

10 May 2016 | Berlin

**Basic and human rights requirements vis-à-vis surveillance of communication by the Federal Intelligence Service (BND)**

Expert discussion in cooperation with Amnesty International, Humanist Union, Reporters without Borders, Whistleblower-Netzwerk and the International League for Human Rights

11 May 2016 | Berlin

**Never again! A framework for guarantees of non-recurrence**

The panel discussion was part of the event series Transitional Justice: Instruments – Experiences – Challenges in cooperation with the Federal Foundation for the Study of the Communist Dictatorship in Eastern Germany, Humboldt-Viadrina Center on Governance through Human Rights and the Foundation Remembrance, Responsibility and Future

16 May 2016 | Bogotá, Colombia

**Workshop on business and human rights**

In cooperation with the Defensoría del Pueblo and Centro Regional de Empresas y Emprendimientos Responsable (CREER)

17–22 May 2016 | Bogotá, Colombia

**Human rights impacts of coal mining in Colombia**

Exchange of information and opinions with businesses, civil society and communities affected to strengthen human rights capacities

08 Jun. 2016 | Berlin

**22nd Civil Society Consultations of the National CRPD Monitoring Mechanism  
Consultations with disability policy associations**

14 Jun. 2016 | Berlin

**Consultation workshop on gender diversity in the law**

14 Jun. 2016 | Berlin

**Consultation workshop on gender diversity in the law**

20 Jun. 2016 | Berlin

**Business and human rights: how business can identify human rights risks and impacts**

Panel discussion in cooperation with Global Compact Network Germany

23 Jun. 2016 | Berlin

**Freedom of religion around the world: a look back and challenges**

Expert discussion open to the public, in cooperation with the chairman of the Stephanus Circle, Prof. Dr. Heribert Hirte, Member of the Bundestag, CDU/CSU parliamentary group

24 Jun. 2016 | Berlin

**Freedom of religion and freedom of expression – two human rights for a culture of open debate**

Expert discussion in cooperation with the Konrad Adenauer Foundation

21 Jul. 2016 | Berlin

**Exchange of information and experiences relating to research on refugee children**

Consultation of the National CRC Monitoring Mechanism

26–28 Sep. 2016 | Lima, Peru

**Professional training on the rights of children and adolescents, working group on rights of children and youth of the Federación Iberoamericana del Ombudsman (FIO)**

in cooperation with the GIZ and the FIO

27 Sep. 2016 | Warsaw

**Release of the OSCE evaluation report**

Expert discussion as side event at the Human Dimension Implementation Meeting of the Office for Democratic Institutions and Human Rights (ODIHR)

29 Sep. 2016 | Berlin

**Reducing discrimination in the school system**

Significance and reception of the human rights approach in research on education. Conference in cooperation with the Berlin Social Science Center (WZB)

06 Oct. 2016 | Berlin

**50 years of the UN human rights Covenants | 3rd Berlin Human Rights Day**

Conference in cooperation with the Federal Foreign Office, the Federal Ministry of Labour and Social Affairs, the Federal Ministry of Justice and Consumer Protection and Forum Menschenrechte

07 Oct. 2016 | Freiburg

**Making complaints possible! Ways for children and adolescents to bring complaints**

Workshop with the Children's Advisory Council of the Freiburg Children's Bureau

10-11 Oct. 2016 | Berlin

**10 years of the Human Rights Council – What difference has it made? What difference should it make in the future?**

Conference in cooperation with the Friedrich Ebert Stiftung and Forum Menschenrechte

12 Oct. 2016 | Berlin

**OSCE human rights standards in Germany**

Expert discussion in the Federal Press Office with discussion panels on women, peace and security and on tolerance and non-discrimination.

17 Oct. 2016 | Berlin

**In search of the “disappeared”: Hope from the peace process in Colombia?**

Expert discussion in cooperation with the Heinrich Böll Stiftung

17 Oct. 2016 | Berlin

**Refugee empowerment – Refugees – Active civil society members**

Panel discussion in cooperation with the Friedrich Naumann Foundation for Freedom

28-29 Oct. 2016 | Reckahn

**Human rights and children's rights in education relationships – Towards the formulation of “Reckahner reflections on the ethics of educational relationships”**

Conference in cooperation with the Human Rights Centre of the University of Potsdam, work areas of the University of Kassel, the German Youth Institute of Munich, and the Helga Breuninger Stiftung.

09 Nov. 2016 | Berlin

**Making complaints possible! Ways for children and adolescents to bring complaints**

Workshop with the Black Diaspora School, Each One Teach One e.V.

09 Nov. 2016 | Berlin

**23rd Civil Society Consultations of the National CRPD Monitoring Mechanism**

**Consultation with disability policy associations**

14 Nov. 2016 | Berlin

**Designing barrier-free events in libraries**

Workshop for research and public libraries held at the Institute, led by trainers from the Anti-Discrimination Office of Saxony (ADB)

15 Nov. 2016 | Berlin

**Making complaints possible! Ways for children and adolescents to bring complaints**

Workshop on participation with young people from the Black Diaspora School (Each One Teach One e.V.) and with the Children's Advisory Council of the Freiburg Children's Bureau

16 Nov. 2016 | Berlin

**Making complaints possible! Ways for children and adolescents to bring complaints**

Full-day consultation of the National CRC Monitoring Mechanisms with civil society

24 Nov. 2016 | Berlin

**ENNHRI CRPD Workgroup – 13th Meeting**

Exchange of information and experience among professionals on the implementation Article 13 of the UN CRPD (access to justice) In cooperation with the European Network of National Human Rights Institutions (ENNHRI)

29 Nov. 2016 | Nairobi, Kenya

**Workshop on business and human rights**

In cooperation with the Network of African National Human Rights Institutions (NANHRI)

01 Dec. 2016 | Berlin

**Expert discussion on children of detainees**

Exchange of information and experiences with representatives of the spheres of policy, research and civil society

07 Dec. 2016 | Berlin

**Press conference presenting the 1st Human Rights Report of the German Institute for Human Rights**

on developments in the human rights situation in Germany (January 2015 – June 2016)

## Publications in 2016

**Deutsches Institut für Menschenrechte (2016):** Entwicklung der Menschenrechtssituation in Deutschland. Januar 2015 – Juni 2016. Bericht an den Deutschen Bundestag gemäß § 2 Absatz 5 DIMRG. Berlin, 161 pp. (Full human rights report in German)

**Deutsches Institut für Menschenrechte (2016):** Development of the human rights situation in Germany. January 2015 – June 2016. Report to the German Federal Parliament in accordance with sec. 2 para. 5 of the Act regarding the Legal Status and Mandate of the German Institute for Human Rights. Berlin, 16 pp. (Summary in German, English, Arabic)

**Deutsches Institut für Menschenrechte (2016):** Der Menschen-Rechts-Bericht. 1. Januar 2015 bis zum 30. Juni 2016. Bericht an den Deutschen Bundestag. Zusammenfassung. Berlin, 2016. 48 pp. (Summary in Plain German)

**Deutsches Institut für Menschenrechte (2016):** Das muss Deutschland machen für die Rechte von Menschen mit Behinderung. Berlin, 16 pp.

**Deutsches Institut für Menschenrechte (2016):** Die Umsetzung ausgewählter OSZE-Verpflichtungen zu Menschenrechten und Demokratie in Deutschland. Unabhängiger Evaluierungsbericht anlässlich des deutschen OSZE-Vorsitzes 2016. 2<sup>nd</sup> updated edition. Berlin, 119 pp.

**Deutsches Institut für Menschenrechte (2016):** Ehen von Minderjährigen: Kindeswohl in den Mittelpunkt stellen. Differenziertes Vorgehen bei schon geschlossenen Ehen erforderlich. Berlin, 4 pp. (Position no. 6)

**Deutsches Institut für Menschenrechte (2016):** Ergebnisse der Evaluierung des Thüringer Maßnahmenplans zur Umsetzung der UN-Behindertenrechtskonvention. Evaluationsbericht. Berlin, 30 pp.

**Deutsches Institut für Menschenrechte (2016):** Implementation of selected OSCE commitments on human rights and democracy in Germany. Independent evaluation report on the occasion of the German OSCE chairmanship 2016. Berlin, 106 pp. (Report)

**Deutsches Institut für Menschenrechte (2016):** Inklusiver Arbeitsmarkt statt Sonderstrukturen. Warum wir über die Zukunft der Werkstätten sprechen müssen. Berlin, 4 pp. (Position no. 2)

**Deutsches Institut für Menschenrechte (2016):** Jahresbericht 2015. Berlin, 73 pp.

**Deutsches Institut für Menschenrechte (2016):** Kinderrechte ins Grundgesetz. Kinder als Träger von Menschenrechten stärken. Berlin, 4 pp. (Position no. 7)

**Deutsches Institut für Menschenrechte (2016):** Konzeptentwurf für eine nationale Berichterstattungsstelle Menschenhandel und eine Koordinierungsstelle Menschenhandel. Expertise erstellt im Auftrag des Bundesministeriums für Familie, Senioren, Frauen und Jugend. Berlin, 70 pp.

**Deutsches Institut für Menschenrechte (2016):** Mehr barrierefreie Bücher. Warum der Vertrag von Marrakesch endlich umgesetzt werden muss. Berlin, 3 pp. (Position no. 1)

**Deutsches Institut für Menschenrechte (2016):** Menschenrechte in Pflegeheimen. Wie Menschenrechte in der Altenpflege verankert werden können. Berlin, 4 pp. (Position no. 3)

**Deutsches Institut für Menschenrechte** (2016): Menschenrechte. Materialien für die Bildungsarbeit mit Jugendlichen und Erwachsenen. Berlin, 114 pp.

**Deutsches Institut für Menschenrechte** (2016): Menschenrechte von Anfang an. Die Bedeutung frühkindlicher Menschenrechtsbildung. Berlin, 4 pp. (Information no. 2)

**Deutsches Institut für Menschenrechte** (2016): Neue Umwelt- und Sozialstandards bei Weltbank und AIIB. Konsequenzen der Neuregelungen für die Durchsetzung von Menschenrechten. Berlin, 3 pp. (Position no. 4)

**Deutsches Institut für Menschenrechte** (2016): New environmental and social standards at the World Bank and the AIIB. consequences of the new standards for ensuring respect for human rights. Berlin, 3 pp. (Position no. 4)

**Deutsches Institut für Menschenrechte** (2016): Religionsbezogene Gewalt in Flüchtlingsunterkünften. Standards etablieren und Gewaltschutzkonzepte erweitern. Berlin, 4 pp. (Position no. 5)

**Deutsches Institut für Menschenrechte** (2016): Religions- und Weltanschauungsfreiheit sowie Meinungsfreiheit. Zwei sich ergänzende Menschenrechte (UN-Doc. A/Hrc/31/18 of 23 December 2015). Zusammenfassende Information anlässlich des Berichts des Sonderberichterstatters der Vereinten Nationen über Religions- und Weltanschauungsfreiheit, Heiner Bielefeldt. Berlin, 8 pp.

**Deutsches Institut für Menschenrechte** (2016): Verschwindenlassen während der Haft. UN-Ausschuss schließt erstes Individualbeschwerdeverfahren ab. Berlin, 4 pp. (Information no. 1)

**Deutsches Institut für Menschenrechte** (2016): Wie soll die Arbeit sein für Menschen mit Behinderung? Darüber müssen wir nachdenken. Berlin, 7 pp. (Position no. 2 in Plain German)

**Deutsches Institut für Menschenrechte** (2016): Wohnen und Leben in der Gemeinschaft: Ein unerfüllter Auftrag der UN-Behindertenrechtskonvention in Berlin? Commissioned by the Senatsverwaltung für Gesundheit und Soziales Berlin within the project "Monitoring-Stelle Berlin". Berlin, 47 pp. (Report)

Aronson, Polina / Mahler, Claudia (2016): Menschenrechte in der Pflegepraxis. Herausforderungen und Lösungsansätze in Pflegeheimen. Berlin: Deutsches Institut für Menschenrechte, 51 pp. (Analysis)

Newiger-Addy, Griet (2016): Beteiligung von Kindern und Jugendlichen. Ein Beispiel aus der entwicklungspolitischen Praxis. Berlin: Deutsches Institut für Menschenrechte, 60 pp. (Analysis)

Niendorf, Mareike / Reitz, Sandra (2016): Das Menschenrecht auf Bildung im Deutschen Schulsystem. Was zum Abbau von Diskriminierung notwendig ist. Berlin: Deutsches Institut für Menschenrechte, 97 pp. (Analysis)

Palleit, Leander (2016): Zugang zum recht. Berlin: Deutsches Institut für Menschenrechte, 8 pp. (Positions: National CRPD Monitoring Mechanism, no. 9)

## Statements

**Deutsches Institut für Menschenrechte** (2016): Bundesteilhabegesetz (BTHG) überarbeiten. Remarks on the draft federal participation act (BTHG) from the human rights perspective on the occasion of the first deliberations on the draft legislation at the German Bundestag on 22 Sept. 2-16. Berlin, 13 pp.

**Deutsches Institut für Menschenrechte** (2016): Das Recht auf Familie. Familieneinheit von Kindern und Eltern ermöglichen – auch für subsidiär Geschützte. Statement on family unification for beneficiaries of subsidiary protection. Berlin, 18 pp.

**Deutsches Institut für Menschenrechte** (2016): Die Deutsche Nachhaltigkeitsstrategie – Neuauflage 2016. Written remarks and proposals on the 2016 version of the German Sustainable Development Strategy, 31 July 2016. Berlin, 16 pp.

**Deutsches Institut für Menschenrechte** (2016): Die EU-Türkei-Vereinbarung vom 18. März 2016: Umsetzung und Konsequenzen aus menschen- und flüchtlingsrechtlicher Perspektive. Written remarks and recommendations addressed to the Federal Government regarding the EU-Turkey of 18 March 2016. Berlin 20 June 2016. Berlin, 27 pp.

**Deutsches Institut für Menschenrechte** (2016): Ein förderliches Umfeld – Was zivilgesellschaftliche Akteure brauchen, um nachhaltige Entwicklung mitgestalten zu können. Statement on the conditions required for civil society participation in sustainable development. Public hearing of the Bundestag Committee on Human Rights and Humanitarian Aid on “protecting human rights defenders” on 28 September 2016. Berlin, 26 pp.

**Deutsches Institut für Menschenrechte** (2016): Germany’s 2016 report to the High Level Political Forum on Sustainable Development. Comments by the German Institute for Human Rights. Berlin, 2 pp.

**Deutsches Institut für Menschenrechte** (2016): Kommentar zum Nationalen Aktionsplan 2.0 der Bundesregierung zur Umsetzung der UNBehindertenrechtskonvention vom Bundeskabinett verabschiedet am 28. Juni 2016. Statement on the revised National Action Plan for CRPD implementation. Berlin, 7 pp.

**Deutsches Institut für Menschenrechte** (2016): Menschenrechtliche Anforderungen an die Ausland-Ausland-Fernmeldeaufklärung und ihre Kontrolle. Statement on human rights requirements for surveillance of telecommunications abroad and oversight thereof. Public Hearing of the Bundestag Committee on Internal Affairs on 26 September 2016. Berlin, 16 pp.

**Deutsches Institut für Menschenrechte** (2016): Menschenrechtsstandards verbindlich machen. Anhörung des Bundestagsausschusses für Recht und Verbraucherschutz zum Antrag von Bündnis 90/Die Grünen “Kleidung fair produzieren – EU-Richtlinie für Transparenz- und Sorgfaltspflichten in der Textilproduktion schaffen”. Statement on the textile industry and the UN Guiding Principles on Business and Human Rights in relation to a motion put forward by the Bündnis 90/Die Grünen parliamentary group. Hearing of the Bundestag Committee on Legal Affairs and Consumer. Berlin, 8 pp.

**Deutsches Institut für Menschenrechte** (2016): Rechte von Kindern und Jugendlichen in NRW Stärken. Statement on CRC implementation in North Rhine Westphalia. Expert consultation of the Committee on Family Affairs, Women and Youth of the Parliament of North Rhine-Westphalia on 12 September 2016. Berlin, 4 pp.



**Deutsches Institut für Menschenrechte** (2016): Schriftliche Stellungnahme im Rahmen der Beratungen des Ausschusses für Inneres und Sport des Niedersächsischen Landtages zum Antrag der Fraktion der SPD und der Fraktion Bündnis 90/Die Grünen “Diskriminierung in Sicherheitsbehörden Entgegentreten” vom 07.07.2015. Statement on a motion put forward by the SPD and Bündnis 90/ Die Grünen parliamentary groups in the Parliament of Lower Saxony on guarding against discrimination by security authorities. Record no. 17/3838. Berlin, 3 pp.

**Deutsches Institut für Menschenrechte** (2016): Schriftliche Stellungnahme zum Gesetzentwurf der Bundesregierung “Entwurf eines Gesetzes zur Einstufung der Demokratischen Volksrepublik Algerien, des Königreichs Marokko und der Tunesischen Republik als sichere Herkunftsstaaten”, Statement on the draft legislation classifying Algeria, Morocco and Tunisia as safe countries of origin, BT record no. 18/8039. Berlin, 4 pp.

**Deutsches Institut für Menschenrechte** (2016): Schriftliche Stellungnahme zum Gesetzentwurf der Bundesregierung “zur Einführung beschleunigter Asylverfahren”. Statement on the Federal Government’s draft legislation on accelerated asylum proceedings (also known as Asylpaket II). Berlin, 6 pp.

**Deutsches Institut für Menschenrechte** (2016): Schriftliche Stellungnahme zum Referentenentwurf der Bundesregierung “Entwurf eines Gesetzes zur Änderung des Strafgesetzbuches –Verbesserung des Schutzes der sexuellen Selbstbestimmung” des Bundesministeriums für Justiz und Verbraucherschutz. Statement on the draft legislation amending the provisions of the criminal code dealing with sexual offenses of the Federal Ministry of Justice and Consumer Protection. Berlin, 7 pp.

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