

Current Concerns

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English Edition of *Zeit-Fragen*

The Raiffeisenbanks in Switzerland and the principle of cooperation

Dr phil René Roca*

For more than 20 years I have, with conviction, been a member of one of the 255 legally autonomous and cooperatively organised Raiffeisenbanks. However, lately, like many other members of the cooperative, I have been alarmed by certain developments in this cooperative bank. The Vincenz case, which I will not go into any further, is only symptomatic of these.

If you visit the website of my bank, the *Raiffeisenbank Rohrdorferberg-Fislisbach*, you come across a comic strip, well-made in terms of PR and in a prominent position, which advertises membership of the bank and concludes with the following motto: “Become co-owner of a bank, and determine how things are going to be.” The motto confirms an important guideline of the cooperative principle. If I want to become a member of a Raiffeisenbank, I buy a share and so become co-owner of the bank. At the annual general meeting, I have exactly one vote, regardless of whether I have one or more share certificates – according to the principle of “one person, one vote”. But the cooperative idea involves much more.

Mutual self-help as purpose?

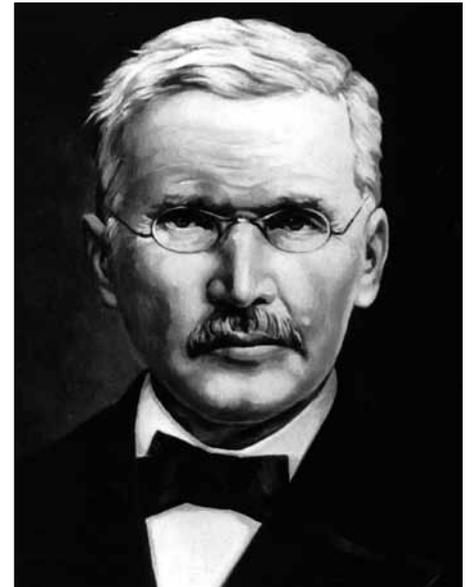
If I look at the important article stating the purpose of my Raiffeisenbank in its articles of association, I come across the following sentence (Art. 2): “The bank conducts the following banking transactions in mutual self-help in the sense of the cooperative ideas of *Friedrich Wilhelm Raiffeisen* [...]” What does this article of purpose mean? What does “mutual self-help” mean? What exactly do the “cooperative ideas of *Friedrich Wilhelm Raiffeisen*” include? Article 5 of the articles of association further states that the bank is “a member of Raiffeisen Switzerland” and recognises its statutes. *Raiffeisen Switzerland* is itself organised as a cooperative. My bank, the *Raiffeisenbank Rohrdorferberg-Fislisbach*, is thus as it were a member of Raiffeisen Switzerland, which

is based in St Gallen. If one studies Raiffeisen Switzerland’s statutes, the special article stating the purpose of the association (Article 3) is also remarkable: “Raiffeisen Switzerland aims to propagate and reinforce the cooperative ideas of *Friedrich Wilhelm Raiffeisen* in Switzerland [...]” Again, “mutual self-help” is mentioned, and the “cooperative ideas of *Friedrich Wilhelm Raiffeisen*” are even to be propagated and reinforced.

Cooperative roots in the 19th century

At this point it is needful to take a short trip into history. As a mayor in his German hometown, *Friedrich Wilhelm Raiffeisen* (1818-1888), whose 200th birthday we are celebrating this year, saw the hardships and worries of the farmers and traders of his time. Loans were only to be had with high interest rates and borrowers were soon caught in a debt trap. From what he saw, Raiffeisen drew the practical conclusion that the needy could only engage in the fight against usury and for fair credit in a joint alliance, true to the motto: “All for one and one for all”. The soon-to-be-founded “Aid Organisation” was “mutual self-help” in action, and the foundation stone for the first Raiffeisenbank. Raiffeisen assigned the task to serve as guarantors for debts to richer fellow citizens. For example, farmers borrowed money to buy cows. They had to pay back the loan within five years. Their wealthy fellow citizens were liable for potential losses in solidarity and with their private assets. There was no dividend. Later, the borrowers became members, too, as they formed savings in good times, which could in turn be mortgaged. This form of capacity-building is a socio-ethical principle that belongs to the cooperative idea and has its roots in Christian charity, as Raiffeisen repeatedly emphasised.

The cooperative idea can be explained as resting on three terms combined with the word “self”: In addition to self-help these are self-responsibility and self-determination. The will to self-determination has a long tradition in the Swiss Confederation. Cooperatives in various forms have been attested in Switzerland since



Friedrich Wilhelm Raiffeisen
(1818–1888) (picture www.raiffeisen.ch)

the late Middle Ages. That is why the idea of Raiffeisen fell on fertile ground especially in our country. In 1899, Father Johann Traber (1854-1930) founded the first Raiffeisenbank in Bichelsee. Since then, Bichelsee has been referred to as the “Raiffeisen Rütli of Switzerland”. Father Traber writes about the first Raiffeisenbank: “So the institution is really democratic and at the same time genuinely Christian; it is not money that governs here, but the moral value of the individual person.” The cooperative banks supported industrialisation in Switzerland sustainably and underpinned by democracy.

Apart from that, the cooperative principle and thus the demand for self-determination were an essential tradition in the 19th century, to first of all develop and then continuously expand direct democracy with the referendum and initiative first at the communal and cantonal level and finally also in the Swiss Confederation.

Considerations for securing and strengthening the cooperative principle

So what does this cooperative idea mean today? How can Raiffeisen’s ideas be

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Summit of Donald Trump and Vladimir Putin

km. In recent days it has become known that representatives of the US and Russian governments are preparing a summit meeting of the presidents of both countries, *Vladimir Putin* and *Donald Trump*. The US National Security Advisor *John Bolton* was in Moscow therefore. The meeting is scheduled for 16 July and shall take place in the Finnish capital Helsinki – a historical place (CSCE) for an understanding between East and West.

Since the election of Donald Trump, US tried to prevent a summit like that. Allegations against the US president (“Rus-siagate”) served this purpose among others. Donald Trump’s hand should be tied, the success of a meeting with the Russian president should be prevented at the outset. For Donald Trump had repeatedly stated in the election campaign that he was interested in trying to improve the extremely tense relations between the two countries. This concern met with massive resistance in the US and European Politicians who had committed to the previous governments and the candidate *Hillary Clinton*.

It is interesting that also the current attempt of the US-American and the Russian president, to talk to each other is con-

sidered with sometimes sharp polemics. And not only in the “New York Times” and the “Washington Post” in the USA. In Germany, almost all supra-regional mainstream media have adapted to the specifications of the two US newspapers. Read the comments of the “Frankfurter Allgemeine Zeitung”, the “Süddeutsche Zeitung”, the “Welt”, *Spiegel online* and also on *Deutschlandfunk* and *tagesschau.de*. Interesting is the thrust direction. “Frankfurter Allgemeine Zeitung” of 29 June 2018 e.g. writes that “a good relationship between America and Russia is in the best interests of Europeans,” and adds that “the global rivalry between Washington and Moscow was held first of all on our continent”. At the same time, however, it is said in the same sentence that both had only applied “earlier.” Today all this applied no longer because Donald Trump and Vladimir Putin are “practicing nationalists” who “take little care” on European interests.

What do you think of such phrasing, considering that after the Second World War all US governments did a great deal to keep Europe in a vassal status? “America first” was also in the decades before Donald Trump, but meant something else: the integration and instrumentalization of

Europe for US interests. The interests of many European people remained secondary, even among European governments. Donald Trump has another variant. He defines “America first” not only in the meaning, that the US should focus on preserving its national interests. In other states, he does not see servant vassals any more, but rather “competitors”. Considering its meaning for the states of Europe, there are different signals. “Deals” are usually something that should benefit both parties. But there are also strong signs that point in a different direction.

If the US President really should be able to improve the US-Russian relationship and avert the danger of a major war, this is to be welcome. Concerning the summit White House speaker *Lindsay Walters* said, the US president hoped to meet his Russian counterpart Vladimir Putin to relax the situation and engage in constructive cooperation. Literally she said: “Mr President attaches great importance to this conversation in order to find out whether Russia is interested in developing relations with the USA.” Would the European States not do better to think of their interests too and also to improve their relationship with Russia? •

“The Raiffeisenbanks in Switzerland ...”

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propagated and reenforced, and how can the idea of “mutual self-assistance” be filled with new content? Here are three considerations to this effect:

1. The current structure of Raiffeisen is centralised. The 255 autonomous cooperative banks are managed by St Gallen by means of a top-down strategy. This does not correspond to the cooperative idea. The basis, i.e. the cooperative members of each Raiffeisen bank, should decide by means of a decentralised (federal) structure, how things are going to be. The association must serve the individual banks, and not vice versa. That is how it was meant originally. The mergers of the Raiffeisenbanks were and are also wrong, leading to ever larger entities and less and less say.
2. *Raiffeisen Switzerland* determines the strategy of the banking group, which is then approved by the delegates of the Raiffeisen banks. The delegates are organised in regional unions in the form of 21 associations (!). This structure is

complex and above all undemocratic. As a member of the cooperative, I have never heard of these delegates at a general meeting or in any other way, so I do not know them and therefore cannot vote them in or out.

3. The 1.9 million members of the cooperative must take the development of their Raiffeisenbank more strongly into their own hands again. First, they must call for the necessary transparency within the framework of the General Assembly, and then they must assert more influence concerning the strategic management of the bank, so that the actual cooperative idea can be reasserted; only then the cooperative idea can be spread and reinforced, which would be a blessing for the economy.

The Raiffeisen representatives are quite willing to talk, as I was able to convince myself personally. Now a broad discussion is to be conducted with the rank and file, i.e. the members of the cooperative, in order to secure cooperative co- and self-determination and to secure them for the 21st century. •

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“The purpose of Raiffeisen is the common self-help”

Felix Walker calls for the bank to return to its cooperative roots

by Georg Koch

On 21 December 1899, the first Swiss Raiffeisenkasse (bank) was established in the denominationally neutral school building in the Swiss village Balzerswil by the circle of the Catholic men’s association Bichelsee, the “Pius Association” around Father *Johann Evangelist Traber*, which started operations in Bichelsee on 1 January 1900. The foundation should have a solid economic foundation and counteract “harmful pleasure” and “vanity”.

After some successful years of the first Swiss Raiffeisenkasse, Father Traber wrote about the purpose of this non-profit cooperative bank: “Raiffeisen’s loan associations are an effective and infallible means to put the middle class back on its own feet vis-à-vis big business. They are the seed of freedom and the flourishing of the middle class, one of the most beautiful and blessed inventions of our century.”

As in Germany, Austria and other countries before, Raiffeisenkassen flourished in Switzerland, so that on the death of Traber on 29 October 1930, there were already 516 Raiffeisenkassen with 45,278 members in Switzerland. While the first 40 cooperative members of Bichelsee started with working capital of CHF 40,000, the 516 cash registers of 1930 already had assets of CHF 133.6 million invested with them and had an annual turnover of CHF 611 million. And that only one year after the global economic crisis, which also shook Switzerland.

Raiffeisen had already recognised the need for a central association of Raiffeisen banks in order to become as independent as possible from external capital. For this purpose, he founded the “Landwirtschaftliche Zentral-Darlehnskasse” in Neuwied on 30 September 1876. In order to ensure that the members of the Supervisory Board of the Zentral-Darlehnskasse do not work selfishly but conscientiously and in the public interest, Raiffeisen stated: “They are almost exclusively heads of local associations, enjoy no advantages whatsoever from the latter or from the “Zentral-Darlehnskasse”, but are liable with all their assets and work free of charge”. The agriculturally active, regional population should benefit from the business of the Raiffeisenkassen. Raiffeisen rejected all speculative transactions or stock trading and usury as well as pleasure and useless expenditures: “The rural population does not want to know anything about securities, even if they are the safest government bonds. [...] Once the investment of money in such papers had been introduced in the countryside, it would be

“Raiffeisenkassen have developed rapidly in Switzerland as in other countries. Agriculture and small and medium-sized businesses have benefited enormously from the Raiffeisen movement, especially in rural areas. The cooperative idea that what is not possible for the individual can be achieved by united forces has proven its worth all over the world.”

difficult, even impossible, to keep to the limit. It would easily lead to the introduction of dizzy papers, which could cause unpredictable damage.”

Contrary to what seems to be customary in the umbrella organisation *Raiffeisen Switzerland* today, according to Raiffeisen the “Zentral-Darlehnskasse” should not pursue a quest for profit. It should only serve to preserve the individual Raiffeisen cooperatives. “The ‘Zentral-Darlehnskasse’ is not a bank in the usual sense of the word, but an equalisation body between the participating associations. For the associations which have surplus money, the latter serves as a place of storage, for those which lack money, as an auxiliary source”.

As early as 1901, Father Traber in Bichelsee also thought about the foundation of a Raiffeisen Association. It had to function as an auditing and central cash register association. As an auditing association, it has the task of carrying out a periodic audit of the association’s cash registers, “to protect them from abuse and slackening, to ensure that efficient Raiffeisen men are trained at all and to effectively promote the spread of the Raiffeisenkassen”. As the central fund association, he will establish a central fund, in which the individual associations can participate; in order to serve small and medium-sized businesses, this fund is to provide for cash compensation among the individual funds under favourable conditions. After about two dozen Raiffeisenkassen had been founded in Switzerland, the founding meeting of the Association of Swiss Raiffeisenkassen took place on 25 September 1902 at the Hotel Linth-Escher in Zurich. Under the chairmanship of Father Traber, 10 Raiffeisenkassen participated from the very beginning. It was decided that the Central Fund Association should be a cooperative in which the individual Raiffeisen funds should become members. Bichelsee became the first seat

of the new association under the chairmanship of Father Traber.

Raiffeisenkassen have developed rapidly in Switzerland as in other countries. Agriculture and small and medium-sized businesses have benefited enormously from the Raiffeisen movement, especially in rural areas. The cooperative idea that what is not possible for the individual can be achieved by united forces has proven its worth all over the world. The museum director at the Raiffeisen Museum in Raiffeisen’s birthplace in Hamm an der Sieg told us about a Japanese man who recently knelt down on the stairs to the birthplace and said: “This man has alleviated our misery in Japan.”

During the 2008 economic crisis, many people took their money out of the major commercial banks and brought it to Raiffeisenbank. They trusted that the cooperative banks are not familiar with speculative transactions and that they are regionally anchored. Raiffeisen had demanded as “the first and most important principle” that a cooperative district should be as small and demarcated as possible, i.e. “as a rule only extend to a civil or parish community with an average of 1,500 souls.” According to the reports in *Insight Paradeplatz* and the daily press, bona fide members of the cooperative have now found that the frontline under *Pierin Vincenz* in *Raiffeisen Switzerland* cooperative association have moved enormously away from Raiffeisen’s principles. Not only the hasty purchase of the investment bank *Notenstein* for CHF 600 million, the investment in the derivatives house *Leonteq* and the deal of the so-called investment vehicle *Investnet*, which has since been investigated by the public prosecutor, break with Raiffeisen’s principles. The general rise in wages at the head office in St Gallen of 50 per cent since 2000 and last year’s 43.5 per cent increase in wages

Don't worry – be Wängi ...

It is rumbling in the Raiffeisen cooperatives. The General Assembly of the Raiffeisen-Cooperative Wängi-Matzingen rejected a merger with Münchwilen-Tobel

gk. Wängi. After the headlines around former Raiffeisen boss *Pierin Vincenz*, it is now rumbling at the base. It is very rare that the Raiffeisen cooperative members refuse to give their administrative council their allegiance. On 20 April 2018, the co-owners of Raiffeisenbank Wängi-Matzingen clearly rejected the merger with Raiffeisenbank Münchwilen-Tobel at this year's General Assembly. Contrary to expectations, 598 of 799 cooperatives present rejected the merger. In numerous statements from the general meeting, which lasted from 7 to half past 11 pm, the speakers did not allow themselves to be deluded by the well-sounding statements of the administrative council. From the position of strength, they wanted to shape the future and develop the future Raiffeisenbank Münchwilen-Wängi a contemporary bank and better advise customers for the cooperative members.

However, the voters held against these promises that they consider their Raiffeisenbank financially sound – also considering the current balance sheet – and that they are very satisfied with the current advice. They recall that the cooperative's most important purpose is "joint self-help" and the "dissemination and deepening of the cooperative ideas of *Friedrich Wilhelm Raiffeisen*". In his ideas nothing was mentioned like hunting for record profits. "So we stick to our trade like the cobbler and keep our village bank in a manageable size." They do not see any advantage in the doubling of the number of cooperative members to 9600, but a reduction of co-determination as co-owner of the bank. With the further centralisation of

the Raiffeisenbank, they fear that they will become an impersonal number for the management. They do not accept the dismantling of co-determination in a General Assembly if it only degenerates into a "social event" with a fine meal. Such a size and centralisation is not compatible with the views of *Friedrich Wilhelm Raiffeisen*. The control of the board of directors and the bank management by the co-owners of the bank could then even worse be ensured. Further centralisation of Raiffeisenbank would offer even more opportunities to direct the Raiffeisenbank top down. In addition, the president had to confirm that with a very good balance sheet of 620 million CHF, a merger was not necessary for legal or financial reasons. It was also reminded that the personal familiarity between the bank management and the members of the cooperative as well as the regional roots and down-to-earthness in the economic crisis in 2008 caused many people to withdraw their money from the commercial banks and to move it to Raiffeisenbank. The machinations of former CEO *Pierin Vincenz*, which are deeply contradictory to *Friedrich Wilhelm Raiffeisen's* ideas of solidarity, led the cooperative members to repeatedly ask questions about cooperative supervision over the Raiffeisen Switzerland association. The massive refusal result was also triggered by the fact that in the perfectly developed merger planning hereafter, not a proven and ethically convinced "Raiffeisengenosse" should exercise the presidency, but an unknown banker with 20 years of professional experience at the commercial bank UBS.

The bank management and the president of the board of directors were clearly surprised by the powerful No of the members. Apparently, they and their advisors from Raiffeisen Switzerland believed in the wisdom of textbooks on the merger management of Raiffeisen banks. There, the "exercise of ownership rights" is seen as the most irrelevant "member-value-component" for the members of the cooperative. Accordingly, the ownership rights are therefore not important to the members of the cooperative. In the opinion of such managers, the only thing important to the members of the cooperative is the use of services such as free admissions to museums or a fine dinner, as well as the interest on their shares. In the Raiffeisenbanks, for example, according to the author *Vanessa Arts*, "customer interests" dominate before "owner interests". The General Assembly in Wängi proved that this is a mistake. In addition, the promise that no branches will be closed was questioned in the Wängener General Assembly. Quite rightly, when you consult *Vanessa Arts*: "Branch closures should therefore not be part of a merger, according to almost half of the experts. They should be postponed on the temporal level as long as possible." The evening ended with the performances of an Appenzell musician, who commented impressively spontaneous on the course of the General Assembly in his unconventional songs. His last song was "Don't worry – be happy ...". Even better would have been: "Don't worry – be Wängi ..."

(Translation *Current Concerns*)

""The purpose of Raiffeisen ...""

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of the Board of Directors of Raiffeisen Switzerland are no longer understandable both for the employees of the local cooperatives and for the owners of Raiffeisenbank, the members of the cooperative themselves.

In the *NZZ am Sonntag*, *Felix Walker*, the predecessor of *Pierin Vincenz*, demands that confidence in the cooperative bank Raiffeisenbank be restored, which speaks from the heart of many cooperative members: "Raiffeisen's pur-

pose is joint self-help. This cooperative principle must serve the members and not the management bodies." Raiffeisen must again distinguish itself more strongly from profit-driven banks. *Felix Walker* demands more power for the cooperative. A return to the principles and values of Raiffeisen and *Traber* is due.

The cooperative members of Raiffeisenbank Wängi-Matzingen showed on 20 April 2018 that this is possible. After a long and impressive debate at this year's Annual General Meeting, 598 out of 777 cooperative members present refused to give in to pressure from Raiffeisen Swit-

zerland. They burst the planned merger of the two Thurgau Raiffeisen banks Matzingen-Wängi and Münchwilen-Tobel. They did not want Raiffeisenbank to become an increasingly impersonal commercial bank, and again demanded more influence of the actual owners. In contrast to the advisors of Raiffeisen Switzerland, they did not see any advantage in further centralisation through an even larger cooperative, but rather a loss of regional roots, personal proximity and co-determination. •

(Translation *Current Concerns*)

What can Germany hope for?

by Karl Müller

Klaus von Dohnanyi, a former SPD politician, minister of state in the foreign ministry and mayor of the city of Hamburg, who turned 90 on 23 June begins his interesting article “On the relationship between Europe and America” (“Frankfurter Allgemeine Zeitung” from 23 June 2018) with the appropriate statement “The world is in a state of social and political change [...]”, observing at the end of the first paragraph: “Europe and the United States [...] have embarked on a dramatic collision course with a yet to be determined ending.”

Klaus von Dohnanyi ascribes this “collision course” not only to the current US government. He also sees underlying reasons. His analysis includes nearly the complete 20th century and also considers the “theories” of Mackinder and Brzezinski, upon which the US political system is based. He even states: “Competition and economic interest also were, as was extensively proven especially by Anglo-Saxon historians, the true reason for the entry of Great Britain and the United States into World War I.”

It is easy to agree with Klaus von Dohnanyi on many points.

Why not gain back democratic control?

But then there is an interesting statement which the combined points give food for thought: “Increasingly, globalisation gives people [...] the feeling that they are not in control of their own house; they want to gain back their democratic control and this brings about nationalist reactions.”

“Nationalist reactions” is something that Klaus von Dohnanyi detests. Instead he promotes a strengthened “Europe” – what he has in mind is a EU under German-French leadership. While he mentions *de Gaulle* and *Adenauer* as paragons, he is aware that today *Macron* and *Merkel* represent their countries. There is no question of who should be “in control of the house” and what could be the style of “democratic control”. So what does Klaus von Dohnanyi think of the wish of people to be “in control of their house” and to “gain back democratic control” if he speaks of “nationalist reactions” immediately after?

Who is fighting the sovereign nation state?

That this is not a subtlety is demonstrated by a view on the current German debate about how to deal with migrants who have previously been registered in other European states. In spite of unam-

biguous German constitutional clauses and the legal situation “national solo efforts” are denounced as evil and a “legal expert” seconds by stating that European law was breaking German constitutional law because “Germany is member of the European Union, so we are under European law.” (“Hessische/Niedersächsische Allgemeine” from 27 June 2018) European law had “primacy of application”. The “legal expert” is member of the Europa-Union Germany.

This explains his wilful interpretation of the European Treaties and the role of national constitutional law. But in certain circles the European Treaties are frequently cited and show, that the end of nation-state sovereignty is a foregone conclusion. Since the days of *Jean Monnet* an inadmissible claim to power on the part of supranational institutions subscribes to the principle that crises are best to push forward the “European integration”. It is worthwhile to read the many commentaries from politicians and media from this point of view. And certainly, it is permitted to carry out show fights – the current fight CDU vs. CSU might be an example.

What should we think of “nationalist forces”?

On the other hand, it is not guaranteed that a further “European integration” will prevail. Indeed, in nearly all EU states there are political forces claiming to be more “nationally oriented” who are gaining political weight. But what does this “other side” look like? Do the “nationally” oriented political forces in Germany (and in other EU states) really present an alternative? There are many doubts here, too. In his latest book “Deutschland im Umbruch” (Germany in Transition) *Willy Wimmer* mentions the influence of foreign secret services on various “national” forces: “Some months ago in the *ZIB-2* news of the Austrian TV, a senior official in the Austrian intelligence service pointed out to which extent groups with strange agenda that have appeared in the past years in Europe are being controlled from the United States. This includes those, who see our country as a company or others, as might be suspected, who are vehemently promoting a ‘peace treaty’. [...] Who [...] is possibly supporting these newly founded parties, that give people a political home? [...] I am afraid [...] that the president of the Austrian intelligence service is right in what he indicated at *ZIB-2*: Such proposals originate from certain groups in the

United States. The goal is to urge us toward a certain kind of politics. The resulting dissatisfaction in the population about these politics [of the German Federal Government] is channelled in order to mislead the people.”

Do not mix things up

We have to keep this in mind. It would also be a big mistake to assume, that all their supporters and members subscribe to possible underlying premises of various parties and other political movements. Many people, in all (!) parties, have honest intentions. They come from various political backgrounds and may have differing approaches and priorities, but much of what the people think is worthy of discussing and should be examined in dialog. Most people are not characterized by an excessive thirst for power; instead they share the wish to find solutions for the existing political issues based on the common good.

Various political forces with honest intentions

In his three-volume standard reference on German history between 1800 and 1918 the German historian *Thomas Nipperdey* discusses the main political groups which had formed after the failed revolution of 1848/49 in what was then the *Deutscher Bund*: the liberals, the conservatives and Catholics and finally the labour movement and the workers’ parties. According to Nipperdey all three movements represented valid issues and thus are appreciated in his standard work.

The question of law and freedom, the social question and the question of what needs to be preserved and which are timeless values are all still current topics. Also, the valid concern to protect the natural environment finds sufficient space among these fundamental political tendencies. The many people concerned about the common good are a hopeful sign for Germany. They are characterized by demonstrated solidarity and readiness to engage in dialog, focussed on the issue at hand. Currently these people are not yet a political force; they are still deterred by the everyday infighting on the political stage. This force could be developed much stronger in a future direct democracy than in the current fight for power and influence. *Willy Wimmer* concludes his book with the statement: “Switzerland is demonstrating what it means to live democracy as responsible citizens.” Working towards this goal in Germany can give people hope. •

Europeans should not follow the American sanctions against Iran!

by Roland Hureauux, essayist, France



Roland Hureauux
(picture ma)

It is in the interest of France to put the Iranian issue at the centre of the debate, even if this means a more flexible handling of Trump's protectionist measures.

Europe is outraged by the protectionist measures, which President Trump has just taken and by the threats he has made against Iran since his withdrawal from the agreement, and this is justified.

However, it may not be the right terrain for a confrontation.

It is obvious that Washington's protectionist measures, particularly with regard to steel and aluminium, are causing a much more violent storm of indignation than the dictate imposed on European companies, under threat of punishment of severe reprisals, to stop all trading with Iran.

The latter, however, seems much more scandalous to us and, in our view, should be most outrageous to European opinion.

There is nothing wrong with the United States wanting to practise a certain degree of protectionism: Of course, since 1945, the GATT agreements (now WTO)

have tended to push it back, but it remains one of the legitimate means of sovereignty available to a state to protect its economy. In this case, Trump's motives are honourable: to get American workers back to work, to improve the trade balance, to maintain strategic sectors (which we, on the other hand, give up). The effects of free trade are questionable: fewer and fewer experts see it as the panacea for growth.

The consequences of the withdrawal from the Iranian nuclear agreement by the United States are far less lawful: this is a unilateral decision imposed on the partners, which is a serious violation of international law. As we have seen in the case of *Alstom*, the extraterritoriality of American justice poses a serious threat to the sovereignty of other states and to their economic interests: this strategically important company could only be brought under American control because an American court imposed a heavy fine on an issue that did not take place on American soil

A clear and decisive response to these practices seems to us to be more urgent than the clamour relating steel and aluminium.

Unfortunately, the European countries, which are trapped in the globalist ideology, have brought about a real reversal of values. Trump's protectionist measures hit hard the ideal of universal free trade, which has long been at the centre of dom-

inant Western thought. From their point of view, this is a serious mistake, a questioning of the world order. On the other hand, the measures against Iran imposed by the US on Europeans against their will only affect their sovereignty; they are also embedded in a Middle East conflict, which many, even on this side of the Atlantic, see as a fight of good against evil, a certain universalism against Iranian particularism. Stunned by overcoming the national, European or global framework, they consider as serious what it is not at all, and as normal, what they should have to outrage most.

The sanctions against Iran seriously damage economic interests: the American threats lead to the suspension of *Peugeot* and *Renault* projects, the cancellation of *Airbus* orders, the withdrawal of *Total* and *Engie* and, consequently, to a serious damage of the French economy. The German economy is also affected by *Siemens* and its banks, but perhaps less than the French economy. By contrast, the German economy has been affected more intensively by American protectionism. However, this asymmetry does not explain the European reaction adequately. Nevertheless, it is in the interest of France to reverse the prospects in order to place the Iranian issue at the heart of the debate, even if this means a more flexible handling of Trump's protectionist measures.

(Translation *Current Concerns*)

Letter to  the Editor

North Korea and the USA: finally a to-get-together approach

In our daily newspaper of 13 June, North Korean President *Kim Jong Un* and the President of the United States of America *Donald Trump* commented the meeting with the words "little substance", or, as the editorial section of the headline says, "Pure Declaration of Intent." It seems to me to be totally inappropriate to play down this encounter as not so important. Rather, this meeting is of a very high quality, considering that after decades of hostility, recently accompanied by the most massive threats, a get-together finally took place.

In our world, where nuclear weapons, which have only existed for about 70 years in human history and are capable of destroying humanity many times over, this first step towards denuclearization in this region is a very valuable contribution to the human family.

Although a schedule with details is still lacking and people talk about a lack of substance and a mere declaration of intent, the importance of this meeting, considering the total tense world situation, can be judged as a very positive signal.

Of course this is a start. The process of détente does not go by the "rough-and-ready" approach, but can only be promoted progressively on both sides in the effort to do what is good for peace.

It would be nice if the example of Korea would also set an example in dealing with our European neighbor Russia, namely ending the NATO maneuvers at its border, lifting the sanctions and finally burying the bogeyman's image.

Werner Voss, Wiehl (D)

Angela Merkel definitely rejects Emmanuel Macron's United States of Europe

by Alain Morau*

In his harangue at the Sorbonne on 26 September 2017 – two days after the parliamentary elections for the German “Bundestag” – Emmanuel Macron presented his own project of a federal and sovereign Europe. A project that the French people were made aware of at the same time as the Germans. Because Macron believes that the integration of France in a federal Europe is a project that he can operate alone, without first asking the French whether they agree.

In previous articles¹, we tracked step by step how German policy responded to this project ... in fact it hardly did so at all!

The government of the new “GroKo” (“Grand Coalition”) finally took office on 14 March, but the silence has continued in Berlin since then and, as seen from Paris, this weighs rather heavily. The French Minister for Economic and Financial Affairs Bruno Lemaire emphasised, in the newspaper “Die Welt” of 2 June, that France was expecting an answer from Berlin.

The minister might have forborne this explanation. It indicates a certain concern in the Elysée, combined with feelings of irritation. As early as the following day, Angela Merkel responded with an interview in the Sunday edition of the “Frankfurter Allgemeine Zeitung” (FAZ).

The decision to publish a press interview is by no means negligible. Angela Merkel could have made a solemn speech like the one Emmanuel Macron gave at the Sorbonne or a statement on government policy in the “Bundestag”, or given a television interview in front of millions of viewers. The decision to turn to the Sunday readers of the financial center's newspaper (circulation on Sunday: 250' 000 copies) avoids causing a great sensation while preserving all forms of decency.

The financial and economic issue is the biggest challenge for Germany. Emmanuel Macron called for the creation of a common economic and financial area with a European Finance Minister disposing of an independent budget and with the principle of financial transfers in the euro area.

Angela Merkel, for her part, stands by the position of former Finance Minister Schäuble, following the spirit of 154 economics professors' recent appeal:

– Conversion of the ESM into a “European Monetary Fund” (EMF), with more scope for intervention in the event of

a state getting into financial difficulty, but maintaining the principles of full repayment of credits and of control by national parliaments (hence veto option). This “EMF” would be one of the pillars of the Eurozone, independent of the *European Commission*, whose power would thus be rivalled. It would also have the necessary tools to involve private creditors.

– Establishment of a banking union, but without joint investment insurance (as opposed to what France wanted).

– Establishment of financial transfer funds to improve the competitiveness of the states. However, the amounts provided are to be rather insignificant.

These proposals by no means correspond to the core of the objectives pursued by Emmanuel Macron. The Elysée mentions only a “rapprochement” of the German proposals. So, in reality, the German position has hardly changed since 2012.

The second major topic is the migration policy. It seems that the proposals of Berlin and Paris are closer here: the creation of a true European border police and of a common migration policy which requires the introduction of the principle that the European countries must accept quotas for immigrants. However, these proposals are so far removed from reality that the countries of Central and Eastern Europe are reacting very sharply to them. The “Süddeutsche Zeitung” comes to the conclusion that “one runs no great risk when making such proposals”, and thus imputes a double game to Mrs Merkel.

Other important topics are the defense and foreign policies. On the one hand, the Chancellor is moving in Macron's direction when she defends the idea of a European reaction force. On the other hand, she comes up with a surprising and completely new idea: the creation of a “European Security Council” and the division of non-permanent seats in the UN Security Council among the European states.

France, which has a permanent seat on the Security Council, would not be affected. But this proposal, the only new one in the whole interview, puts Emmanuel Macron in a delicate position. The “Frankfurter Allgemeine Zeitung” describes exactly the strings attached for him. Every country has a core of national interests to defend: financial and economic policy for Germany, military and foreign policy for France. In fact, after Brexit, France will be the only EU country with a permanent seat at the United Nations (and is, moreover, a nuclear power).

Therefore, Mrs Merkel points to this unique position and indirectly asks the Elysée a question: are you ready to question your fundamental interests, as you ask us to touch ours? It will be interesting to see if the Elysée answers this question in the near future.

Angela Merkel's answer is therefore strategically very mature. She sticks to her own fundamental interests (German monetary and economic policy), shows herself flexible when moving on secure ground (migration policy, blocked by the eastern countries) but subtly offensive when it comes to the fundamental interests of the other party (defense policy and diplomacy for France). This sober and discreet reaction, which contrasts with Macron's lyrical flights and illuminated visions in his Sorbonne speech, therefore means a decided rejection.

So beyond the Rhine, the rejection of an upgrading of the EU is finding clear expression. In view of the new economic situation due to US protectionism, the discrepancies between the national interests of France and Germany will increase and the gap will also widen. In fact, Emmanuel Macron is completely isolated within the EU.

The meeting between Angela Merkel and Emmanuel Macron, which took place on 19 June 2018 in Germany, has not changed anything. Mrs Merkel did say she was in favour of “setting up a common budget for the euro area so as to better protect it from crises”. But apart from the fact that eight states of the European Union have already announced their veto, Emmanuel Macron has explained that this budget could be “implemented in 2021”, so ... in three years' time! This means that it is a nebulous project, because nobody knows whether the euro zone will still exist in three years' time. In addition, many political analysts are considering that within two weeks, Merkel will not be Chancellor, if her CDU-CSU government agreement breaks up due to the “immigrant” question. •

¹ www.upr.fr/actualite/france/allemande-in-stabilite-politique-fuite-socialiste-martin-schulz-sort-dun-chapeau-projet-detats-unis-deurope-2025 of 15 December 2017 and www.upr.fr/actualite/france/allemande-derriere-les-apparences-le-nouveau-gouvernement-issu-de-la-groko-dit-non-a-leurope-de-macron of 14 March 2018

Source: www.upr.fr/actualite/france/angela-merkel-rejette-definitivement-les-etats-unis-deurope-demmanuel-macron-par-alain-morau of 19 June 2018

(Translation Current Concerns)

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The front against Russia is caving in

by Professor Dr Eberhard Hamer



Eberhard Hamer
(picture ma)

So far the US, with its satellites and the international agencies it controls, has been engaged in indirect warfare against Russia at all levels:

- By means of financial sanctions, the world's banks were forced to stop conducting financial business with Russia.
- Through trade sanctions, all companies in the Western world were ordered, under penalty of punishment, to stop doing business with certain Russian companies and persons.
- Even the companies involved in *North Stream 2* were threatened with special fines.
- Every quarter of a year, another field in which the Russians have allegedly violated human rights (*Scripal*) or sports laws (doping allegations), or destroyed people (plane crash Ukraine) or were illegally at war (Eastern Ukraine), came to the American mind. This has caused an intensifying media agitation against Russia in the whole world in recent years.
- In addition, the US has brought anti-Russian agitators into decisive positions. These have gotten their organisations (for example, *Stoltenberg* the NATO) in a fighting mood against Russia. Or there are the two Russia haters *Merkel* *Maas* campaigning in Europe for military buildup against Russia (Euro sanctions, 6 billion to build roads for deployment against Russia, military buildup of Ukraine and the Baltic States against Russia) or propaganda offensives with fake charges against Russia.

Up to now, Russia-haters could always be sure that, in the pursuit of their policy of conflict and hate, they were acting in the American interest and with backing from there. For the Americans, Russia was the decisive obstacle

- to enforcing their oil world power plans,
- to preserving their dollar empire (despite Russia, China, Iran dropping the dollar),
- to spreading American power to the East (Ukraine, Baltic States, Poland),
- to the military conquest of the Black Sea (This is now obstructed by the annexation of the Crimea by the Russian Federation),
- or to the conquest of Syria (because of the oil passthrough).

So the American struggle against Russia always took on new forms. With the help of NATO, Russia was surrounded by US rocket stations, which moved closer and closer to the Russian border. The *Clin-ton* clique even claimed that their surprise election defeat was owed to Russia only, and has since been agitating in the US against any contact with Russia – including contact by their own president.

In the US-dominated international organisations, care was taken to ensure that only enemies of Russia were promoted into leadership positions, while friends of Russia were excluded.

And those who scolded Russia most and loudest (*Merkel*, *Maas*, *von der Leyen*), could so far expect a preferential treatment by American presidents (for example, by *Obama*).

The American sanctions against their “allies” – or satellite states, the fines against our banks and industry as well as the endangerment of world peace by the United States terminating the treaty with Iran, the trade contracts, the environmental protection, have now baffled even the most loyal US courtiers such as *Merkel*, *Juncker*, *Macron* and *May*. Suddenly, no longer all good things come from the US, and no longer all US commands are good, but it is becoming apparent that they harm their own peoples. The new president no longer takes account of the interests and the humility of his followers, but upholds his American advantage instead. The phalanx of the US and its satellites is suddenly starting to waver. The first warners amongst the satellite states (Hungary, Italy, or Spain)

are suddenly calling for better relations with Russia, because loyalty to the US is no longer worthwhile, and business with America is being destroyed by the US.

Only two days before the G-7 conference in Canada, *Merkel* had wanted to ingratiate herself with the president by vigorous Russia-baiting. She was, however, given a dressing-down at the conference, as were her colleagues, and cooperation with Russia was ordered as a new direction.

Apparently, *Merkel*-*Maas* have once again backed the wrong horse: the all-encompassing US surveillance of Germany and its economy, which *Merkel* accepted, is suddenly seen as a national danger; the sellout of German technology to China can no longer be justified by globalisation; the growing criminality of *Merkel*'s guests shows the downside of migration; the German economy is being harmed by *Merkel*'s Russia sanctions; and the American sanctions against us are becoming an existential problem for our industry.

Whether *Merkel* wants it or not, the demands to strive for a peaceful and harmonious relationship with Russia are being enforced by American behaviour.

Merkel has too often taken the wrong direction in the past three years, causing permanent damage to our people. She believed that she had to do so as the follower, or at the behest of, the American occupying power. But now the orders are different, she has uselessly sacrificed the interests of her country.

To reconcile itself with Russia has been the truly politically reasonable way for the US for a long time, and this will drive the anti-Russia fighters into a crisis and overturn the sanctions. *Nato*-*Stoltenberg* will retire soon; *Juncker* was the first to change his strategy; the new governments in Spain and Italy are no longer taking part in the boycott, the American President is setting a different political agenda, which *Merkel* can no longer credibly turn to at such short notice. Since the G-7 conference, the *Merkel* star is fading. •

(Translation *Current Concerns*)

“Working for human rights takes patience, perseverance and passion”

Interview with Professor Dr iur. et phil. Alfred de Zayas

Current Concerns: Professor de Zayas, your mandate as the UN Independent Expert on the Promotion of a Democratic and Equitable International Order (appointed by the United Nations Human Rights Council) ended recently. In your final report to the Human Rights Council, you formulated 23 principles concerning the world order (see box on p. 15). In those, you addressed issues such as peace, multilateralism, sovereign equality between states and the right of people to self-determination. What is most important to you?

Professor de Zayas: If these 23 principles are respected, we can hope for a sustainable world order that guarantees development for all countries and above all freedom in the sphere of the individual, freedom also in trade – without unilateral sanctions, because unilateral sanctions are against the spirit and letter of the *UN Charter*; they are contrary to international law. The only sanctions that technically could be considered legal are those imposed by the Security Council, but these too can lead to enormous human rights violations.

The Security Council is not above international law

The Security Council is not above international law either. It must comply with Article 24(2) of the UN Charter, which stipulates that “In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations”. In other words, the Council is not *legibus solutus* (freed from the application of the law), but has a specific, limited mandate and must not act against peace or human rights, and if it does so, it is acting *ultra vires* or against the UN Constitution.

Can you be more specific?

Look at the sanctions against Iraq 1991 – 2003. As early as 1995, Unicef estimated that 500,000 children had lost their lives as a direct result of these sanctions. At the end of the 2003 sanctions, over one million Iraqis were dead because of the sanctions. And that is why the UN Assistant Secretary Generals, the Humanitarian Coordinators for Iraq, *Denis Halliday* and *Hans-Christof Graf von Sponeck*, resigned in protest. Halliday said clearly, “It’s a form of genocide.” Hans-Christof von Sponeck published a book on the subject entitled: “A Different Kind of War: The UN Sanctions Regime in Iraq”,

which was nothing less than an economic war force the country to its knees.

That is what the United Nations Security Council did, undoubtedly in violation of Article 24 of the UN Charter. It is because the Security Council is not above the law that it too must comply with the UN Charter, must also comply with the principles of human rights and human dignity. It is an aberration when its actions lead to one million deaths. Those sanctions should therefore have been lifted very quickly when it became clear that they lead to death. In other words: one must recognise that economic sanctions kill. Sanctions can only be imposed – for example in times of war in the form of embargos on the sale of weapons – so that the belligerent parties start talking and stop shooting at each other. Sanctions can be imposed prohibiting the purchase and sale of weapons, aircraft, warships, etc. That would be a legitimate form of sanctions. But not economic sanctions, which directly result in a lack of food, medicines, medical equipment, etc., which clearly and necessarily lead to death. Such sanctions are to be recognised as crimes against humanity and prosecuted by the Criminal Court in The Hague.

UN Charter – Constitution of the World

You mentioned the UN Charter. What significance do you give to the UN Charter in today’s world?

According to doctrine, the UN Charter represents the constitution of the world. That is, the world order, which the states themselves determined in 1945. Article 103 of the UN Charter states that the Charter prevails any other treaty. This means that if a treaty is not in accordance with the UN Charter, then that treaty must be amended or it is null and void. The problem is: the doctrine on the one hand, the reality on the other. Reality doesn’t match the doctrine. We live in a world of hegemony, in a world where the great powers can afford to do anything, where they act against the UN Charter with total impunity, and that will not change in the near future. What worries me most is the corruption of the system, in particular the corruption of the Human Rights Council, the Office of the High Commissioner for Human Rights, the High Commissioner for Refugees, the International Criminal Court, because human rights have been “weaponised” or converted into weapons, weapons used only to eliminate opponents

and not to help people gain their rights. In addition, the biggest crimes since 1945 have been committed by the big states. The corruption of institutions and concepts continues.

What crimes are you thinking of?

Perhaps the biggest violations of international law since the Nuremberg trials were the aggression against Yugoslavia in 1999 and later, above all, the aggression against Iraq in 2003. What is particularly disastrous – I would almost describe it as a primordial disaster – is that the United States did not carry out the aggression here alone, but that 43 states, the so-called “coalition of the willing”, joined in. Imagine what that actually means! We have here a revolt against international law, a deliberate rejection of the UN Charter and its philosophy! And led by the states that should have protected international law, that should have guaranteed it. These states have consciously – with open eyes – broken international law. It was a pogrom against law and justice. And no one has been held accountable!

Credibility of the ICC badly damaged

In such cases the International Criminal Court should actually take action...

What is the *International Criminal Court* doing? What does this International Criminal Court in The Hague do with the highly paid judges when they only charge Africans, namely relatively minor criminals – compared to the big criminals *George Walker Bush*, *Donald Rumsfeld*, *Tony Blair*, *José Maria Aznar*, *Silvio Berlusconi*! We must not forget that millions of people took to the streets in Milan, Naples and Rome in 2003. And Silvio Berlusconi disregarded the wishes of his own people, his own democracy and brought his country into a war of aggression. The same with José Maria Aznar in Spain: Millions of people took to the streets in Barcelona, Madrid and Seville to demonstrate against the war. Nevertheless, José Maria Aznar brings his country to war. This means that the credibility of the system has not only been undermined, it has been eliminated. What is the significance of an *International Criminal Court* that does not bring these biggest criminals to justice, but only the small-time villains of the world? For me, the crisis we are going through today is a crisis of the ontology of law, of the nature of law: law is degraded into a kind of code that applies only to the

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losers of a war and only to ousted politicians. It is a code against the weak, but not a code for all – such a pseudo-code helps nobody. We don't need any of that.

Crisis of disinformation of the people

How could credibility be regained?

If intellectuals in America, England, France, Spain, Germany and Switzerland would get together and demand it. If the media ... but the media have been corrupted as well. It's easy to talk about a mendacious press. But it's not just the lies, the media actively support and whitewash the crimes of the strong. When I look at the reports in the “New York Times” or the “Washington Post” in 2003 on Iraq or on “El País” or “El Mundo” or “ABC” in Spain on Catalonia, when the government, with brute police force, tried to illegally prevent the referendum on self-determination of 1 October 2017. The media are complicit in the crimes. They have a sophisticated system of disinformation, which is not only lying – and a lot of lying! But even more: They leave out what is important, what is crucial information. The press does not inform, the press indoctrinates in the sense of the powerful, the owners of the press, the conglomerates, be it *Murdoch* or be it someone else. This is manipulation in order to prevent the democratic exercise of the right to information. One is forced to go to alternative media to inform oneself. Every day, in the morning – besides BBC and CNN – I read “The Guardian”, RT, CCTV, *al-Jazeera*, *Telesur* on the Internet to get a spectrum of information and then form my own synthesis. But how many are able to do that? How many have the time to deal with six, seven, eight different sources? This is a crisis of the 21st century, a crisis of information – the disinformation of the people. To get out of this situation ... one would think that if intellectuals joined forces and demanded it, it should be possible. But how often has *Noam Chomsky* gathered a number of luminaries and published Open Letters in the New York Times and the Washington Post. And what effect have these letters had? Hardly any. As the deep state, the real power, takes it for granted that it can afford to ignore these voices of alternative thinking people like Noam Chomsky, Francis Boyle, Norman Finkelstein. They can speak as much as they want because we know that the masses have been so indoctrinated that they will not be torn out of their comfort. Therefore, Noam Chomsky poses no real danger to the powers that rule us. The idea that the truth shall make us free is nice – but inoperative.



Alfred-Maurice de Zayas (United States, since 2017 Swiss citizen) studied history and law at Harvard, where he obtained his J.D. He practiced corporate law with a New York law firm. He obtained a doctorate in history for the University of Göttingen in Germany.

Alfred de Zayas has been visiting professor of law at numerous universities including the University of British Columbia in Canada, the Graduate Institute of the University of Geneva, the DePaul University Law School (Chicago), the Human Rights Institute at the Irish National University (Galway) and the University of Trier (Germany). At present he teaches international law at the Geneva School of Diplomacy.

In 2009 de Zayas was a member of the UN workshop that drafted a report on the human right to peace, which was subsequently discussed and further elaborated by the Advisory Committee of the Human Rights Council. He is also a signatory of the Declaración de Bilbao and Declaración de Santiago de Compostela on the Human Right to Peace. He served as a consultant to the Office of the High Commissioner for Human Rights on the issue of mercenaries.

De Zayas is an expert for civil and political rights and has published nine books on a variety of legal and historical issues, including “United Nations Human Rights Committee Case Law” (together with *Jakob Th. Möller*, *N.P. Engel* 2009), and

has been co-author and co-editor of numerous other books, including “International Human Rights Monitoring Mechanisms” (together with *Gudmundur Alfredsson* and *Bertrand Ramcharan*). His scholarly articles in the Max Planck Encyclopedia of Public International Law, Oxford Encyclopedia of Human Rights and Macmillan Encyclopedia of Genocide, encompass the prohibition of aggression, universal jurisdiction, the right to the homeland, mass population transfers, minority rights, refugee law, repatriation, legal aspects of the Spanish Civil War, indefinite detention, Guantanamo and the right to peace.

Alfred de Zayas was appointed by the UN Human Rights Council as the first Independent Expert on the Promotion of a Democratic and Equitable International Order with effect from May 2012. After six years of service, his mandate ended in May this year.

He is fluent in six languages and has published a book of *Rilke* translations with commentary (“*Larenopfer*”, Red Hen Press 2008) and is completing the translation of *Hermann Hesse's* “*Das Lied des Lebens*”.

From 2002-2006 he was Secretary-General, from 2006-2010 President of PEN International, Centre Suisse romand. He was member of several advisory boards, including of the International Society of Human Rights (Frankfurt a.M.), Zentrum gegen Vertreibungen (Berlin), the International Human Rights Association of American Minorities (Canada) and of the Conseil Scientifique of the Académie Internationale de droit constitutionnel (Tunis). He has received several awards, most recently the “Educators Award 2011” of Canadians for Genocide Education.

When more and more people realise the manipulation ...

In this respect, I see hope at best in the opening that we have at our disposal through the Internet, that gradually, more and more people understand that they are being lied to, understand that their governments do not think or act democratically, that they understand that the press is lying and is publishing an unilateral selection of facts. With some difficulty you can arrive at a level of awareness and skepticism that you can no longer be influenced by the “New York Times” or the “Washington Post” or the *BBC* or *Deutsche Welle*. I myself am no longer manipulated. When I take the “New York Times” in my hands, I always have a question mark after every article: It may be true or perhaps not. I do not rely on the ethics of journalists, be-

cause I do not think they have any. They do what they're told to do. And if they do something else, they lose their jobs. There are enough examples of journalists who have lost their jobs in America, in England, in France, in Germany. How many political commentators in Germany have lost their jobs as well!

So, if more and more people understand how they have been manipulated and how the press continues to be manipulative, then they will have no choice but to obtain the information for themselves as autodidacts. And then there are alternative groups, in France, in the Netherlands, in Germany, which offer something different, and gradually they are getting more popular. Of course they're demonised. A few weeks ago, when the elections

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in Italy were successful with a coalition of alternative parties, they could not form a government because the President of Italy simply pushed the will of the people aside in a highly undemocratic way and said that he would appoint someone else as Prime Minister. It's an unprecedented scandal! And what does the European Union, which is committed to democracy under the Lisbon Treaty, say? *Oettinger* says this will teach Italians not to vote for populists. It is such a scandal that an EU Commissioner can speak so brazenly and directly against democracy! And that he was not immediately asked by the press, in particular the “Frankfurter Allgemeine Zeitung”, the “Süddeutsche Zeitung”, the *Zeit* to resign from office. That would be the ethical, the just, the “honourable” thing to do. But we don't live in a normal world.

“I would change nothing in my reports”

You have held a very important mandate as Special Rapporteur, and that is not the only part of all your work in the Human Rights Council. It is precisely with this mandate that you have repeatedly advocated more democracy worldwide and a better anchoring of it in the world order. You have written a total of 14 detailed and excellent reports. We have published much out of these in Current Concerns over the years we know each other. A wide range of articles on international

What is the function of a rapporteur?

“He is a professional who must remain impartial, evaluate independently and promote human rights through mediation, negotiation and constructive recommendations. Above all, a rapporteur must be an ‘honest broker’, a mediator who proposes solutions. But the media and sometimes even the Council expect us to play an antagonistic, militant role. More importantly, sometimes we are expected to condemn some states but remain silent about others. There is palpable pressure – from the ‘zeitgeist’, the media, the lobbies, but also from non-governmental organisations. However, we have a code of conduct and we must act independently of any pressure or intimidation.

Unfortunately, there is a vast ‘human rights industry’ and some rapporteurs who do not always act independently – they follow the fashion. In civil society organisations there are some whom I would even call mercenaries of human rights – *condottieri*.”

Alfred de Zayas

law. What do you as an expert think about this time in retrospect?

I wouldn't change anything in my 14 reports. I only deplore the fact that the system has been set up in such a way that we rapporteurs are, to a certain extent, an assembly of *Cassandras*. We are allowed to point out problems, but no one thinks of putting our recommendations into practice. There is absolutely no system of implementation (follow up) of our concrete and pragmatic proposals. We're an alibi, after all. We are the fig leaf not only for the United Nations, but we are the fig leaf for the establishment, for the existing conditions. Our function is basically not to change conditions, but quite the opposite, to leave them as they are, to defend the *status quo*. Because there are so many powerful forces who want this status quo. They want to cement injustice. They want a system that grants privileges and defends privileges. As soon as you have a rapporteur like myself who relentlessly points out the problems and makes concrete proposals for correction, he will be insulted *ad hominem*. I may have had the unique honour of upsetting so many people in influential places that I was called a Communist, Marxist, Tsarist, Castrist, but also Fascist, Nazi, Neo-Nazi, Protonazi – I have experienced the whole spectrum of *ad hominem* attacks in the last six years. Because they just don't want to deal with the issues. They know: If they get involved in a debate, they will lose because they do not have the arguments. All my reports are quasi mathematical, they have an inner logic, from A to B to C to D, without jumps. I don't impose anything on my reader. I want to give my reader the facts and coherent arguments. Then I let the reader's natural intelligence become active so that he can convince himself. It is not my job to convince someone, I am not a prophet and I do not want to be one either. I am a professional, an independent expert who sets out the facts, and then I say that if you apply a coherent logic, you will come to those conclusions yourself, but you can also come to other conclusions. It's just a vision that I would like to facilitate if people want it.

“Everything is documented”

You documented all this in your reports... Yes, for example the report on Venezuela. I submitted a report with 189 footnotes and ten annexes. What does that mean? This means that those who are not convinced by the main text can look at the 189 footnotes and annexes. I don't invent my arguments. Everything is documented. The report has not yet been published, it is now with the governments of Venezuela and Ecuador, because I was on mission to both countries and it is the practice of

the Office of the High Commissioner that – before a report is published – the state in question has the opportunity to read it beforehand, and it even has the right to formulate its own comments.

UN General Assembly establishes the High Commissioner for Human Rights

Since when has there been a High Commissioner for Human Rights?

I was present at the *World Conference on Human Rights* in Vienna in 1993. At this conference, specifically in part 2, paragraph 18 of the Declaration and Programme of Action the proposal was made to establish the institution of the High Commissioner for Human Rights. When we wrote this rather old concept of a High Commissioner for Human Rights into the declaration, we had no idea that the General Assembly would take us seriously and create this institution in their 48th session period! This was done by resolution 48/141 on 20 December 1993. That way the first High Commissioner for Human Rights, *Jose Ayala-Lasso* from Ecuador came to us. I had the honour to work closely with him and I wrote several of his speeches. We had a very positive co operation. He was very much focussed on achievable results and never tried to demonise countries or people. He did not belong to these phony human rights “experts” and rapporteurs who keep making grandiose speeches, he was no show man and had no interest in pleasing the press. He wanted results. He was a calm diplomat who tried to negotiate with the states in order to get things done through his good offices without necessarily embarrassing the state or certain heads of state. Nowadays High Commissioners like grandstanding and condemning, as if this was demonstrating their authority.

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What is a democratic and equitable international order?

“The international order is the order of multilateralism. The world constitution is the United Nations Charter and the priorities are peace, development and human rights. I insist on the spirituality of the Universal Declaration of Human Rights – adopted 70 years ago – and human dignity. A democratic order implies a connection between the will of the people and politics. Therefore, a direct or semi-direct democracy like in Switzerland is the most authentic one. An equitable order includes an equitable distribution of the world heritage of humanity as enshrined in the United Nations Charter and the Declaration of the Right to Development.”

Alfred de Zayas

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You have coined the term human rights industry. What do you mean by that?

A vast human rights industry has indeed developed in which not only the high commissioners are players but also the diplomats, the ministers, the so-called independent experts and the non-governmental organizations, too, who basically do what they get paid for. This is a curse of the modern human rights system – the big transnationals give money to the High Commissioner for Human Rights and expect him to make sure that certain topics get dealt with and others don't. There is only a certain amount of time and a certain number of people available, and if people get assigned to work on the wrong priorities, then no time is left to sort out the really important ones.

I know all the High Commissioners and I have even written two articles about the institution of the High Commission for human rights, one for the *Encyclopaedia of Public International Law* and one for *A Concise encyclopaedia of the United Nations*. The first to hold the position was Jose Ayala-Lasso until 1997, then we had an interregnum. Next came Mary Robinson until 2002 who was followed by Sergio Vieira de Mello, who fell victim to an assassination in Bagdad on 18 August 2003. The next interregnum was a very fortunate one, since the appointed “acting” Commissioner Bertrand Ramcharan from Guyana managed the position very well, although he was never given the official title of High Commissioner. He was and is a great intellectual with strong commitment and with a sharp sense for priorities and proportions. I wrote the article about him in the *Oxford Encyclopaedia of Human Rights*. Bertrand Ramcharan was in charge *ad interim* for two years, then came the Canadian judge Louise Arbour and then Navanethem Pillay from South Africa. She held the position until 2014 and was followed by the sitting High Commissioner Zeid Ra'ad Al Hussein from Jordan, whose term will end by August this year. We will get a new High Commissioner and obviously this may be reason for some hope, unless a mere politician or manager is appointed, instead of a person with ethics, a person committed to a world order based on human dignity, who is genuinely committed to promote the right to development and our right to be who we are.

Final report as a legacy for the Human Rights Council

In your final report you talk about the necessity to introduce a new paradigm.

My final report as of March 2018 (A/HRC/37/63) is almost my legacy for the Human Rights Council. We wrongly speak about human rights of the first, second and third generation, but this entails a discrimination, since most people think of the human rights of the first generation as of the only “authentic” ones. The second generation, i.e. the economic, social and cultural rights are regarded as not as important as civil and political rights. And the third generation rights, namely the right to a clean environment, to peace, to development, these are dismissed as something we don't have the money or the time for, these rights exist merely on paper. But nobody will get active to bring them to life. The important question we must ask ourselves is: for what purpose do we have this whole structure of human rights? Who benefits from it? Human dignity is the alpha and omega, and all human rights must serve the ultimate goal of ensuring the human dignity of all. It is wrong to postulate one human right in opposition to another. All human rights serve the same goal – the human being as God's creature, endowed with a dignity given by God.

Four categories of human rights

Could you explain that in a bit more detail?

The first of my four categories, which should replace the three generations, comprises the rights which enable us to invoke all other rights. These *enabling rights* are: the right to eat, the right to water, the right to housing. Only under these conditions can I – almost like a luxury – invoke the right to free speech. For an African who is starving, the right to free speech is not his priority.

The second category I call *rights of immanence*, or rights which contain other rights by necessity, for instance the right to equality. Every single human right contains as a *sine qua non* this right of legal equality, a right which may not be exercised arbitrarily. I have the same right to property as you, not more but also not less, I have the same right to express my opinions as you, not more but not less either. This principle of equality runs through the whole system of human rights. Then, of course all rights must be interpreted in the light of the general principles of law, including the principle not to exercise my rights to anyone's detriment. My rights must be exercised in a way so that the rights of others are not restricted (*sic utere tuo ut alienum non laedas*).

Moreover, the principle *ex iniuria non oritur ius* means that an unjust act, an illegal act cannot give rise to any law or entitlement. No one can draw benefits from activities that are wrongful. This is the corruption which I talked about. The

human rights get corrupted today, and they get corrupted by the human rights “experts” and non-government organisations.

In what way?

Human rights “experts” are human beings – and, more often than not, careerists. Non-governmental organisations need money and because they get paid by the transnational organisations they instrumentalize and corrupt human rights. Because human rights necessarily entail restrictions to the economy and the transnational corporations, these powerful forces are intent to undermine human rights, but precisely by using and corrupting the human rights language. How can human rights be neutralized or somehow made “harmless”? The “industry” has learned how to create “red herrings” or distractions. The idea is that people should not grasp the real intentions of the powerful. The idea is to keep people busy with ancillary matters so that they don't pay attention to what really matters. This summarises the strategy of those in power and of the transnational corporations – how to neutralise the people. Many non-governmental organisations deserve being described as human rights mercenaries, as condottieri.

What is your third category?

Then we have the *procedural rights*. They are not indispensable for human life. But they are important for me to develop my personality, to achieve my potential, to make myself complete: the right to information – to correct information, the right to think and to express my opinions, also the right to exercise my religion, as it is necessary for me to become a complete human being, also the right of the family and the protection of the family.

“Being able to live together in mutual respect”

And what is the fourth category?

Then we get to what I call the end rights or *outcome rights*, that for which the whole structure of human rights has been put in place. The right to live my dignity as a human being. To live my life the way I am, in my identity. I have the right to simply be me, regardless of zeitgeist or political correctness, without intimidation or self-censorship. The same way you have the right to be you. Without blackmailing, without having to sell oneself. This is the end purpose of the human rights structure that we be able to live together in mutual respect and that each one of us has his or her own identity. No human being should ever

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be forced to give up his identity or to be threatened, insulted or attacked in his identity.

**“Business-friendly”
human rights by courtesy of Soros**

This is exactly what those corrupting the concepts of human rights and human dignity want to destroy. Human rights as perceived and interpreted by *George Soros* and many non-governmental organizations, which I know, are “business-friendly” human rights. These are the human rights which are good to make money, to have your iPhones and iPads, to have your flings, to sell you a pup, if you will. Ruthless, but this is the freedom these people are talking about. I have the freedom to build an industry in which I earn 100 times as much as my collaborators. I have the right to organise a bank or financial consultant firm so that I grant myself a bonus payment of 2 or 3 million at the end of the year while my co-workers have hardly enough to make ends meet. And as soon as I don’t need them anymore, I will of course fire them, without a social net to protect them. So, this is the most important thing for many people like *George Soros*: the right to property, to private property. The same is true for the philosopher of capitalism, *Ayn Rand*, who even wrote a book with the title “The Virtue of Selfishness”. The virtue of egoism, that is. And all of that is summarised under the term “right to property is a human right”. Or as former *World Trade Organisation* president *Pascal Lamy* phrased it in total honesty: “World trade is human rights in practice”. I have quoted that in my reports. Someone who says such a sentence has not the slightest idea what human dignity means. He is a neoliberal doctrinaire, an ideologue. What he means is that with trade I can make money. And if I make money I can drop some crumbs for the poor. And therefore, trade is human rights. It is a bizarre way to view the world. And if I look back 50 years to when I was a student at Harvard I don’t recall I had ever heard the term “ethics” then. In all my law courses I was not trained as a member of society striving for justice, but as a gladiator fighting other gladiators and the strongest would survive. And this at the end would be called justice. Might makes right, after all. Legal Darwinism.

Idea of human fraternity

How did you get the idea of ethical foundations?

I’m a product of the Jesuits. And I took the New Testament seriously. I read it

and thought about it. I think that any human rights system must be rooted in this religious conviction of human dignity. It is essential that we were created as children of the same Father and all other human beings in the world are our brothers and sisters, therefore this beautiful idea of *Friedrich von Schiller* in his hymn to Joy: “Be embraced, millions! This kiss to the entire world!” This idea of human fraternity. I found that sensible, logical, that we are not a band of robbers, not only sharks or crocodiles or eagles, we live in an orderly society which has been built in millennia of co-operation and where creation, human creation has not always been private property but common good. For thousands of years the rich fruits of human intelligence were distributed for the benefit of all. The *UNESCO* refers to the world heritage. And the American autochthones (mistakenly called Indians) share this philosophy of human relations and relations between the generations.

One example from our time: The “world wide web”. The www was created by the *Center for Nuclear Research (CERN)* and given to the world for free. The world wide web was never patented. Had CERN patented the world wide web the United Nations could have been financed for all eternity. If only some tiny portions of this would have been paid...

In several of your reports you thematised the financial transaction tax or Tobin tax on international currency transactions. What has this to do with human rights, with a just and democratic world order on an equal footing?

We have an artificial problem, that human rights programmes cannot be financed because states have the wrong priorities. Were a financial transaction tax established world-wide all of that could be paid for several times. But the banks don’t want that. It is a scandal that these bankers, these robbers have so much power that they have managed for decades to block each initiative to introduce a financial transaction tax. They don’t want to distribute – they basically want everything.

I don’t get it how a human being who already owns, say, 50 million dollars should be eager to own 100 million, or a billion? What for? He will never be able to spend all of that in his entire life. But this money is withdrawn from society and cannot provide for training and education, for literacy programmes all over the world, to secure food for all people on the earth, for anti-malaria programmes, anti-Aids-programmes and to fight all kinds of diseases like Lyme disease which could be extinguished with more money. But the money is not invested for that.

**With the right priorities
problems could be solved**

The problem with the United Nations, the Human Rights Council, the Office of the High Commissioner of Human Rights is that all of them have the wrong priorities. If only the right priorities were set, all problems could be solved and enough money would be available for that. But while this greed of the upper class is there, that they don’t want to pay their taxes ...

That is why I dedicated an entire report to the so-called tax havens. It is such a crime that superrich people refuse to give back just a little to the society, a bit of what they have basically stolen. Because for me wealth must have some relation to achievement. Those big stock exchange speculators like *Soros* or *Warren Buffet*, who have created absolutely nothing, who only gambled on the markets and became rich that way. But they only took from society and now they pretend to be philanthropists. Especially *Soros* for me is a dangerous character, because he not only owns fortunes which he doesn’t deserve but on top of that he is bold enough to tell us what human rights are. He wants to somehow take our identities away from us and force us to become numbers. Because this is what I see and dread in the modern world, that we are on the brink to be turned into mere robots. Our function is to buy things to keep the production running, the production of completely useless things which I don’t want, but society wants me to buy. All kinds of stuff are offered to me which I don’t need. And I get called at 5, 6 and 7 in the evening at my private phone to make more offers of things which I don’t need. It is outrageous what kind of perverted society has developed which has the money system as its only basis – material goods is all many people are interested in, no spiritual values like the family or a healthy relationship between man and woman, or the support for the mother-child-relationship, but only: “I want to own the latest iPad, I want to wear the latest sneakers etc.” It is a very fragile and superficial society.

**Spiritual values
instead of material goods**

One should make it a habit to study all those famous paintings from the Middle Ages, with topics especially like “*memento mori*” (remember that you have to die) or the “Dance of Death”. Because when death strikes he will catch us all, rich or poor, king or beggar, pope or atheist. This awareness has somehow disappeared from our modern society. I wouldn’t be surprised to find out that most youths have no clue if I asked them about the meaning of such a dance macabre painting and which

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cultural role it had played in Europe. The same, if they see a painting with a skull and somewhere is the phrase “memento mori” or “vanitas vanitatum” (symbolising the Judaeo-Christian belief about the vanity of all earthly things). They don’t grasp how feeble life is and how useless vanity is, these extreme show effects which we see and the urge to catch the latest fashion products ...

Report about the right of people to self-determination

But back to my task as a rapporteur: Several of my reports I regard as particularly important and influential in the future. The one report which probably got quoted most often and had the greatest impact is my report to the UN General Assembly on the right of self-determination. The issue is not de-colonisation alone but the fundamental right of a people to shape their own future. There are peoples who have received this right without war. Thus, when the Soviet Union fell apart, many states gained their independence without war. In the case of Yugoslavia, there was hardly any fighting in Slovenia. Slovenia could break free easily. It was different in Croatia, it was different in Bosnia and Herzegovina but Slovenia got away with a lot of luck. But there have been other nations who suffered tremendously to maintain their right to self-determination but without success. Examples: The Igbo people from Biafra in Nigeria were massacred, more than 1 million victims, the Tamils in Sri Lanka, more than 100,000 victims. Of course the Tamils have the right to their own state, of course the Igbos have the right to their own state. But the central governments will never tolerate that and they are willing to massacre their own population, basically commit genocide, in order to maintain their so-called territorial integrity. The Igbos had a lot of petrol. The transnationals, mainly Shell, Royal Shell, bear a lot of responsibility for the genocide against the Igbo people. The Igbos never achieved their autonomy. The people of Bangladesh did achieve it, but the war between Pakistan, India and Bangladesh claimed up to 3 million human lives.

UN needs a preventive strategy to solve conflicts

Which task do the UN have – or should have, in this regard?

It is their task to foresee developments, have a strategy, broker dialogues between central governments and people aspiring to self-determination, so that wars may be avoided. It is a preventive strategy, and since I mentioned the Igbos – one glance



Alfred de Zayas with Idriss Jazairy (cf CC No 13/2018). (picture ma)

at the map of Africa shows that all those borders make no sense, they have been drawn arbitrarily by European colonial powers, which means that ethnic groups, regions, religious groups, cultural groups have been divided irrationally. As soon as those people have reached a level where they understand what colonialism did in fact do to them, when they grasp the disadvantages of being colonised, they will want to change these borders, which is entirely natural. It is their right. What the United Nations should do is to anticipate these developments, make sure that matters are settled in advance so that no regional wars will break out. But the United Nations do nothing in this regard and continue addressing far less important issues. And where war is already raging they hardly do anything to deal with the conflicts and bring them to an end through negotiation. Of course I think of Yemen, I think of Gaza and I think of Syria.

“I continue teaching”

Where will you set your priorities in future once your mandate has ended?

Firstly, I continue teaching. The relation with the younger generation is very invigorating for me. I enjoy discussion with people, but not in a top-down, arrogant manner but talking with my students quite normally, although I know that I am the teacher and they are the students. Although I know I could be not only their father, but their grandfather, but that doesn’t prevent me from establishing a human bond with my students which is always a relation of trust. I am still in contact with students from the early 1980ies, i.e. 37 years ago. By now they have families and children, of course. I met them as thought-

ful human beings who gave a lot to me in turn. There is a nice sentence by Seneca: “Docendo discimus” – we learn by teaching, there is a lot of truth in that. I taught many things to my students, but I also got very much back from them. Many of my students did not agree with me at first, they questioned my positions and challenged arguments I had proposed to them. But I always allowed them to voice totally different opinions, so-to-speak. I always promised to them – and kept my promise – never to penalise them for having a viewpoint different from mine. I told them: You have a right *and an obligation* to have your own opinions, even if I disagree with them. The only thing I demand from you is that you learn how to formulate your ideas in a logical, well-structured paper in order to try to convince me that this is the correct opinion or the correct interpretation of the law or of a given situation. I always stuck to this principle even in some cases where the disagreements could not be resolved to the end. What I demand is the authenticity of argumentation. The arguments should not just echo what I told the students in class. They are supposed to somehow have internalised that, have digested the materials and enriched them with their own experiences. I think I succeeded in training quite a few of my students who will make valuable contributions in future. What I also planted in them is an obligation towards truth, an obligation to keep truthfulness in themselves, not to act as opportunists. I told them: had I chosen the opportunist path I would probably have climbed much higher on the ladder in the United Nations. But what for? I would not

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have achieved more on a higher post but would have been turned into a puppet of still higher functionaries. I would have followed orders from high above instead of doing what I thought was ethically correct or important.

That is the one point: I will continue teaching. Another point is, I get many invitations to participate in United Nations panels and this will probably stay the same in the next few years. I also got invitations to give advice to organisations or governments.

Enjoying literature and music

Another point: I have already published a book with translations of *Rainer Maria Rilke* into the English language, which was well received by the public. Translating is an activity which appeals to me as beautiful, as aesthetic. It is some sort of therapy for me. I enter the beautiful world of Rainer Maria Rilke, of *Joseph von Eichendorff*, of *Hermann Hesse*. For two or three hours during which I translate, I am happy, I am fulfilled. Because I am dealing with something beautiful and I have the chance to create something beautiful from it in the English language. Occasionally I also translate these poems into French and Spanish. Time runs like crazy doing that. During translation the head is totally occupied. All you notice

are these images that the poems evoke and these colours and nuances of the words. I enjoy this activity very much. There will be plenty of more translations, but I will always choose poets who mean something to me. I could not picture myself translating... well, there are quite a few so-called poets around these days, just like with so-called painters, but their productions don't resonate with me.

The last thing which I will probably tackle again is music. I used to play the piano and I have one here at home for my wife. But I rarely sit down to play because I am not satisfied with my performance and I know it takes a lot of work to once again be able to play decently. But now I will have sufficient time to play. This will be a rewarding activity for future years. Music brings a lot of joy to me. I could imagine no better life than that of a composer who writes symphonies and operas, this must be even better than being a musician. Because if I reproduce music as a musician, I can immerse my soul into it, but at the end of the day it still is the music of *Beethoven*, *Brahms* and *Schumann* and not my own creation. Beethoven for me is the one human being who gave the most enlightenment to me and to the world. Notwithstanding my love for *Wagner* and *Schubert*, *Brahms* and *Richard Strauss* – Beethoven has something which is greater than all of them, I think, and considering that this man not only had an incredible amount of talent,

he also had the satisfaction to see this talent translated into symphonies, masses and operas – this must be absolute happiness, to know that you have created something which will remain. This is more than any writer can give to the world. I believe Beethoven will remain relevant much longer than Schiller or *Georg Büchner*. Music moves directly, music is this universal language which can make you happy where ever you are. If one could start all over again from scratch, provided that would be remotely possible, and if we only had more talent ... !

What is your final word as a rapporteur?

I am thankful. I am grateful to have had the opportunity to contribute to the cause of human rights. I thank my assistants and my many colleagues. However, there is no final word – I will continue to teach Human Rights and international law at the Geneva School of Diplomacy and as guest professor at several universities. I am still convinced that enormous progress has been achieved since 1945 and that a democratic and just international order is indeed possible. Working for the human rights requires patience, perseverance and passion. *Gutta cavat lapidem!*

Thank you so much, Professor de Zayas, for this talk.

Alfred de Zayas' 23 principles of international order

The reports of the Independent Expert have been guided by numerous General Assembly resolutions, notably resolutions 2625 (XXV) and 3314 (XXIX), which, together with the Charter, propound a vision of a democratic and equitable international order. Based on the work of the mandate holder, the following should be generally recognized as principles of international order:

1. Pax optima rerum.¹ The noblest principle and purpose of the United Nations is promoting peace, preventively and, in case of armed conflict, facilitating peacemaking, reconstruction and reconciliation;

2. The Charter takes priority over all other treaties (Article 103);

3. Human dignity is the source of all human rights, which, since 1945, have expanded into an international human rights treaty regime, many aspects of which have become customary international law. The international human rights treaty regime takes priority over commercial and other treaties (see A/HRC/33/40, paras. 18–42);

4. The right of self-determination of peoples constitutes jus cogens and is af-

firmed in the Charter and in common article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The rights-holders of self-determination are peoples. The duty bearers are States. The exercise of self-determination is an expression of democracy and attains enhanced legitimacy when a referendum is conducted under the auspices of the United Nations. Although the enjoyment of self-determination in the form of autonomy, federalism, secession or union with another State entity is a human right, it is not self-executing. Timely dialogue for the realization of self-determination is an effective conflict-prevention measure (see A/69/272, paras. 63–77);

5. Statehood depends on four criteria: population, territory, government and the ability to enter into relations with other countries. While international recognition is desirable, it is not constitutive but only declaratory. A new State is bound by the principles of international order, including human rights;

6. Every State has an inalienable right to choose its political, economic, social

and cultural systems, without interference in any form by another State. Already in 1510 the Spanish Dominican Francisco de Vitoria,² Professor of Law in Salamanca, stated that all nations had the right to govern themselves and could accept the political regime they wanted, even if it was not the best;³

7. Peoples and nations possess sovereignty over their natural resources. If these natural resources were “sold” or “assigned” pursuant to colonial, neocolonial or “unequal treaties” or contracts, these agreements must be revised to vindicate the sovereignty of peoples over their own resources;

8. The principle of territorial integrity has external application, i.e. State A may not invade or encroach upon the territorial integrity of State B. This principle cannot be used internally to deny or hollow out the right of self-determination of peoples, which constitutes a jus cogens right (see A/69/272, paras. 21, 28, 69 and 70);

9. State sovereignty is superior to commercial and other agreements (see A/HRC/33/40, paras. 43–54);

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10. States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the United Nations (Charter, Art. 2 (4));

11. States have a positive duty to negotiate and settle their international disputes by peaceful means in such a manner that international peace, security and justice are not endangered (Charter, Art. 2 (3));

12. States have the duty to refrain from propaganda for war (International Covenant on Civil and Political Rights, art. 20 (1));

13. States shall negotiate in good faith for the early conclusion of a universal treaty on general and complete disarmament under effective international control (A/HRC/27/51, paras. 6, 16, 18 and 44);

14. States may not organize or encourage the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State;

15. States must refrain from intervening in matters within the national jurisdiction of another State;

16. No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind;

17. No State may organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities direct-

ed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State;⁴

18. The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention;

19. The ontology of States is to legislate in the public interest. The ontology of business and investment is to take risks to generate profit. A treaty that stipulates one-way protection for investors and establishes arbitration commissions that encroach on the regulatory space of States is by nature *contra bonos mores*. Hence, the investor-State dispute settlement mechanism cannot be reformed; it must be abolished (see A/HRC/30/44, paras. 8, 12, 17 and 53, and A/70/285, paras. 54 and 65);

20. States must respect not only the letter of the law, but also the spirit of the law, as well as general principles of law (Statute of the International Court of Justice, Article 38), such as good faith, the impartiality of judges, non-selectivity, uniformity of application of law, the principle of non-intervention, *estoppel* (*ex injuria non oritur jus*), the prohibition of the abuse of rights (*sic utere tuo ut alienum non laedas*) and the prohibition of contracts or treaties that are *contra bonos mores*. It is not only the written law that stands, but the broader principles of natural justice as already recognized in Sophocles' *Antigone*, affirming the unwritten laws of humanity, and the concept of a higher moral law prohibiting unconscionably taking advantage of a weaker party, which could well be considered a form of economic neocolonialism or neo-imperialism (see annex II below);

21. States have the duty to cooperate with one another, irrespective of the dif-

ferences in their political, economic and social systems, in order to maintain international peace and security and to promote international economic stability and progress. To this end, States are obliged to conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention. States should promote a culture of dialogue and mediation;

22. The right to access reliable information is indispensable for the national and international democratic order. The right of freedom of opinion and expression necessarily includes the right to be wrong. "Memory laws",⁵ which pretend to crystalize history into a politically correct narrative, and penal laws enacted to suppress dissent are anti-democratic, offend academic freedom and endanger not only domestic but also international democracy (see A/HRC/24/38, para. 37);

23. States have a duty to protect and preserve nature and the common heritage of humankind for future generations.

¹ Peace is the highest good (motto of the Peace of Westphalia, 1648).

² See <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1325&context=ilj>.

³ See www.academia.edu/7222085/The_Foundations_of_Human_Rights_Human_nature_and_jus_gentium_as_articulated_by_Francisco_de_Vitoria.

⁴ Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment. I.C.J. Reports 1986, p. 14. Available at www.icj-cij.org/files/case-related/70/070-19860627-JUD-01-00-EN.pdf.

⁵ Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 49.

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More than a well-founded plea against German war policy

Willy Wimmer's new book „Germany in Upheaval“

by Johannes Irsiegler

“In the future nothing but peace shall emanate from German soil. We are aware that inviolability of frontiers and respect for territorial integrity and sovereignty of all states in Europe are a fundamental condition for peace.” This quote by Helmut Kohl from 1990, is at the beginning of Willy Wimmer's latest book “Deutschland im Umbruch. Vom Diskurs zum Konkurs – eine Republik wird abgewickelt” (Germany in Upheaval. From discourse to bankruptcy – a republic is being wound up), which was published in April this year.

Willy Wimmer has actively participated and thus shaped the last decades as a CDU member of the German “Bundestag”, as spokesman on defence policy for his party in the German “Bundestag”, as Parliamentary State Secretary at the Federal Ministry of Defence or as vice-President of the OSCE Parliamentary Assembly. The future of his country is one of his constant concerns: “Germany is [...] my country, I care that it does not perish. And I'm willing to openly engage for it.” (p. 12)

He is aiming at exploring the developments that led to a situation today in which a global war is possible at any time. To this end, he allows the reader to participate in his many encounters and experiences in his many functions and not least as a confidant and companion of *Helmut Kohl*. The focus is on the many personal relationships he has been able to establish and nurture over the years.

Step by step towards a policy of aggression against Russia

In the preface Willy Wimmer follows up his last book “The Moscow File”. “As early as the first half of the 1990s, we felt that there was a huge upheaval in the country: other powers tried to manipulate and dominate us, primarily the United States and Britain, as well as international organizations, and to drag us into their policy of aggression against the Russian Federation. Apparently, they had already aimed at creating another ‘Moscow File.’” (p. 11)

Willy Wimmer shows how Germany has changed to its disadvantage since the 1990s and what these changes have to do with the war policy to which also Germany had been aligned to. This war policy was already evident in the late 1990s in the “war contrary to international law against the Federal Republic of Yugoslavia”, the “first war of aggression after 1945” (p. 21), in which Germany participated – seconded by large sections of the public media, which no longer wanted to

give a place to a “line of argument related to international and constitutional law” (p. 29) of personalities such as Willy Wimmer. At the same time, it became increasingly clear that the focus was against the Russian Federation. Here, too, Germany was compelled to take a calamitous path “under increasing gagging of public opinion” (p. 13). It carried out all hostile NATO actions against Russia, including sanctions against Russia harming its own economy.

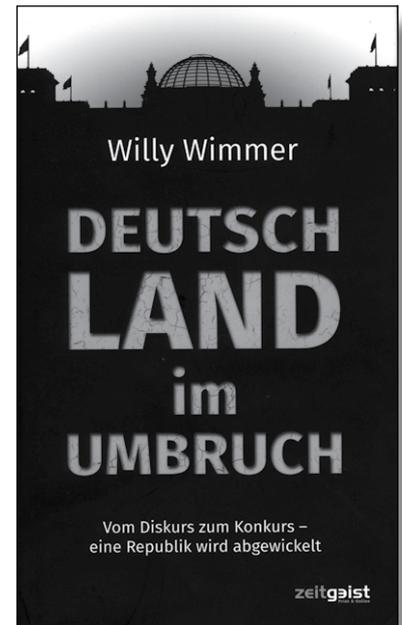
Turning away from social market economy ...

At the same time, massive changes took place within the social and economic fabric of the Federal Republic, according to Wimmer a “metamorphosis of the republic” (p. 53). In economic policy, the achievements of the social market economy – an important part of the identity and of the economic and social success in the early years of the Federal Republic – were abandoned. The “buccaneer mentality” (p. 40) of Anglo-Saxon capitalism – fast profit and prompt distribution of profits – increasingly gained influence. “Shareholder value spill(ed) over the Atlantic” (p. 35), and those who, like Willy Wimmer, still dared to speak publicly of a social market economy were equated with communists by propagandists of uninhibited capital and even avoided by their own party colleagues.

... instead heading for “market-driven democracy” and putsch-like decisions

According to *Angela Merkel*, a “market-driven democracy” (p. 49) should be striven for. At the same time, parliamentary democracy had been increasingly undermined within the country. Willy Wimmer brings in the example of the “putsch-like decision of the Federal Chancellor” (p. 224) Merkel in the matter of migration in the summer/autumn of 2015. Without further ado her decisions disregarded the decision-making power of parliament.

As a further example Willy Wimmer mentions the plans of the current Federal Government to to authorise military “Bundeswehr” missions in future without a parliamentary decision only by the government – which, in conclusion, “would mean allowing the NATO commander-in-chief in Germany full freedom of action, i.e. subordinating the ‘Bundeswehr’ de facto to the American president” (p. 223). At the same time, a new type of soldier was called for. No longer “citizen in uniform” but “fighter” – or in other words “‘Wehrmacht’, without being allowed to call it that”. (p. 221)



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Willy Wimmer puts all these parallel developments in context, and this is one of the strengths of his book. Developments in the economy and internally have a lot to do with developments in foreign policy: Turning away from a policy of agreement and peace in international relations, heading for a policy of confrontation with Russia today pushing Germany to the brink of war. The author recalls the words of *Helmut Kohl* from 1992: “A Europe without Russia will not be Europe”. (p. 259)

Warning against a dissolution of societal cohesion in Germany

Wimmer warns against a dissolution of societal cohesion in Germany. More and more citizens feeling alienated from their government, waning support for established parties, spreading of new parties and movements throughout Europe. Wimmer sympathises with the citizens, but at the same time he reminds: “However, who is behind the parties that were newly established to give people a political home? There are persistent indications from many sides that because of the dwindling international development since the financial crisis in 2007, many a foundation of a party was not planned in Western Europe [...]”. (p. 232) It would not be the first time since the end of the Second World War that a so-called spontaneous movement was actually planned overseas to prevent an independent policy.

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"More than a well-founded ..."

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"Deliberately bleeding Europe"...

Time and again Willy Wimmer expresses his great concern for his country, but also for international peace. The reader learns that since the First Gulf War "considerable funds have flowed out of the federal budget for financing the wars of other allies". These funds "are no longer available for the modernization of our community, for economic innovations or the urgently needed social compensation." (p. 230) As a result, Germany's economy is weakening. "Considering that American global corporations in the European Union, unlike local companies, have almost no taxes to pay, everyone gets an idea of what a partnership with the United States means in the recurrent gossip of 'burden sharing.'" (p. 230) It is easy to understand why Wimmer describes this procedure as "deliberately bleeding Europe" (p. 229).

... and the real reasons for the refugee crisis

The book helps us to better understand many events that have occupied us in recent years. For example, Willy Wimmer blatantly reveals the causes of the refugee crisis, which are often forgotten in the polarized debate on its consequences: "Often a cloak of silence is laid over the true causes of exuberant migration. Between Afghanistan and Mali, under the thumb of NATO the world has been completely destroyed. Millions of people have

been bombed out of their civilizations. A future is no longer possible in these countries, nor is one's own life. Wherever NATO goes, murder and manslaughter become established." (p. 68)

Conflicts like in the Middle East are intended to keep on smouldering

He points out what the coup launched by the West in Ukraine was all about. Sevastopol, an important port for the Russian fleet in Crimea, was to be snatched from Russia in order to disrupt the supply of Syrian President *Assad* by the Russian navy. (p. 217)

The reader takes part in a conversation with a guest from Israel who explains why Israel didn't sign a fully negotiated agreement with Syria on the future of the Golan Heights: "The return of the Golan Heights could have meant the end of the conflict in the Middle East or at least it could have initiated it." (p. 218) The region could have been spared great suffering! Again and again Willy Wimmer gets to the heart of the essential problem of today's world: "The war policy of the USA all over the world must be seen as a dramatic step backwards in civilization; it creates a situation that makes a global war possible at all times." (p. 219)

Encouraging to think independently

Reading the book, the question arises: What can be done? This is also the title of the postface of his book, and it is a good afterword. Using individual

citizens as an example, Willy Wimmer describes the examples of citizens and shows the possibilities everybody has in his personal life to effectively counter the mood of war. He warns against being misled or being drawn into "attention-seeking individual examples [...]" (p. 237) One might rather ask oneself: What does the "criminal case in Salisbury" (p. 236) have to do with the fire disaster in the Siberian city of Kemerovo with more than forty dead children and all this with the 2018 Football World Cup in Russia? Reading the book encourages to think independently.

Germany and Switzerland

Willy Wimmer shows ways for a policy committed to peace and international law. Germany could return to the "obligation to the constitutional tradition of the Federal Republic of Germany as it prevailed until the change of government in autumn 1998, [...]". (p. 237) The EU could be developed in a direction with the idea of nation as the basis of the democratic state as a constitutive component. Military cooperation between EU countries could rule out wars of aggression. NATO serving only defence purposes in accordance with the *Charter of the United Nations* could be a condition of Germany's membership in this organisation. Last but not least, *Willy Brandt's* demand for more democracy could be complied with. The last phrase of the

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EU-Europe faces a self-inflicted shambles

by Willy Wimmer

cc. At its meeting in Brussels on 27 and 28 June 2018, the European Council (the Heads of State and Government of all EU Member States) formulated 12 points on migration and included them in its conclusions (<http://www.consilium.europa.eu/media/35938/28-euco-final-conclusions-de.pdf>). The German Chancellor took this as evidence of her claim that there must and could only be a "total EU solution" to the migration issue. She refuses independent national regulations. However, reading the agreed 12 points shows that although formal compromises were formulated in terms of uniform migration policy, combating facilitating, securing the EU's external borders, accelerated deportation of illegal migrants, set-up of collecting places for them and also collecting points for the examination of the right to asylum, finally the combat of the causes of flight – but all that in itself contradictory, vague and non-binding. In this respect, the conclusions show that the governments of the EU member states are still not

in agreement on core issues of migration policy. Only the word "voluntary", which appears several times, probably made a formal compromise possible at all. Willy Wimmer comments on the results of Brussels as follows.

You have to look twice as far as this decision in Brussels is concerned. At it you can get "sick", as far as the normal use of language is concerned. There are multiple reasons for this. In Brussels, mostly those heads of state and government sit together, who are just responsible for the crisis-laden migration progress since 2015. Their interest is directed at not being held accountable in elections. A solution to the huge problems is not to be expected from these people. Only Prime Minister *Orbán* has set a clear line: to not let people without legal reason enter Europe and bring those who have nevertheless made it to Europe back out of EU-Europe.

You throw sand into the eyes of the people in EU-Europe when disembark-

ing centers inside or outside the EU bring the United Nations or UN sub-organisations into play. It is precisely the United Nations that seeks to transpose anti-state concepts beyond the heads of the EU-European population with their 'social tests' and relocation projects. It is to be expected that the UN and the UN's migration organisation will be even more enabled by the EU's decisions to implement its anti-democratic concepts.

The EU summit did not even give the heads of state and government any air. Europe faces a self-inflicted shambles that may mean the end of the EU. This is how the Heads of State and Government have done the greatest possible damage to the legitimate aspirations of the people of Europe for peace, security and prosperity. First, President *Trump* will have to meet with Russian President *Putin* on July 16, 2018, to give the European continent hope for peace and good neighborliness. Those responsible in EU-Europe are toothless tigers, to the detriment of all of us.

Human trafficking and sexual slavery along the Danube

by Dr phil. Barbara Hug



In Budapest, October 2017 a significant declaration, initiated by the Danube Region Initiative of the city of Ulm was adopted. The social and political institutions in the Danube area as well as in the EU were called upon to take the necessary steps in the fight against human trafficking and forced prostitution.

How did this declaration come about, why did it become so necessary?

Its purpose is to identify and point out the terrible grievances concerning women and human trafficking, which takes place

"More than a well-founded ..."

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book refers to Switzerland: "Switzerland shows us what it means to live democracy as responsible citizens."

Willy Wimmer still belongs to the generation that was born in the war and grew up in the post-war period and that knows what war means. The concern: No more war from German soil, is to be found in every page of his book. It is a plea for understanding among nations. The book is interesting, easy to read and extremely informative. In the appendix of the book there are valuable documents. The whole book is a real treasure trove, a "must" for anyone who wants to grasp the last 25 years of contemporary history more precisely and understand what happened. •

(Translation *Current Concerns*)

geographically along the Danube.

The taboo and the looking away from the disturbing red light and prostitution milieu must come to an end.

The facts are verified and documented by the excellent analysis of the experienced former chief superintendent *Man-*

fred Paulus from Ulm. Countless journeys took him to the hot spots of women- and human trafficking, for example to Hungary, Croatia, Kosovo, Romania, Macedonia, Albania, among other countries. The Danube area can be considered as the recruitment-, transit-, and exploitation center of the "commodity man".

Paulus points out the distress of the young women who have no other choice than to turn to prostitution because they have no other means of subsistence in their home country. The existential troubles of these women but also of their families allows the women's traffickers to seize the opportunity. Taking note of the figures, one is really astonished. Human and drug trafficking is the third largest sector of Organized Crime in Germany, as Paulus describes. On the interfaces between the rich and the poor human beings are treated as goods. In this context Vienna plays a key role due to its geographical location.

Paulus proves his report by facts and figures for the whole Danube region. This includes: Germany, Austria, Slovakia, Hungary, Croatia, Serbia, Bosnia-Herzegovina, Montenegro, Kosovo, Albania, Macedonia, Romania, Bulgaria, Moldova, and Ukraine. The brutal business of women- and human trafficking is operated by very well organized groups. It is easy to understand that these groups can be assigned to the Organized Crime. *Roberto Scarpinato*, chief prosecutor from Palermo, who is known to



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have deep insights and knowledge into these structures, warned Germany several times:

"The German laws date from the last century and are not helpful to fight effectively against Mafia (or Organised Crime)". All in all, new measures are urgently needed but where has it gone – the political will?

Due to the Danube Region Initiative of the city of Ulm collective efforts and the agreement grew that something has to be done against the miserable and most brutal business with the female body. You cannot put credit upon the "European community of values" and "overlook" such severe exploitation at the same time. The political will is most important for the police force to work successfully together. This political will seems to be missing in most areas – still. •

Paulus, Manfred. *Menschenhandel und Sexsklaverei – entlang der Donau. Anwerbungsmethoden, Schleusungspraktiken, Ausbeutungsformen.* (Trafficking in human beings and sexual slavery – along the Danube. Recruitment methods, smuggling practices, forms of exploitation). Klemm+Oelschläger publishing House, Ulm 2018. 163 pages, Fr. 14.90

The need for ethical and moral reconsideration

On the new publication “Natural Law and Morality in a Pluralistic Society”

by Urs Knoblauch, cultural publicist, Fruthwilen TG

It is very commendable that the “Joseph-Höffner-Gesellschaft” makes the contributions of the public symposium 2016 in Königswinter accessible to a broad public as volume 6 “Naturrecht und Moral in pluralistischer Gesellschaft” (Natural Law and Morality in a Pluralistic Society), edited by Christian Müller, Elmar Nass and Johannes Zabel.

Founded in 2002, the Society aims at continuing and updating the life’s work of the great scholar and archbishop of Cologne, Joseph Cardinal Höffner (1906–1987). His standard work “Christliche Gesellschaftslehre” (“Christian Theory of Society”) was published in 1962. It is widely read in its numerous extended editions, and has been translated into many languages.

Joseph Cardinal Höffner’s significance

Lothar Roos, who is represented with a contribution in the book reviewed here, refers to Joseph Cardinal Höffner’s numerous and “diverse pastoral journeys as chairman of the German Bishops’ Conference in many countries of the Third World” in the preface to the 2001 new edition of “Christliche Gesellschaftslehre”. As “ambassador of the social doctrine of the Church” he was faced with the task of working in a multicultural and pluralistic society threatened spiritually and materially.

Sound ethical and moral reconsideration and orientation is urgently needed in order to overcome the great social injustices and violations of law, as well as relativism and nihilism. It is notably natural law, the social doctrine of the church, fundamental and human rights and universal ethics that play a central role here.

The great value of natural law

This addresses the main concerns of the eight renowned authors Christoph Ohly (Natural Law and Canon Law), Jürgen Henkel (Natural Law, Reformation and Orthodoxy), Günter Risse (Human Rights as Natural Law in the Islamic Understanding), Elmar Nass (Implicit Natural Law in New Aristotelism), Christian Müller and Michael Sendker (Narration or Natural Law?) and Giuseppe Franco (Natural Law and Critical Rational Epistemology). Especially in a time in which natural law is hardly taught any longer, it is a concern of all the authors to demonstrate, from different theoretical and school approaches, its great value for today’s secular and

pluralistic society with its great and unsolved tasks.

“In search of a universal code of ethics.”

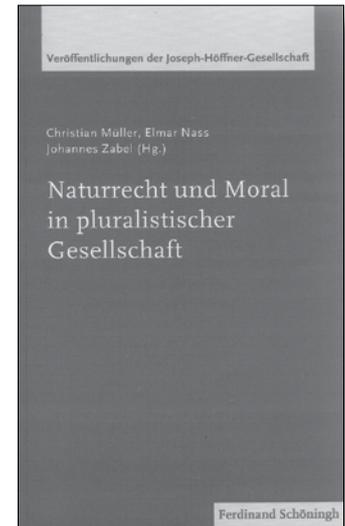
The book starts with Josef Spindelböck’s fundamental contribution “Natural Law, Sacred Scripture and Revelation”. The author deals with the clarification of the terminology of natural law, its philosophical roots, of the distinction between natural and divinely revealed laws. He also refers to the important work “In Search of a Universal Code of Ethics. A new look at the natural moral law” of the *International Theological Commission* (Vatican 2009). *Current Concerns* presented and honoured this work in detail (*Current Concerns* No. 14/15 from 1 July 2017). The authors of the Commission point out that by virtue of man’s rational and spiritual nature as well as his emotional ability to socially connect with fellow-men from the most diverse cultures and world religions, there are common, natural moral values, and these contribute to a universal code of ethics and are valid for believers as well as unbelievers in the sense of the United Nations Declaration of Human Rights. With all peoples and in all cultures we can find forms of the “golden rule” or the “categorical imperative”, to do good and to refrain from evil.

Reference to Johannes Messner

Josef Spindelböck also refers to Johannes Messner: “‘Natural law’ is that part of the natural moral law that relates to the rights and duties of individuals as well as of social groups in social life. Johannes Messner defines natural law firstly as ‘a stock of rights accorded to man by virtue of his nature’, and secondly as the science related thereto, i.e. the doctrine of natural law. Seen in this light, natural moral law constitutes the basis for the obligation of natural law. It is based on the nature of man and thus on the will of the Creator”. (p. 16)

Criticism of relativism and constructivism

With regard to the criticism of natural law, Spindelböck clarifies that in a “pluralistically composed world” the “foundation of natural law” must refer to the experiences in the “inner and outer world”, and that therefore no “abstract-metaphysical concept of nature” is presupposed. This emphasises the principle of reality, the recognisability of truth and the rejection of relativism and arbitrary constructivism.



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Anthropological and socio-ethical foundations of natural law

Lothar Roos introduces his contribution “Natural law in the tradition of ecclesiastical teaching” with the anthropological and social-ethical foundations of natural law. “Man is by nature a moral being, i.e. his Creator has endowed him with enough reason to be able to distinguish between good and evil, between right and wrong. He also has a sufficient degree of willpower to enable him to seek and walk the paths ‘from less human to more human living conditions’ (Paul II, *Populorum Progressio* 20). This natural capacity also includes the human conscience, through which he can recognise and affirm his personal responsibility for his thinking, will and actions. This conviction can already be found in the early Greek pioneers of natural law thinking (Plato and Aristotle), but especially in the stoic philosophy of natural law. Such primeval insights apply to all peoples and everywhere. They belong to the natural endowment of every human being.” (p. 35) The author presents the natural, cultural and cultural-anthropological social principles of the common good, of solidarity and subsidiarity in an easily understandable way. The reader also gains an insight into the connection between Thomas von Aquin’s theory of goods and the teaching of the social market economy.

Ethical and moral reconsideration

With its interdisciplinary approach, the well worth reading conference transcript, makes a valuable contribution to

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Inclusion – progress or regression?

by Dr phil. Judith Barben, psychologist and primary school teacher

There has been much talk about “inclusion” or “integration” in schools lately.¹ Both terms mean that as many children as possible – whether normally gifted or mentally handicapped, whether behaving normally or being disruptive – are taught together in one school class. As a consequence, almost all special classes and schools are to disappear. The main argument in favour of “inclusion” or “integration” is that children would learn more social competence. Is that true?

Until a few years ago there used to be a carefully structured system of special classes and schools in Switzerland. Children with special needs were taught according to their needs and capabilities in these special classes and schools. Special classes are smaller than regular classes and part of elementary school.

Integration as an objective

There used to be special classes for pupils with behavioural problems, learning difficulties and also for speakers of foreign languages, as well as special introductory classes for school beginners needing additional support. These children were taught the first grade subjects within two years and in smaller steps. Like this they were provided with optimal starting conditions for the second year in regular school.

The primary purpose of all special classes has always been the integration of all pupils into regular school. Thanks to additional support by the teacher and to the smaller number of children, pupils with difficulties can learn to stand their ground in a classroom community. They are together with classmates with similar difficulties. This helps them feel part of a class community.

Speakers of foreign languages were enabled to learn the national language so

well that they could later follow the lessons in the regular class without major problems.

Likewise pupils with behavioural and learning problems were enabled to overcome their difficulties and, after some time, to move to regular classes.

There are still special institutions and schools for pupils with physical disabilities or sensory impairments. These pupils are furthered by specialised teachers with the aim of allowing them later on to lead – as far as possible – an independent and meaningful life. In the long run it is planned that these schools and institutions should disappear, too.² What will happen to these children when they are in regular classes?

Some historical aspects of Swiss special education

Up to the beginning of the 19th century, all pupils were taught together in one class irrespective of their age, needs and handicaps.³ Then, however, educators found out that learning together in a school class with pupils of similar level has a positive effect on the pupil's performance. Age-grouped school classes were formed. In 1832, the Canton of Zurich for example issued an education law requiring compulsory education in six consecutive age-grouped classes.⁴

Thanks to private initiatives, schools for the blind and deaf were also established. The blind learnt “Braille”, a relief-like tactile printing.⁵ The deaf were taught sign and finger language as well as a sound method which enabled them to learn to speak.

On the other hand the mentally disadvantaged children were not at all sent to classes or had to attend the regular classes where they were usually neglected. As a result, they often lost all their self-confidence.

Finally teaching materials and curricula for children with learning difficulties and mental disabilities were developed. In special classes and schools, the subjects were presented as simply and clearly as possible so that the pupils could make progress.

Objectives of special education

A textbook from 1925 expresses the objectives of special education:

“All children have the right to education. Equality consists in the same chances for every child to receive an education that corresponds with his or her natural capabilities within the framework of compulsory schooling. Every child, weak or strong, must be granted the development and support that is appropriate to his or

her individuality. The aim is a school education that serves as a basis for the child's further acquisition of knowledge and skills.⁶

Learning on an equal footing

The principle that every child is taught according to his or her capabilities and abilities is still valid today. This principle can be applied to any type of teaching. In sports, for example, teams train with similarly strong players. Everyone benefits most from lessons with participants who are at a similar level.

Children who always experience that everyone else is better than them become discouraged and develop a negative self-image. Many of them become disruptive. But even students who are far ahead of the others lose the joy of learning. They become bored or disruptive since they are not enough challenged.

The more different, the better?

In view of these facts it is all the more astonishing that the “Curriculum 21” is intended to dissolve the year classes and the kindergarten. According to “Curriculum 21”, learning takes place in age-mixed groups during three or four years from the age of four.⁷ At the same time more and more communes are merging school levels such as secondary school A and B, another form of “inclusion”. The aim of “Curriculum 21” seems to be: the more heterogeneous (different), the better.

Summing up: In order to create diversity, perfectly functioning age-grouped classes are torn apart and special classes are dissolved, resulting in disruptive behaviour and increasing aggression among the pupils. High-performing students who are eager to learn are annoyed by troublemakers who constantly divert them from learning. The troublemakers, on the other hand, often disrupt the lessons because they cannot keep up.

Inclusion lowers achievement

It is often claimed that “inclusion” does not result in any loss of performance. However, a pilot study by the Intercontinental University for Special Education Zurich proves the opposite. The study examined 27 “integrative regular classes” in the Cantons of Zurich, St. Gallen and Schwyz.⁸ The findings are devastating.

“Integration classes do poorly in tests,” headlined the “Tages-Anzeiger”.⁹ The teachers were dissatisfied and com-

“The need for ethical and ...”

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reattributing more significance to the scientific foundations of human social nature, natural law and a code of ethics orientated towards public welfare, and it does so in times of the deconstruction of moral values, of the neglect of justice and the “dictatorship of relativism” (*Joseph Ratzinger*). It is to be hoped that well-founded contributions from all circles of society will be added to an urgently needed ethical and moral reconsideration.

"Inclusion – progress or ..."

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plained about the most precarious conditions as a result of implementing "inclusion". The special teachers were only available for certain hours and half of them had not been trained at all. Many communes hired "school assistants" without any pedagogical training instead of special teachers.¹⁰

The scientists were alarmed that not only pupils with special educational needs, but also regular pupils without special educational needs – the vast majority – achieved below-average results in the performance tests. The pilot study thus clearly shows that "inclusion" lowers the level of the whole class.¹¹

In the stranglehold of the Curriculum 21

Professor emeritus of psychology Dr phil. *Gerhard Steiner* of the University of Basel is extremely critical of "inclusion". He wrote the essay "Im Würgegriff des Lehrplan 21" ("In the Stranglehold of Curriculum 21"). It shows that the "Curriculum 21" with its forced heterogeneity is a fundamentally wrong approach.¹²

In contrast to "Curriculum 21", Steiner demands a "de-heterogenisation" of school classes. This is the only way to strengthen the pupils' abilities and willingness to learn. Learning is always an integration of new information into existing knowledge. The more the students' previous knowledge in a class matches, the more efficient the learning process is. Therefore, the greatest possible uniformity of the class should be aimed for.

Without factual reason

In addition, as emphasised by professor Steiner, many of today's school classes already show a great heterogeneity without artificial mixing. There is absolutely no reason to artificially implement even more heterogeneity. An unbelievable amount of precious learning time is wasted. The extreme diversity hinders the progress of all pupils and makes class management difficult. In addition, the special teachers and "class assistants", who are constantly present in class, cause a great deal of unrest in the classes. Steiner clearly refutes the argument that heterogeneity through "inclusion" promotes social competence.

Strengthening the class community

According to Steiner, the teacher should promote the school class' homogeneity by consciously welding it together into a "learning community". This has an extremely positive impact on the pupils' motivation.

Steiner concludes: no mixed-age classes, no inclusion in regular classes of pupils with learning difficulties and severe behavioural problems, since no one benefits in these classes. According to Steiner, the class room community as a successful learning community should definitely be cultivated – in all types of classes and schools.

No legal basis

Both the Federal Constitution, Arts. 8, 19 and 62, and the UN Convention on the Rights of Persons with Disabilities, Art. 24 are often mentioned to justify "inclusion". But nothing of "inclusion" is mentioned in these documents, on the contrary: The Federal Constitution guarantees that no child must be discriminated against and that children with disabilities are granted adequate special education! With regard to the UN Convention on the Rights of Persons with Disabilities, the Federal Supreme Court states that the Convention's requirements are fulfilled if the child's welfare and development possibilities are taken into account.¹³ In short, both documents cannot be used to justify "inclusion".

Resistance

The mixture of ages and types imposed top-down has met with massive resistance from parents and teachers. They refuse to tolerate this irrational "school reform". Joint action against the unsuitable methods has proved successful. Parents' opposition against the age mix in the Zurich commune of Zumikon, for example, was so strong that the school authorities had to return to age-group classes. It will be contagious if other parents' groups, schools, communes or cantons begin to resist. In this way, a counter movement against the unpedagogical concept of "Curriculum 21" will emerge in Switzerland. For the concept of "inclusion", which is part of "Curriculum 21", can only be prevented with a movement "from below", by the citizens.

What are your experiences, dear reader, with "inclusion" and age-mixed class-

April 2018. On Visitor's Day, a grandfather, a primary school teacher himself, visited his granddaughter's lesson in an "integrative" class in a primary school in Zurich. He describes his impression as follows:

"Some of the children were practising the series of eight, while others did something else and were talking loudly. The children with the series of eight were not practising with the teacher, but sitting or lying on the floor. First, they spent time by drawing the tasks by lot. One of them got a piece of paper without lines. Then the dice were thrown. Immediately a child shouted the correct result. The writer wrote with a pencil, while lying on the floor, the whole calculation in a lengthy way, while the others had to wait endlessly. Obviously, the writer was a very weak pupil. Then the dice were thrown again and so it went on."

This example shows that with the "inclusion" the majority of pupils aren't learning much because they don't pay attention, the weaker pupils are exposed unnecessarily and the speed of learning is slowed down.

es? What is the effect you have observed in your children? I am happy to hear your opinions or questions: judith.barben@gmx.ch

- ¹ In the UN-papers both terms are synonymous.
- ² Schweizer Zentrum für Heil- und Sonderpädagogik Berne: Was sind die Unterschiede zwischen Integration und Inklusion? © 2018
- ³ Klinke Willibald: Das Volksschulwesen des Kantons Zurich zur Zeit der Helvetik (1798-1803). Zürich 1907
- ⁴ Erziehungsrat des Kantons Zürich (ed.): Volksschule und Lehrerbildung 1832-1932. Festschrift. Zürich 1933, p. 136
- ⁵ "Braille" was invented by the Frenchman Louis Braille in 1825.
- ⁶ Heller, Theodor. Grundriss der Heilpädagogik. Leipzig 1925, p. 462f.
- ⁷ Lehrplan 21 (Curriculum 21): Overview, p. 3
- ⁸ Altmeyer, S. et al. Pilotstudie zur Wirksamkeit sonderpädagogischer Massnahmen in integrativen Regelklassen. Internationale Hochschule für Heilpädagogik, Zurich 2018
- ⁹ Integrationsklassen schneiden bei Leistungstests schlecht ab. Integration classes perform poorly in performance tests. "Tages-Anzeiger" from 22.11.2017
- ¹⁰ loc.cit.
- ¹¹ loc.cit.
- ¹² Steiner Gerhard: Im Würgegriff des Lehrplan 21. Universität Basel 2014
- ¹³ Bundesgerichts Urteil (Federal Court Judgement) 2C_590/2014

(Translation *Current Concerns*)

What good team spirit is capable of A possibly record-breaking school class

by Heini Hofmann

The old village school was more modest compared to today, but not as bad as modernism often discredits it in retrospect, maybe it was even a better life education. The evidence of this is the example of a secondary school class whose team spirit was so strong that, decades after graduation, they were able to realise a class reunion with a class mate who emigrated to Australia when they were still at school.

An almost complete class reunion at the other end of the world, that is probably record-breaking. And also the descendants of this classmate in Down Under, who now, at the age of 80, can be proud of six children, 17 grandchildren and already 17 great grandchildren!

Like a big family

Most of the classmates of Uetendorf Secondary School near Thun who were born in 1938 and left school in 1954, now have 80 years under their belt. Of those 27, however, 11 have already died. At regular school reunions memories are recalled of a school time, when many things were different: In the old secondary school on the Uetendorf mountain with the creaking wooden stairs and the turret, from which the eleven o'clock bell sounded, you sat at wooden boards, wrote with pencil and ink and the teacher with chalk on the blackboard. No calculators, mobile phones or computers and certainly no designer clothes, but woollen jumpers hand-knitted by mother. They carried satchels, the girls wore braids and aprons, the boys short hair and knickerbocker trousers.

The staff room was a wooden bench in front of the schoolhouse, under the open sky, even in winter! PE lessons took place on a forest clearing, with rolled-up trousers and sleeves. In the break there was milk; Uetendorf at that time was still a farming village. And because this school also served other communities in the hill country in front of the Stockhorn Mountains, the pupils - from Thierachern, Utigen, Seftigen, Gurzelen, Amsoldingen, Uebeschi and Höfen - came with their bicycles or in snowy winters with their skis, one from Höfen even with horse and sledge. For them, there was soup, bread and apples for lunch. In short, the class was like a big family; that bound together.

Farewell and reunion

But in 1950, in the 6th grade, there was a turning point: One day the class teacher announced that *Vreni Schärer* would leave us – forever. Her family migrated to Australia, that distant continent that was usually hidden on the back of the globe at the front



The old secondary school in Uetendorf with bell tower, to the left of it the old primary school Berg; both do not exist anymore. (Picture FWU)

of the classroom. After a cumbersome voyage across the Suez Canal, Vreni arrived in her new home and then sent the class regularly letters with kangaroo and koala pictures, and this favour was returned by the class with letters and calendar photos from the old homeland. However, after the school years, this contact then ebbed away a bit.

Until one day – in 1993, more than 40 years after her emigration – Vreni unexpectedly turned up in Switzerland. And – the old class spirit worked: Within just 24 hours, an almost complete class reunion in Burgdorf near Kirchberg, the birthplace of our expat-classmate, whose name now was Verena Johnson-Schärer, was successfully summoned and Vreni was visibly pleased. She brought her husband *Kevin*, a nice Australian, and proudly showed the photos of her six children (four daughters, two sons) and the already large number of grandchildren.

Crazy class reunion

Everybody reminisced, joked and laughed, and the author jokingly suggested that the next class reunion should be held in Australia. A short silence, a soft murmur, then suddenly from several sides a timid, then more and more decided: “Why not?” The fuse burned, and once again the class spirit was there: The crazy idea was adopted! So it happened that three years later, in September 1996, the majority of the class (including partners) boarded the plane with destination Sydney at Zurich Airport – for a perfectly planned, three and a half week journey through Australia with the –

possibly Guinness record-breaking – class reunion at Vreni’s as the highlight!

All were still fit enough, perhaps thanks to break milk and forest gymnastics of yesteryear ... The journey took us from Sydney along the east coast via Brisbane and Cairns to Darwin and from there through the middle of the continent via Alice Springs and Ayers Rock to Kangaroo Island and Adelaide – and from there via Singapore back home. But besides all the sightseeing and excursions and the amazement of the mighty natural wonders, including the Great Barrier Reef, the visit to our classmate in Nabcac/NSW, counting just under 600 inhabitants and located upcountry the east coast at the height of Surfers’ Paradise, on the sixth day of the journey, was of course the most emotional highlight of our trip.

Unforgettable experience

Since their retirement Vreni and Kevin have been living on small self-catering farm there, after previously operating a garage in Sydney. Actually, one could call it a subtropical paradise; because the house is surrounded by a magnificent flowery park-like garden, overgrown by tall eucalyptus trees, where wallabies (small kangaroos), wild rabbits and colourful birds are frolicking. Around it are pastures for cattle and horses. A large drinking water cistern serves to bridge the often extreme dry-season.

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"What good team spirit ..."

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And what a reception on arrival! Everyone is standing in front of the house waving Bernese and Swiss flags. Obviously the old home has not been forgotten. After eating, drinking and chatting, there is an unplanned climax of the journey: a digestive night walk through the dark outback. No one speaks a word, everybody listens to the strange animal sounds in field, bush and swamp. And above us the southern starry sky sparkles with the magnificent Milky Way and the Southern Cross, as we have never seen it in such intensity, because there is no light pollution. One begins to understand that Vreni has become fond of her new home here.

Little epilogue

Since then, Vreni with her Kevin came to Switzerland once more in 2004, which again was an opportunity for a spontaneous class reunion at Lake Thun, where the two from Down Under (then) were surprised to spot Australian black swans among the



Class reunion in the garden of the classmate in Nabitac, Australia. (Picture HHJ)

white swans. However, these illegal immigrants later fared less well than our legally emigrated Vreni in the land of kangaroos, koalas, and kookaburras. After the death

of her husband, she came once more to the old homeland in 2012, accompanied by a son, to visit her almost 100-year-old mother and participate in the 20th class reunion. On her 80th birthday, which she celebrated in Australia as the first of the class, all her six children, 34 grand and great-grandchildren plus relatives met, although they live scattered across half of the continent, 85 people in total. The team spirit lives on in the extended family!

What probably also speaks for the former village school: Even today Vreni writes amazingly beautiful letters by hand in her mother tongue, which she could never use in everyday life, what is more, she writes in an amusing style and almost without mistakes. Think of our email "culture"! In short: the old elementary school, today, from the point of view of permanent school reforms, often ridiculed as "Pestalozzianian", was definitely much simpler, but maybe this is why it generated close-knit communities. And notabene all students have made something of their lives, both professionally and physically, despite the inexistence of the Internet and the gym. This is not sentimental romanticism, just a statement. •

(Translation *Current Concerns*)

Tastings from Vreni's Letters

"My grandmother, a 'Verdingkind'* ('contract child') from the village Seftigen, always said that she never needed to go hungry, she had enough potatoes and vegetables but never enough bread. Therefore we, her grandchildren, had to pay attention that no 'Brösmeli' (breadcrumb) be left behind, that was a sin in her eyes! If she had to eat bread here (in Australia), it was, for her, less of a sin (to leave breadcrumbs); because our bread is not as good as in Switzerland! But one gets used to everything."

"On my 80th birthday I became great-grandmother for the 17th time. Once great-grandmother and the 18th grandchild is already on the way. I have a difficult time remembering all the names, let alone the birth dates of everyone! On my Round Birthday, I received a card from the Swiss Consulate in Sidney and from an official in our parish

as well. One has to reach the age of 100 in order to receive a card from Queen Elisabeth. That will no longer be possible for me..."

"Due to the dryness, the kangaroos come closer to the houses where the grass is a bit greener. Unfortunately, many are hit by cars in searching for grass. Our 32 year old horse had to be put to sleep by the veterinarian. The first few days for his 'son', also already 23 years old, were difficult, he didn't want to eat and simply remained standing under the same tree. Now he's doing better and our two dogs are around him often. Even animals have feelings!"

**Verdingkinder* – children in Switzerland who were taken from their parents, often due to poverty and sent to live with new families, often poor farmers who needed cheap labour.