

04

Debatte

A NEW SOCIAL CONTRACT Frameworks for Corporate Citizenship

Serge Embacher / Roland Roth

published by
CCCCD
Centrum für Corporate Citizenship Deutschland

About the authors:

Prof. Dr. Roland Roth was born in 1949. He is a Professor of Political Science at the University of Applied Sciences Magdeburg-Stendal, working on critical social theory, the political sociology of Germany (e.g. social movements, civic engagement, right-wing extremism) and transnational social movements.

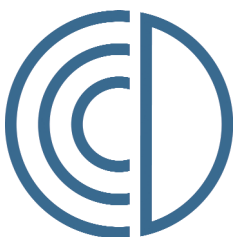
He was a member of: The Study Commission on the Future of Civic Activities, Deutscher Bundestag (German Parliament), the UNESCO programme "Europa – Mundi", the research association "Desintegration processes – strengthening in the integration potentials of modern societies", financed by the Federal Minister of Education and Science and member of the Jury of a national competition on "Successful local integration strategies" of the Bertelsmann Foundation and the Federal Minister of the Interior. He was invited several times by European Research Groups e.g. Demos 2007 (Berlin); Unempol (Geneve 2005); Participatory governance in multi-level context (Athens 2002), New local policies against social exclusion in European cities (Jyväskylä 2000). Lastly published: Local Integration Policies (2009).

Dr. Serge Embacher was born in 1965. In 2001 he received a PhD with a thesis on Political Theory ('Self-imposed Immaturity. Towards a Normative Foundation of a Critique of the Public Sphere'). His key activities are about Civil Society and Democratic Theory. Lastly published: Demokratie! Nein danke? Demokratieverdruss in Deutschland (Dietz-Verlag Bonn, 2009). Since January 2010 he is working at Bundesnetzwerk Bürgerschaftliches Engagement (BBE), which is an national network for civil society in Germany.

CCCD – the Center for Corporate Citizenship Germany is a non-profit organisation at the interface between business, academia, and politics. In cooperation with leading companies, both domestic and foreign, academic institutions and civil society organisations, CCCD acts as a think space and competence centre, providing a platform for dialogue; acting as catalyst and host.

In this capacity, the CCCD arranges forums for exchange between corporate citizens, business, academia, politics and civil society, supplies and carries out applied research, facilitates learning processes through debate and skilling opportunities, and supports cooperation between businesses and partners from civil society, academia, and/or politics. Using workshops, publications and public events, CCCD also acts as a driving force for the corporate citizenship debate in Germany and for the practical efforts by businesses taking an active role in society.

CCCD is the German partner of the Center for Corporate Citizenship at Boston College, USA, as well as a partner of Business in the Community, UK.



Kontakt:

CCCD – Centrum für Corporate Citizenship Deutschland
Kollwitzstr. 73
D-10435 Berlin
+49 (0)30 – 41 71 72 21
info@cccdeutschland.org
www.cccdeutschland.org

Content

Executive Summary	4
I. SOCIAL CHANGE AND ITS CONSEQUENCES	5
II. WHAT TALKING ABOUT A SOCIAL CONTRACT?	6
III. DIAGNOSIS OF THE OLD SOCIAL CONTRACT	7
IV. SOCIAL ROLE MODELS	9
V. ON THE IMPORTANCE OF DEMOCRACY AND PUBLIC SPHERE	10
VI. ELEMENTS OF THE NEW SOCIAL CONTRACT	11
• Government and the New Social Contract	11
• Business and the New Social Contract	12
• An Active Civil Society	12
VII. SOCIAL CONTRACT AND SOCIAL CONTRACTS	13
VIII. PRACTICAL RELEVANCE AND SOCIAL PRACTICE	14
IX. RESULT	16

Executive Summary

Observing the constantly growing debate on *Corporate Citizenship* makes clear that there are many good ideas but virtually no appropriate framework. This article assumes that a socio-politically relevant debate needs such a framework if things are to become binding and consistent. Accordingly, this article is an attempt to mark out territory on the road to anchoring an appropriate sense of Corporate Citizenship.

Current trends and developments serve as the starting point for this approach. After all, novel forms of the division of social responsibility between government, business and civil society are evolving already – and, not that long ago, this would have been hard to imagine. Against the backdrop of a profound change in the social order and the state of reality of German polity, one can observe the initial outline of a new Social Contract.

This new Social Contract requires a review of the range and regulatory depth of both government action and

business players, whose excessive focus on *Shareholder Value* has put demands for stop signs and new framework conditions on the political agenda. Finally, an increasingly self-confident and organised civil society needs to be given sufficient opportunity for co-determination.

The analysis assumes that the Federal Republic's old Social Contract has today become implausible. Now, this "old" contract, with its corporate statist orientation and clear division of competence and authority between government and business actors, needs to give way to entirely new social relationships (end of the "Ford-type" production model, end of the traditional gender relationship, emergence of an immigration society etc.). Instead of the *one* more or less consensus-based model, there will be multiple, negotiation-based new relationships established on the spot. That is why, after a normative outline of the New Social Contract, examples will be given in concrete terms for its manifestation in numerous social relationships.

I. SOCIAL CHANGE AND ITS CONSEQUENCES

As the saying goes, we live in a time of change. And yet, as so often, what is easily expressed in words is much harder to describe. Early on in a still young new century, the social situation seems rather complex, the innumerable angles from which to study it, look too far apart. Whichever way one approaches the issue: there is no doubt that we are currently experiencing a phase of social change. This change has a deep impact on the social structure of society, its ecological basis for survival and its political set-up. The fabric of the old Social Contract is being distorted in a major way, thereby also affecting the essence of the role which companies play, as well as their commercial and social activities. But the other sectors, government and civil society, also feel the impact of these shifts. The following article sets out to explore a possible new positioning of the relationship

between government, business and civil society. Essentially this concentrates on the vitalisation of democracy. The main thesis is that the social distortions and problems of today can only be countered by offering more democracy and participation, thus achieving legitimate new arrangements. Against this background, the question of whether or not the term *Social Contract* will ultimately be needed, is almost of secondary importance.

It will remain important, however, to rethink the division of social responsibility. This is the basic tenet the authors intend to explore, at least to the extent it influences the social role and responsibility of companies, which should have a major impact on the definition of what – in a sophisticated sense - we consider *Corporate Citizenship*.

II. WHAT TALKING ABOUT A SOCIAL CONTRACT?

The term "Social Contract" has the odd characteristic of being both permanently employed and rejected simultaneously. Politics and society frequently use it as a mantra when trying to maintain, generate or imagine social cohesion in the face of the current rapid social change. It is as frequently dismissed, highlighting the fact that there simply cannot be any room for collective visions of a Social Contract in a modern, multi-optional, pluralistic society with highly differentiated functionalities.

But both views run into problems. While the occasionally somewhat tiresome soapbox orators favouring a contract find it difficult to render a clearly defined and comprehensible image of a Social Contract as a unifying framework for all members of society, the sceptics and "anti-contractualists" cannot avoid explaining why social cohesion should be possible without some generally accepted ethical and moral "bracket".

Without being in any way able to present the complex debate on these issues in its entirety, some starting points can be deduced from it. After all, it can legitimately be said that (at least in the Western world) there are some constituent factors on which modern societies are based which cannot easily be denied and which may therefore serve to provide a well-reasoned foundation for a reconstruction, in a practical sense, of the idea of a social contract: firstly, since the French Revolution, the dominant and essentially undeniable idea of inalienable human and civil rights has been the guarantor of the value of individual freedom which it emphasises. Secondly, at least since Rousseau's draft of a republican constitution, the interdependence of individuals within society has been the focus of consideration, of necessity raising the question of the equitable state of reality of this enforce community we call society. Thirdly, it has today become a matter of course that a political commonwealth needs to move within the medium of public discourse and democratic procedures in order to make legitimate decisions - subject to post-metaphysical conditions, i. e. after the decline of religion as a source of legitimacy for political power.

The three points mentioned – the individual freedom of each person, the need for the individual to be immersed within a social community (linked to the issue of justice)

and the democratic element of a political and discursive public – all serve to justify the need and opportunity for an understanding of societal role models. In other words, it concerns the question of how we want to live and in which kind of society. It is only when all these aspects are taken into account that it becomes clear that a discussion about the idea of a Social Contract cannot be avoided, if only in its most negative form, i. e. either doubting the idea of a contract or the existence of a collective "us" which has to be one subject for a social contract, and proposing something completely new. But as nobody has come up with anything completely new, it makes sense to develop some arguments in favour for a new social contract.

Putting a positive face on this, ever since Rousseau the traditional Social Contract concepts have been leading up to the idea that something exists which is like a "fictitious" contract for freedom concluded between everybody and anybody - an "efficacious social imagination" (H.-J. Große Kracht), which is more or less present in everyone's mind and acts as guarantor for the social cohesion of the commonwealth. This imagination which as such has not been put in writing anywhere, contains constitutionally guaranteed rights of freedom and ethical principles such as virtue, fairness, transparency and tolerance, or, put another way, the unquestioned prerequisite behavioural rules (civic virtues, civility) which need to be observed if safety, trust and justice are to be stable constituent parts of the reality of a commonwealth. Just this reference to factors relevant in a normative sense shows that today the Social Contract is tied to the regulatory principles of democracy and the rule of law. As a result, reflecting on the opportunities and conditions for a Social Contract is inextricably linked to the issue of the vitality and functioning of society. At the latest, this is when the question of social responsibility for the future democratic constitution of society is raised. If indeed social cohesion and democratic ethics are decisive factors in a social contract, a significant share of social responsibility has to be borne by the "players" in the fields of politics and business in particular. Of central importance for social integration are fundamental role models capable of a consensual approach: for that reason alone we need to have a concept of a Social Contract – irrespective of what we will finally end up calling this model.

III. DIAGNOSIS OF THE OLD SOCIAL CONTRACT

As soon as we try to describe just what the “old” Social Contract in post-war Germany was all about, we run into conceptual as well as empirical problems. The only thing which is not in doubt is the fact that the social order in the decades following 1949 was characterised by a state of relatively strong solidarity and social integration. Even the huge waves of immigration (refugees, displaced persons, GDR citizens, post 1955 also “guest workers” from Southern Europe) seemed fairly easy to integrate because of the development of extraordinary prosperity (the “economic miracle”). It remains unclear, though, to what extent this status, which lasted from the early days of the Federal Republic into the 1970s, can truly be understood, in the contractualist sense, as a kind of “contract for freedom”. After all, the post-war set-up in Germany was not, or hardly, shaped by free citizens with a complete understanding of their civic and democratic awareness. After the disaster of the Second World War, for which Germany only had itself to blame, people’s focus centred on restoring the capitalist economy under the umbrella of a social market economy. This process was initiated with the premise that prosperity for everyone would have a lasting, civilizing effect. This model proved outstandingly successful in itself, and later pushes for liberalisation occurring in Germany since the 1960s could not have happened without the stabilising effect that general prosperity had on the community.

But as far as the post war period is concerned, we can only speak of a Social Contract (in the elevated meaning of a basic socio-political consensus) in the sense of a model of a modern way of life and labour. Strong economic growth dynamics, mass production and consumption, increasing importance of cities, their reconstruction and extension into car-friendly areas with spatially separate areas for working, living and consumption, all were features of this interpretation of a modern life style. The element of citizens shaping and influencing politics was to large extent left out of the equation; instead a “citizen privatism” (Jürgen Habermas) was dominant. Agreement to the Social Contract was given by exercising one’s right to vote every four years which was also considered a civic duty. This left politics to the elected representatives. These, however, interacted with the powers of capital and trade unions and found themselves in a permanent corporativistic negotiating situation, which required a repeated restoration of the balance between private interests and the interests of the commonwealth – the Social Contract was a non-public act of balancing relationships of power and strength. Business companies contributed their share to this Social Contract by complying with rules and regulations (e. g. labour law and social insurance laws), paying taxes and providing the engine for the development of prosperity. Hardly any, or only marginal, demands

made on them to shoulder further ethically ambitious responsibility.

The social and institutional system of the Federal Republic gradually started moving in the 60s. The first moves to shake the sectional divisions of government, business and society were due to a strengthening of civil society, in the shape of extra-parliamentary protests and the New Social Movements in the 70s. Out of this protest – irrespective of how we think of them today - against the hidden legacy of Nazism, against the ecological destruction of habitats, risky technologies and authoritarian institutions there emerged a new (and very much integral) element of the social contract, and that is the self-confidence of citizens intending to influence the community at large through social and political involvement. This development still lives on today and has left deep marks in our collective consciousness. Whether we are talking of a public protest against political decisions (e. g. the census decision in the 80s) or against technological developments (e.g. nuclear power plants), or the struggle for gender equality, the demand for respect for human rights, or whether we simply refer to a civic attitude and assurance in expressing our own interests - civil society awareness is generally far more pronounced today than it was 25 years ago.

Another change in the fabric of the “old” Social Contract concerns the relationship of politics and business which over the last two or three decades has shifted very much in favour of industry. And this is not merely a functional shift between the sectors. The strong increase in the power and influence of business players is a result of the internationalisation of the capitalist economy which has at least partially removed power away from national politics, by virtue of the fact that the movement of capital and economic decisions have long gone beyond narrow national borders. These same borders limit the political influence of a nation. The rise of the power of economics is also the result of a trend within politics to self-emascuate. The influence of a publicly dominant liberal-economic mainstream over the past two decades has pushed through numerous improvements for the capital camp. The race for business locations and low taxes which almost without exception all industrialised nation joined, is just one of the buzzwords in this context. This voluntary, at least partial emasculation of the state and the power increase of industry players have led to a shift in the balance of the old Social Contract, so that following a wave of deregulation and privatisation actions, the government of today has fewer decision-making powers in a variety of areas than it did in the past.

As far as the three sectors and the idea of a Social Contract are concerned, one can sum up as follows:

- As a result of the emasculation outlined earlier, *government and politics* suffer from a loss of legitimacy because they can no longer properly or easily fulfil the expectations invested in them as part of the old Social Contract. The welfare state has run into limits to its legitimacy and ability to perform, which it seems unlikely to overcome on its own. This is a problem for the democratic community because society depends (more than ever, as it has been shown by financial crisis!) on the regulatory guidance of the state.
- As a result of the developments outlined earlier, *industry* gains increasing social influence and thereby political power. This is a problem for a democratically constituted polity, because all this is due not to standards of democratically legitimised power, but solely to the logic of property. But whenever there is no democratic legitimacy for power it can turn into structural violence (in the way Hannah Arendt understands it), thereby becoming a threat to social cohesion.
- Finally, *civil society* has established itself increasingly as a constituent part of the social contract. While its activists and organisations do not have democratic legitimacy either, its influence is derived from the legitimacy of its respective causes (as long as these causes follow the principles of a democracy based on the rule of law and of inalienable human and civil rights).

Apart from these shifts in the basic prerequisites – government and politics losing their comprehensive regulatory powers, business gaining significant influence and political clout, civil society emerging as a confident and manifold player – additional factors can be mentioned which are fundamental and relevant to everyday life and serve to make the “old-style” model of a Social Contract increasingly obsolete. These factors are linked to what has already been mentioned:

Revoking the social promise. “The short-lived dream of eternal prosperity” – quoting a well-known adage of Burkhard Lutz – is now over. This means that the dynamics of growth and welfare no longer coincide as they used to in Germany up until the 80s. The attraction of the German model” was primarily due to a synchronicity of economic growth and extended social civil rights. Today, this basic promise of the “old” Social Contract no longer applies. The erosion of social civil rights (e. g. social security, education, standard of living) manifests itself in the fact that while, by and large, the economy continues to grow, better living conditions for all no longer follow automatically. The basic promise of the Social Contract no longer applies to everyone and this mean that its very foundations have started crumbling. The renewed need to have regular reports on prosperity and poverty drives this home very clearly.

Limits to growth. Growth without natural borders has proved deceptive. Today, nobody can seriously deny developments such as global warming and climate change as well as the limits of natural resources, forcing us to abandon the “old” Social Contract which relied on continuous economic growth.

Gender relationship. Today the male breadwinner model (woman=housewife,) has already been rejected by many women. Increasingly, women see themselves as self-confident participants in working life – and in the political-discursive debate in public. The “old” Social Contract which, though frequently divorced from reality, assumed a strict separation of gender roles, cannot integrate this new thinking.

Technology and society. In the old model, technology and progress were on an even footing. The vision of a car-friendly city and the rigorous way in which old urban structures (which we would treasure today) were pulled down and sacrificed, with motorways and roads open to traffic being built instead, provides an impressive illustration of the long-held assumption that technical progress as such meant concomitant social progress. Today, this part of the “old” Social Contract is outdated. The examples of nuclear energy and genetic technology show immediately that the ideal of “technical progress equals social progress” no longer holds true. The public debate on technological developments and their consequences shows that a newly self-assured civil society no longer accepts these processes as semi-natural, and instead turns them into the subject of a public debate.

Migration and nationality. The old Social Contract model was limited to the nation state, i. e. it was based on a largely homogeneous population. This is one more assumption which has become untenable in today’s Germany, where we have approximately 17 million people from migrant families. The “old” Social Contract is no longer applicable to this situation because it is incapable of offering adequate answers to issues such as the rights of migrants (status, rights to participation etc.).

This small typology of the expiry process of the “old” social contract, shows the new requirements which a new Social Contract will have to address. Only this description of what has become invalid allows us to look at what is new, and at the driving forces behind this new social contract, thereby removing its vagueness and diffuse appearance. As a first learning one can therefore note that the old Social Contract has lost plausibility both in terms of the interaction between the three sectors, government, business and civil society, and also regarding the levels of individual “agreements” and “rules”. At the same time, new assessment criteria have been obtained for studying practical societal areas

IV. Social role models

Reflecting on a new Social Contract is promising, primarily because thinking in terms of a contract enables one to map out essential requirements resulting from the situation outlined above. The new Social Contract is characterised by a role model, which takes into account the post-Ford conditions prevalent today. In this way, society is understood as the result of the conscious interaction between members and areas. This concerns a canon of mutual expectations, rights and obligations, which needs to be continually renegotiated in the face of ever new social challenges and expectations. In this context, institutions are not defined entities, but instead represent a given compromise whose basis keep changing rapidly. Property, companies, state and family are examples of such institutions whose functionality and “terms of trade” are to be seen as the result of negotiating processes. Here we find a design potential beyond functional and material constraints or business management-type “best-practice” targets. Society’s function requirements and individual demands for freedom can only be integrated democratically by way of negotiation (deliberation, discourse, conflict, protest etc.) if both freedom and order are to be possible. In this new type of contract model, society is seen as an ensemble of different spheres (Michael Walzer), and areas (government, business, civil society, individual communities etc.), each subject to their own functional conditions. It is important to maintain the limits and the scope of their respective performances and to negotiate productive interaction. Against the background of this social model, the idea of a new Social Contract is superior to rival ideas:

The disadvantages of the *corporate statist model* (as the leitmotif for the “old” social contract) are obvious. The trends outlined concern the growing power of the economy, the emasculation of the state, a self-confident civil society – as well as manifestations such as the decline in the integrative force of large-scale social organisations (confederations of industry, trade unions and political parties), combined with the undeniable danger of social disintegration (individualisation, loss of values, erosion of social civil rights). This means that corporate statist policies cannot assist in finding solutions for social problems. The con-

glomeration is too rigid to allow that. It is also tainted with a lack of transparency and “backstage policy-making”.

A purely *functional* model by contrast would work on the premise that society as defined by Niklas Luhmann is nothing but an agglomeration of functionally different partial systems which work according to the rules of self-referentiality and self-management (autopoiesis). Adopting this model would mean leaving behind a comprehensive normative type of integration of society at large once and for all. In this perspective, the only cohesive effect would be provided by the instinct for self-preservation of all part systems. Therefore, it goes without saying that this model offers no room for civic involvement and the idea of a deliberative democracy. Yet, even if we were to accept this radical re-definition of society as a mere functional interrelationship, there is absolutely no indication of how the dysfunctional side-effects could be mastered which the part systems inflict on the overall system of society (ecological destruction, financial and economic crises, crises of the legitimacy of politics).

Ultimately, the *neo-liberal model* in its most consistent form assumes that, basically, society as such does not exist. A prototype of this view is the well-known sentence once used by Margaret Thatcher who said “There is no such thing as society”. Instead, the dominant factor is the idea of man as a rational “maximiser” of profit (*homo economicus*). The “entrepreneurial self” turns into a universal social role model. The individual is to be radically free. In this sense, society is a mere sum or, rather the unpredictable result of rational individual acts of choice and formation of property. This particular vision of an individualised society may well have found numerous adherents in recent decades, too, but there is still no way around the fact that civil commitment and democratic participation play only a minor role in it. But if these factors are so relatively unimportant, it is difficult to see how, for example, the destructive side-effects of unrestrained private profit-maximisation might be cushioned. The current financial and economic crisis is a more or less direct consequence of the neo-liberal image of society. This alone should suffice to discard the model.

V. ON THE IMPORTANCE OF DEMOCRACY AND PUBLIC SPHERE

Assuming that, if, based on the premise that there is to be self-aware interaction among members and areas of society, we draw a more accurate outline of a new social contract, the importance of public communication and democratic participation need to be emphasised first. If it is true that a new Social Contract provides a promising opportunity of productively linking a pluralistic society's individual demands for freedom with the functional needs of any society, the procedural elements of deliberative democracy will assume a pivotal role: public debates will offer opportunities for participants to exchange arguments and opinions in as unprejudiced, transparent and fair a way as possible. This will lead to a process geared to achieve understanding so as to reach novel negotiating results and compromises. These debates therefore, will form the dynamic foundations for the New Social contract. This then is the vision of a New Social contract: it aims at new, democratically negotiated compromises between actors who are increasingly losing their traditional roles. Politics urgently needs social trust; business needs to demonstrate a sense of responsibility – which is also in its own best interest. Civil society needs to learn to get involved in the systemic logic of government, business and society, sectors but without losing its productive obstinacy (being spontaneous, direct, engaging in unfiltered

discourse). All of that can work only in a democratic space with participation and co-determination.

So we are essentially talking about the issue of the *vitality of democracy*. Without a functioning democracy supported by the ethics of participatory democracy, there is little point in going on about new contractual negotiating relationships. Actually, democracy is no "all or nothing" matter, but an open process, where society either moves closer to its democratic ideals or moves away from them. The new Social Contract demands a fault-friendly experimental design which keeps involving the citizen's experience and assessment of participation to kick-start changes. The vitality of a democracy depends on the existence of the greatest possible of variety feedback and evaluation of participation. The difficulties of these apparently simple requirements become clear when one looks at the practical consequences: the state and its institutions need to open up significantly to citizen participation. Businesses need to be consistently moving their Corporate Citizenship activities towards partnership and away from philanthropic Corporate Giving. Civil society and its organisations should accept obligations which make not inconsiderable demands on their spontaneity and creativity.

VI. ELEMENTS OF THE NEW SOCIAL CONTRACT

Apart from these normative requirements, linked to the idea of a New Social Contract, good conditions for new democratic negotiating processes between the different societal sectors (or spheres) and areas can be ascertained at the empirical level. There are positive signals worth building on:

- *Participation Surplus.* In many Western democracies, the decline of conventional types of political participation is accompanied by a rise in “unconventional” participation. Political interests, democratic orientation and political action have been shifted, not collapsed. This shift is based on the following large improved factors: educational resources, more leisure time, material security, an increase in post-materialist values aiming for participation and self-realization, leaving the patriarchal family behind and moving towards a “negotiation”-based family approach, strengthening democratic orientation, a decreasing trend towards violence and civilizing effect on public life, as well as a civil society rich in associations, clubs and initiatives. This effective surfeit of opportunities for participation in practical terms provides excellent conditions for the New Social Contract.
- *Willingness to volunteer.* A vigorous democracy is highly dependent on a lively, democratically-minded civil society. And here, too, there are positive signals. The 1999 and 2004 volunteering surveys in Germany spoke a clear language: civil commitment in Germany is high and growing. But it is nonetheless striking that the democratic-political dimension of citizen involvement has so far been rather marginalised. Many studies tell us of the central motivation of those showing commitment; the wish to “have an impact at least on a small scale” – a genuinely democratic concern, even if willy-nilly realised primarily in areas removed from politics. As regards the New Social Contract this is a central prerequisite for new negotiating positions.
- *New technological opportunities.* The spread of new information technologies plus the cost reduction in the transport sector, allow political spaces to extend and political communication to intensify. The rapid growth of international non-governmental organisations over the past two decades is one of these concrete forms expression. E-Mail and the internet have contributed significantly to the emergence of a transnational public sphere and to new global political networks such as the World Social Forum, set up in 2001. Cross-border awareness and networking has been greatly eased through affordable internet communication; but more than that – local initiatives for the develop-

ment of democracy have also been given a new impetus (keyword: “e-democracy”). New information technologies are in the process of changing campaigns, including election campaigns – not simply in the negative sense of providing more chances for manipulation, but by favouring discursive and community-building elements. These opportunities centre on increasing knowledge, transparency and responsibility, and do not constitute technological automatism. Empirically and at least in part already anchored in the collective awareness are those elements which can be seen as prerequisites for the New Social Contract. Or, put in a more casual way, civil society is going to make sure that new negotiating positions are successful. Basically, all the conditions required for new democratically-focussed joint action of social spheres and areas are already in place. Only government and business need to be nudged into an accelerated change of attitude, although this is beginning to emerge already.

Government and the New Social Contract.

For government, the expected renewal is tied to the emergence from the ashes of old institutions, of new forms and institutions for political participation, which will aid the further democratisation of a democracy based on the rule of law. In this sense, a “vitalisation of democracy” is a pre-condition for the New Social Contract to renew and emphasize new motivations (ecological issues, global justice, gender equality etc.), new practices (project-focussed participation with a pronounced wish for self-design, politics beyond the limits of traditional political camps etc.) in central political institutions.

So far, Germany has seen virtually no successful political-institutional use of these new democratic resources. Since the 1960s there has been a marked increase in social and political commitment in pressure groups, social movements and non-governmental organisations, but government institutions tend to marginalise this, usually adopting a defensive posture. On the other hand, there are more and more remarkable exceptions suggesting a change of mind in government and politics. One example is the increasing importance given to the issue of civic involvement and participation in many areas of politics at the local level. The spread and growing use of direct democracy processes (public petitions, public decisions) are further evidence.

This change of attitude is unavoidable in the New Social Contract. After all, if the above diagnosis is correct, the only way for government and politics to successfully

counter the emasculation described earlier, is if they adopt and amplify the momentum coming from a vigorous civil society concerning areas such as the necessary regulations to curtail economic power. New results negotiated between government and business go beyond a mere outcome of consensus-driven communication; constituting instead an expression of a power relationship. The competence and influence of civil society organisations such as consumer protection or environmental organisations and human rights associations can play a fundamental role in public negotiations processes.

Business and the New Social Contract.

The role of companies in the new Social Contract immediately follows that of politics. An important feature of this role concerns the fact that politics and government – assisted, as outlined, by the participatory potential of civil society – will have to limit entrepreneurial space wherever necessary (e. g. act against additional privatisation in services of public interest). Where do we need stop signs for business and where does it make sense and is feasible to adopt a private sector solution? The New Social Contract model is displaying its attractions in all other areas: if companies show social commitment in a Corporate Citizenship sense, they should do so in public, while recognising the logic of all other sectors and areas. Partly, this is the role of the state, but recognizing and acknowledging newly emerging factors should also be included. In the New Social Contract, companies engage in an vigorous and public dispute with the other sectors and areas of society, thereby complying suitably with demands for transparency and openness. Only when the social activities of businesses are a matter of public debate, they will become a genuine part of the new Social Contract.

An Active Civil Society.

But even customers and consumers are increasingly demanding not just good products and services, by means of boycotts and “buycotts” they also challenge businesses to act in an ethical way. In contrast to the passive status of the post-war period, the new Social Contract relies on active citizens. Initially, this applies to drawing up the New Social Contract itself. The idea is no longer to obtain silent agreement to an institutionally-designed life, but to engage in conscious and public negotiation processes on the rights and obligations, responsibility and design – involving as many people from as diverse a background as possible. This also impacts the status citizens enjoy within the New Social Contract itself; at least to the extent its outlines are clear. Empowerment, engagement and involvement are some of the elements which today we encounter increasingly, and during all stages and in all areas of life.

Prompted by requisite standards of the 1989 United Nations Convention on the Rights of the Child, a lot of attention is currently given to participation by children and young people. And for many years, the “best agers” have been approaching a new social standard. Migrants of today are also expected to develop their own activities in sponsoring, piloting, mentoring and volunteering. In the traditional Social Contract these three groups were more passively squeezed together, without counting the labour provided by “guest-workers”. When we speak of a civil society or a citizen democracy today, we refer to an “active society” which expects its members to display involvement and creative drive.

VII. SOCIAL CONTRACT AND SOCIAL CONTRACTS

Concerning the benefit of the New Social Contract we can therefore conclude:

- It can contribute to knowledge about the normative basis of current life styles and social institutions, its cost-benefit balance, its unwanted side-effects and its fragility. In the new Social Contract learning processes can be bundled to move towards new forms of regulation which promise a greater impact on social inclusion, without unduly restricting individual freedom. This holds true, e.g., for categories of guaranteed basic social security, for gender-sensitive and/or gender-neutral divisions of labour, for a renunciation of a strict focus on gainful employment, and for a reevaluation of community production and public goods.
- After the neo-liberal wave against the political creativity of the community, a political re-embedding of the economy is needed. This requires an understanding of the need for political guidance, stop signs and standards in all areas of activity; i. e. even production and consumption have to be picked out as central themes.

Once we arrive at that point of the analyses where the issue of how, in concrete terms, to shape the New Social Contract, it is wise to change from the singular to the plu-

ral. The issue of the Social Contract is one which should be addressed as a plural form to make sense – at least when leaving the field of general conditions and definitions and turning instead to the practical relevance of the concept. Democratically suitable social contracts do not require one-off and fictitious agreement or general support by means of periodic elections. They need the establishment of democratic processes and procedural standards which make a new balance of rights and obligations, room for manoeuvre and self-limitation, the subject of public - or at least of explicit - negotiations. The subjects and contexts of each starting position are so disparate and different per category, that any single concrete agreement will differ substantially from the next. In this respect, every Social Contract is singular concerning its scope, its binding nature, depth of intervention and duration in time. Today no standard of what constitutes justice can be substantially defined without taking into account its concrete context, and the same applies to the social contract. On the level of higher-ranking normative conditions, such uniform requirements as transparency, understanding, fairness, reversibility and publicity can be detected. But as soon as concrete starting positions and their material results are concerned, uniform requirements can no longer be defined. This is where the one fictitious Social Contract dissolves into many concrete contracts.

VIII. PRACTICAL RELEVANCE AND SOCIAL PRACTICE

New Social Contracts have spread particularly in those areas linked to the challenges described, for which there are (as yet) no binding solutions. In contracts, uncertainties can be negotiated, if there are no institutional regulations and divergent expectations, or if expectations have become uncertain. Some innovative models for participation have inbuilt contractualist elements; i. e. at the start of a project agreements are concluded, which lay down the participatory rights and obligations of the parties concerned.

When looking at the current revitalisation of contract theories (e. g. Carole Pateman or T. M. Scanlon), the genuinely democratic character of social contracts becomes clear. This applies particularly when it is not implicit social contracts which are at stake, but rights and obligations which have been openly negotiated and made explicit. Even so, social imbalances cannot simply be overcome, which is why negotiations tend to follow asymmetrical constellations. This needs to be observed as much as those elements of the contracts which are left out and silently assumed – and tend towards the Social Contract level in the singular.

Some few examples to illustrate the democratic productivity of such contracts, particularly previous ones:

In recent years **child day care facilities** (*Kindergärten*) in some local authorities in Northern Germany have given themselves a set of rules based on a more extensive negotiation process between nursery school teachers, children and parents. These frequently cover minute details such as which of the concerned parties needs to be involved in which issues and which institutions and rules need to be created to guarantee the implementation of the catalogue of rights and obligations. This then deals with many apparently mundane issues, e. g. shaping the routine of day care and incorporating the needs and requirements, which educators and children put into this everyday set-up. But for everyone, and not just the nursery school children, this is all about shaping everyday life and negotiating the needs and requirements carried into this process by parents and teachers. Constitutions for child care facilities attempt to invent rules for the process of balancing the different interests involved, to determine which rules govern decisions and what to do in case of conflict. At the same time, all those involved explicitly assume responsibility for child care every day affairs. If these contract negotiations are successful and lead to a result – always subject to review – then the nursery school will have turned into a democratic lesson for all involved; completely different from traditional state-run institutions where rules are non-negotiable.

In this day and age, contracts form part of every democratically ambitious **school**, and of different models to prevent violence at school. Pupils and teachers, occasionally with parent participation, negotiate e. g. the behaviour they expect from each other, the general school atmosphere they would like to see. In cases where it is clear that these guidelines providing for a recognised, civil and respectful way of dealing with each other, sanction bodies and mechanisms negotiated earlier will apply, and a pre-defined list of sanctions will be implemented. While agreed civil behaviour with one other is a binding tenet for all involved, it is not to be seen as given. This applies to teachers and students equally. Potentially this makes schools into places where there is civility but no fear – and as a side-effect this also benefits the learning environment.

Youth Policy – “Come in Contract”. This current promotion programme of the German *Bundesjugendring* comprises 121 individual projects in 14 *Länder* (German regions=federal states) on a host of issues (e. g. social justice, education, training, violence, the environment, the European Union). They have a method in common: young people conclude agreements with decision-makers in politics and business on how to implement their wishes and needs. From the point of view of the youths, this means a rejection of symbolic participation offers: the days of the friendly handshake are over; “Come in Contract” demands more than lending young people an ear. Instead, in a debate, young people are seen as contractual partners on an equal footing. Receiving the maximum 25,000 per project promotional funds, the programme is part of the action programme for increasing youth participation run by the Federal Government Commissioner for Foreigner’s Issues, the Federal Agency for Civic Education, and the German Federal Youth Council. A best practice examples leaflet (*Deutscher Bundesjugendring* 2008, German Federal Youth Council 2008) clearly illustrates that this is a promotional programme attempting to oblige those in positions of responsibility to note and implement the demands of young people. This is a reaction to the wholly unsatisfactory situation of participation in Germany. The contract model intends to enable a binding relationship of equality between institutions and young people. The activating tone cannot be missed. “You can only make change happen if you do something” is one of the mottos of this campaign.

Augsburg Social Mentors. One of the aims of the model of the so-called Augsburg Social Mentors is to prevent people from going downhill and ending up homeless. This involves the local authority in the shape of the city council, business in the shape of the municipal housing asso-

ciation and civil society, the voluntary social godparents. Traditionally, the scenario went as follows: a tenant causes problems in connection with his/her economically precarious situation (non-payment of rent, neglecting the premises etc.). The owners send reminders, legal complaints and at some stage the tenant will be evicted. The local authority will only take action once the person in question has become a problem case in social terms. It has to address the consequences of homelessness (providing shelter, public safety etc.). The new model envisages a new division of responsibilities: the municipal housing association will turn to the local authority if necessary and notifies it of a "difficult case". The city council then stands surety to the municipal housing association as far as rental income is concerned and sets up a social mentor who will look after the individual who has fallen on hard times and work with him or her to find a way out of a precarious situation. They will restore the flat, jointly arrange social benefits which are due, visit a debt advisory service and so on. The municipal housing association will meet the person concerned halfway and look for ways to sort out rent arrears or renovation. The gains are obvious to all concerned: the individual escapes the fate of homelessness and does not slide into a social void. The local authority already combats homelessness in its initial

stages thereby generating an element of welfare which would be impossible to provide without civic involvement. There is no loss of rent for the municipal housing association, and significantly less neglect in their housing stock. Committed social mentors receive a high degree of appreciation and recognition because they can point to a clearly visible record of success. This constellation produces mutual trust: the local authority sees itself capable of solving problems, and as the guarantor of legal form and due process, thereby opening space for manoeuvre for the partners from business and civil society, which they would not otherwise enjoy. Businesses recognize that, economically, this approach benefits them more than letting the problem slide would, and that the local authority does not simply wish to be rid of a problem, but is actually genuinely interested in finding a solution which also involves civil society. Civil society, finally, takes on a role it can only fill because of its specific logic of action (being willing to help, showing civil society solidarity). All this can only work if all concerned are engaged in a continuous process of communication and exchange. Each case is different from the next and requires an individual solution. The contract-statist elements of the model are neither predictable nor can they be standardised. This is what makes the situation so special.

IX. Result

Given existing indicators for profound structural social change, new forms of the societal division of responsibility and labour between government, business and civil society are emerging. Best case, these new trends will lead to multiple New Social Contracts, which taken together, will themselves embody potential signs for a vitalisation of democracy under the aegis of an active civil society. In this scenario, active citizens will be putting their experience and abilities into the practical process of designing the community, for which they will receive the support of a government open to participation, and promoting and enabling this commitment. This new quality is also illustrated by companies being willing to use their expertise to benefit the common good, without shying away from a public debate on the status and importance of entrepreneurial activity for society at large.

As a positive feature, it should be noted, that the debate on the New Social Contract is receiving increasing resonance. Apparently, there is a widespread need to exchange views on the constitution of social integration and acquiring a sense of direction in a society whose structures have already changed tangibly and are still metamorphosing. The practice of “small-scale social contracts” seems to have progressed further than the academic and public debate. That is surprising (and positive) to the extent that after “the end of the great narratives” (Lyotard), it had long seemed there would be no more room in the postmodern world for such basic discussions. So, history still continues after all. It is open-ended and can be democratically formed.



Verantwortlich

CCCD - Centrum für Corporate Citizenship Deutschland
Kollwitzstr. 73
D-10435 Berlin

Lektorat: Serge Embacher

Gestaltung

www.nepenthes.biz

Berlin 2010

gefördert vom:



Bundesministerium
für Familie, Senioren, Frauen
und Jugend