

Current Concerns

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Foreign Affairs Committee declares request for EU membership irrelevant The adoption of EU law has been clearly rejected

Interview with National Councillor Roland Rino Büchel,
Member of the Foreign Affairs Committee of the National Council, SVP St. Gallen



National Councillor
Roland Rino Büchel
(picture admin.ch)

thk. When the Foreign Affairs Committee of the National Council (FAC-N) met at the end of October, there were some important European policy issues on the agenda. Federal Councillor Didier Burkhalter who recently attracted attention with a

compliant EU policy and an open affinity for the NATO military alliance, was called off in the FAC-N in terms of essential points of his internally unsupported political agenda.

Current Concerns: In the last meeting of the FAC-N, Federal Councillor Burkhalter was given the mandate to negotiate with the EU by the majority of the FAC members in order to come to a solution for the institutional question. How is this consent to be judged?

National Councillor Roland Büchel: First, we had to correct the Council of States. Before our meeting, its competent Committee had given Burkhalter an actual free pass for these negotiations, in fact with 10 votes to 0, with two abstentions. The only comment was that a letter to the Federal Council would be written.

What kind of letter, and what does it say? The content of the letter is apparently guarded like a state secret. Not even we from the FAC-N have had a glimpse of it. However, I'm glad that we discussed seriously and very hard in the Committee of the National Council. Finally, the negotiating mandate was issued with clear requirements. The voting was 14 to 6, with one abstention. I am one of the six who were against it.

What does this mean for Didier Burkhalter's EU policy?

The signs of the Committee are unmistakable. It has even declared the EU membership application "irrelevant". Negotiators in the administration must now act in this sense and spirit.

Have there been further constraints by the Committee?

Yes. The Federal Council repeatedly mentioned the "single market". We would have to join. But that would clearly include the adoption of EU law. There, however, the Committee argued that "market access" and "single market" were two different things.

This is a crucial difference. Was it only discussed or was there a binding vote?

A vote was taken. The result was 13 to 1 with seven abstentions. If this is not clear! Now it's up to us to ensure that those votes do not remain just pseudo-votes. This is very important. After all, the decisions of the Committee are recommendations only.

Can we say that the Committee has tied back Burkhalter, despite giving him the mandate?

The Committee clearly said that Switzerland should not enter into agreements that restricted its sovereignty: Switzerland is not allowed to automatically adopt EU law or to bind itself either to the EU or to the jurisdiction of the European Economic Area (EEA). These are clear signs.

How did the Federal Councillor react?

I do not want to give away internal details, but Federal Councillor Burkhalter gave the impression that he could live with this result.

Thus, the institutional question should actually be off the table. No foreign judges, no acceptance of EU law. The idea of calling on the European Court of Justice (ECJ) in disputes and asking for an assessment of the dispute would be very unlikely to be compatible with these restrictions.

I agree. There is a clear statement of the President of the Court: "We do not give expert opinions, we judge." So it is. Expert opinions are asked for elsewhere, but certainly not at the ECJ. But beware: Judgments there are referred to as "opinions", but are still regarded as judgments.

In this context, the ECJ repeatedly speaks of "compensatory measures". What is that, how are we supposed to understand it?

The question is: "Who invented it?" I get the impression that the Swiss have coined the euphemistic expression. "Compensatory measures" are hard-hitting sanctions. And nothing else.

Do you think that our country would accept this?

It is not Switzerland's way to be part of something and then, suddenly, to say that it was not our business. We are the first to adopt and implement everything that looks like International Law. Sometimes with a certain anticipatory obedience and always very sincerely. This is generally not a bad thing. Because, if you agree on an agreement, you should keep it. This is also why the ECJ as a tax settlement authority should be out of the question for us.

But now the Committee, with their vote that Switzerland cannot be subject to the jurisdiction of the EU nor the EEA, has taken an opposing position towards Didier Burkhalter's ambitions.

Absolutely. I was positively surprised that this was the outcome. Now I am curious how Mr. Burkhalter will manage this balancing act and whether he has another arrow in his quiver. But we have heard, also in public, that he is inclined towards the European Court of Justice.

Wouldn't this be a contradiction between what was said and what is possibly done? It certainly is. There is also the interesting point that procedures which are com-

Conference of Cantonal Governments (CCG) – Governance of executives instead of federalism and democracy

by Dr iur Marianne Wüthrich

20 years of “Conference of Cantonal Governments”, 5 years of “Haus der Kantone” (House of Cantons), that is what we could recently read in the Swiss media. The “House of Cantons” was opened in August 2008 perfectly located in Bern for the proud sum of 6.5 million Swiss Francs. The rent amounts to 1.68 millions Francs per year, about 200 people work there with the CCG or other directorial boards, in advanced training, etc. – paid out of 26 cantonal tax collector’s offices.

What’s the use of a “House of Cantons” for Switzerland? The cooperation between confederation and cantons are to be improved thereby, synergies would originate from the common infrastructure in the house in the Speichergasse ... These arguments seem familiar to us: All right, with it people who like to centralize

everything have been trying to make the fusion of their communes seductive to the reluctant Swiss for many years. It would be cheaper, that is how the argument runs, and the “professional” administration would be more efficient – but no way! Today red numbers are written in the “fusion miracle” Glarnerland as fusion opponents had properly predicted. The main thing is that the historically grown structures could be broken open and another step of Switzerland towards the brave globalized and centralised world was taken.

In parallel with the attempts to pack up our cantons and communes to centralist units, to great municipalities, regions, metropolitan areas and nature reserves, the conferences of the cantonal executives were established as a new level between

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mw. “The CCG meets secretly, isn’t under any control and only informs about selected decisions. This lack of transparency is inconsistent with the claim and the supporting role of the CCG.” (“Berner Zeitung” of 10.04.2013)

Indeed: The principle of public access, introduced in the cantonal parliaments in the 19th century as a major achievement in the development of the democratic state, doesn’t exist for the Conference of Cantonal Governments. There is no stand from which the citizens can follow the sessions, there are no protocols for the Internet. Except media releases we find location determinations and activity reports – but no meeting minutes. This lack of transparency may perhaps correspond to the undemocratic EU bureaucracy, but not to Swiss democracy.

“Foreign Affairs Committee declares ...”

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monly practiced in civil law have not yet been considered.

What are you thinking of here?

An obvious solution would be an arbitration court, equal representation provided.

Why is this not an issue? Why has this not been discussed in the negotiations?

Ask Mr. Burkhalter!

How can Burkhalter’s strong inclination towards the EU be prevented?

There will be a vote. As of now we do not know what will be presented to the voters. I suppose the referendum will be held in 2015.

There has not really been an EU foray requesting that the institutional question had to be solved; this was actually initiated by Switzerland. How is this to be explained?

You have to ask Mr Burkhalter or Mr Rossier. It is my impression that the State Secretary in the Federal Department of Foreign Affairs (FDFA) has a strong position. What is going on at the administrative level is crucial. Everything we are now learning about the institutional linkage with the EU is a result of these activities.

So the administration wants to be linked more closely with the EU?

Well, I think that people like Rossier are working in this direction, even if the

FDFA State Secretary, according to his own (honest) statements in summer, has been called back. At that point of time he clearly declared, referring to the ECJ, that these are “foreign judges”.

But it cannot be that the administration is still steering in direction of the EU without any mandate?

This is exactly why I am very happy about two decisions: First that the FAC-N decided that Switzerland has no intention of joining the EU internal market and that the appeal to join the EU is unfounded.

Are the people in the FDFA, especially those heading the negotiations, aware of this?

I would assume that they are meanwhile be informed about the decision. To be sure I will bring up the subject again in the National Council’s question time, just to be on the safe side.

It is surprising that, even under these circumstances, there are still people who acquire a taste for an EU accession.

It is crucial to clarify the institutional linkage. This question has to be the dominant one. It is about Switzerland’s future. It is a similar situation like in 1992 when we were voting on the EEA as a “training camp for an EU accession”.

It seems like the motion towards the EU is not taking place publicly but rather in a stealth way.

That is how I see it as well. That is the concept. And pretty soon we hear: Now

we have reached this point, therefore we cannot go back. This is a less honest way than the way of those who openly declare that an EU accession is their goal. With these people you can discuss the issue.

And with the others?

What the “creeping accessionists” are doing is a dangerous game for our country. Let’s put it bluntly: Today’s EU is a faulty design. It did not have to turn out that way, but that is what it is, today.

In order to maintain our ground against the permanent EU pressure – do we also need a defense army worth its name?

There is not only pressure by the EU. In the course of the last weeks we have seen that also states calling themselves “friends” can behave in a highly disagreeable way.

What do you mean by that?

It is not a novel thing that governments are spying on other states, international institutions and citizens. But it is most ironical if Nobel Peace Prize Laureate Obama is the highest official responsible for spying in many “friendly” countries. If you have “friends” like this, you have to be on your guard. This includes the ability to defend the country. The world is more volatile than we would like it to be. This is why a strong army is absolutely necessary for us.

Mr National Councillor Büchel, thank you very much for the interview. •

Interview Thomas Kaiser

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the confederation and the cantons – without asking the Swiss people!

What is the use of a CCG, a GDK (Public Health), an EDK (Swiss Conference of Cantonal Ministers of Education)? They say EDK, GDK and the other directorial boards are needed because "some things would have to be harmonised, possibly certain structures in the education", according to the EDK president at that time (18.8.2008 in "20 Minuten"). This is what they are doing: After the enforced conformity by HarmoS the EDK wants to force the unspeakable curriculum 21 on the German Swiss and multilingual cantons, against the will of the cantons which have said NO to HarmoS, against the cantonal school laws and with an insufficient basis in the Federal Constitution. GDK in company with the Federal Office of Public Health FOPH "harmonises" the prevention – ignoring the Parliament's decision and the constitutional competence of the cantons. And how they do their harmonising! FOPH's boss Pascal Strupler wants to take up the fight against the glass of wine accompanying a meal and to burden everybody with the costs for his hip operation whose weight does not correspond to the fictitious US norm.

Behind the back of US citizens a monstrous rebuilding of our federalist and direct-democratic Federal State has taken place for the last 20 years, for five years this rebuilding has been reinforced by the "House of Cantons". Numerous centralist clubs of executive members reside there who promote Switzerland's centralisation and abolition of democracy together with the EU-Turbos in the Federal Administration so that our country can be squeezed into the globalized world of the EU, the OECD and the Anglo-American big money clubs, undisturbed by tire-some citizens, who always and again want to use their rights as a sovereign.

CCG was set up in view of the planned EEA (European Economic Area) accession, so that the cantonal governments could lend a helping hand to the Confederation on the occasion of Switzerland's integration into the EU. In spite of the NO of the Swiss electorate on EEA the CCG was founded 1993 nonetheless and has now been serving, for the last 20 years, as a "common voice" of the cantons with respect to the confederation, not only with respect to foreign affairs.

The CCG – henchman for Switzerland's smooth integration into the EU

Twenty years later we are asking ourselves and our fellow citizens: Is it sense and purpose of Swiss federalism that 26 can-

tons speak "with one voice vis-a-vis the Confederation? Whom does this serve?

In CCG's standpoint declaration of the 24 June 2011 we read: Primarily it is about the Confederation's European policy in which "the cantons" – actually only some cantonal executive members – want to play a part "with one voice". CCG is gearing itself towards an "increasing deepening of the relations between Switzerland and the EU".

Four years earlier they expressed themselves even more clearly:

"Though an accession to the EU is still not open to debate for internal and foreign-policy reasons at short notice and in the medium term, however, it is to be perpetuated in the opinion of the cantonal governments by all means as a longer-term option." (CCG, standpoint of the 23 March 2007)

How dare our cantonal governments ignore several clear decisions of the people and the cantons against the accession to the EU? How dare a few executive members, elected by the people in order to regulate cantonal matters for the purpose of public welfare, get together with the forces in Bern which eagerly go on pilgrimage to Brussels, so as to pay court to EU ladies and gentlemen? Instead of fulfilling their duties in the service of the sovereign, the cantonal executives have been busy for 20 years to pave the way for the EU-proponent majority in the Federal Council and the avaricious EU institutions. What stand the singular cantonal governments in the CCG conferences do take in each case, we hear nothing about.

Accidentally we have found a consultation answer of the State Council of Bern from the 4 May 2011 in which one can read: "The State Council underlines its frequently confirmed position according to which a) in the long-term only an accession guarantees Switzerland an equal share in the political decisions in Europe and in the advancement of the binding law [...]" What would Berne's population probably say if it had been informed about this statement?

Conferences of the Directors are a new creation in an lawless area: legal basis and democratic legitimacy are completely lacking

On the occasion of the inauguration of the "House of Cantons" the legal basis of the Conference of Cantonal Governments (CCG) was questioned in several cantonal parliaments, for example by Claudio Zanetti in the Zurich Cantonal Parliament (Protocol of the Government Council of the Canton of Zu-

rich on 18 September 2007, KR-No. 207/2007):

"1. Why the does the Government Council intensify the cooperation in the framework of the Conference of Cantonal Governments by participating in the "House of Cantons" although there is no legal basis?"

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Bureaucracy à la Brussels

On the homepage of the "Konferenz der Kantonsregierungen" (Conference of Cantonal Governments, CCG) beside the CCG there is a list of directors' conferences – all in all 12.

Each of the 13 conferences has its own "plenary" and "board" or a "steering committee" that takes their decisions, as if they were democratically legitimized institutions.

Within the individual conferences there are many sub-groups, alone in the CCG we find an impressive list of "commissions, working groups and delegations", on which our councillors sit instead of devoting their full force to the tasks in their cantons. For example, there is a support group for each bilateral agreement with the EU in the "Haus der Kantone" (House of Cantons). Coronation of bureaucratic zeal is the *Konferenz der Sekretäre der interkantonalen Konferenzen* (KoSeKo, Conference of the Secretaries of inter-governmental conferences).

Manager in the "House of Cantons": The ch Foundation

The office of the CCG leads the *ch Foundation* since its foundation in 1993. Originally it built useful bridges between the cantons, the languages and the cultures within Switzerland and promoted, for example, the student and class exchanges between the language areas. (<http://www.chstiftung.ch/ueber-uns>)

Today, the ch Foundation is mistress of the house in the "House of Cantons" and has as such long become a cog for the introducing of EU-programs of all kinds in the Swiss state structure. In the "House of Cantons" the ch Foundation manages not only director conferences. "It is also one of its main tasks since 2011 to implement European education, training and youth programs. To this end, the ch Foundation operates under the name GO a corresponding internet portal for exchange and mobility, and leads a counseling service."

Since 2013 the President of the ch Foundation is the St Gallen Government Councillor *Benedict Würth*, managing director is *Sandra Maissen* who also sits in many CCG committees.

(Translation *Current Concerns*)

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"2. What did the Cantonal Governing Council undertake since 2004, to create a legal basis for its activities within the framework of the Conference of Cantonal Governments?"

The remarkable response of the Zurich Governing Council (excerpt):

"As the recently published 'Report on Federalism' of the Federal Council (BBl 2007, 5907) points out, the council considers the Conference of Cantonal Governments (CCG) 'as a primary point of contact with the Federation' (5945) in the field of foreign affairs." This report shows as well that the implementation of numerous sectoral agreements with the EU, in particular the Schengen/Dublin one, would be impossible without the supporting participation of the CCG and other Conferences of the Directors."

Truly remarkable! The Federal Council reinterprets the federalism in its "federalism report", turns the basic status of the cantons as sovereign members of the Swiss Confederation according Article 3 of the Federal Constitution upside down and simply replaces the cantons by the CCG in a creative act of new "law", so to speak. Remarkable is as well the "reasoning" of this distortion of law: If the Federal Government had to individually contact each canton, the implementation of bilateral treaties with the EU would be impossible. Well, now things are becoming clear. However, that doesn't excuse the Zurich Government Council, who covers such machinations.

"The CCG was founded on October 8, 1993 by means of a common arrangement of all cantons on the administrative level; this is until today the formal legal basis of the CCG."

(Protocol of the Governing Council of the Canton of Zurich, 18 September 2007, KR-No. 207 / 2007)

An agreement on the level of an administrative authority – it's a great legal basis for a newly invented governmental level. Since 20 years this center of power has taken power away from the cantonal parliaments and secretly operates behind the backs of the citizens!

As a reminder: the Curriculum 21 was also produced by the EDK (Swiss Conference of Cantonal Ministers of Education) on the basis of an administrative arrangement (see *Current Concerns* No. 31/32).

How many more administrative agreements did our executives that are account-

able to their cantons and the citizens' conclude and sign?

"Participative Federalism" means the cantons' and citizens' loss of power

For years it has been clear to the Cantonal Governments that the bilateral treaties along with taking over EU law, even more the accession to the EU would have and have had massive negative effects on federalism and the direct democracy.²

And what countermeasures are taken by the Governing Councils against this development?

"The cantons don't want to be demoted in the wake of the increasing intensification of relations between Switzerland and the EU to mere execution units. [...] The loss of autonomy of the cantons and the pressure for centralization must be compensated by a greater participation and co-decision of the cantons." (CCG, definition of position of 24 June 2011, p. 2)

Without asking us as citizens, a few cantonal councils put up with the loss of autonomy of the cantons and the centralization pressure by the EU. The main thing for them is that the Conferences of Directors are allowed "to participate" in the disempowerment of the sovereign and the cantons. Instead their duty would be to make us aware: "look, dear people when Switzerland enters further bilateral agreements with the EU, the cantons will lose the rest of their autonomy, a sovereignty enshrined in the Federal Constitution. Under pressure from Brussels – it doesn't want to have 27 but only one authority for contact – the centralization in our confederate state would further be expanded. If you don't want that, you should vote against more bilateral agreements."

Supposed our Cantonal Councils would speak to us this way, how many chances you think would our EU boosts have in Federal Bern? The sort of "participative federalism" as seen in the negotiations of the federation with the EU has nothing to do with Swiss federalism anyway. The sovereign remains sidelined: "Solutions are to prioritize, which do not entail any change in the Federal Constitution." (CCG, definition of position on 24 June 2011, p. 3) This means: "solutions" without obligatory referendum and without having to obtain a majority of votes from people and cantons ...

According to "Federal law concerning the participation of the cantons in foreign policy of the Federal Government", the Federal Government must involve and inform each canton individually, and take its opinion into account. This does no longer

take place – i.e. It was abolished without any legal basis.

"The hearings on proposed institutional agreements with the EU are put on stage almost secretly up to now.

Foreign law, foreign judges – the potential for controversy is huge. Foreign Minister Didier Burkhalter has so far encountered little resistance in the consultations. However, – according to law – only three institutions are consulted: the Conference of Cantonal Governments and the Foreign Policy Committees of the two chambers of the parliament. One can speculate after a first session, that the cantons will not deny an attempt by the Federal Council. But the decision will be taken on 13 December." ("Neue Zürcher Zeitung" of 18.10.2013)

What is wrong with this message: "According to law" it is not three, but 28 institutions that must be consulted before the Federal Council becomes active with its foreign policy, namely the Foreign Affairs Commissions of the National Council and of the Council of Cantons and the 26 cantons. The Conference of Cantonal Governments is not mentioned in the relevant federal law. Rather, in the Federal law on the participation of the cantons in foreign policy of the Federal Government (BGMK) of 22 December 1999 it is specified inter alia:

Article 1 paragraph 1 The cantons take part in the preparation of foreign policy decisions concerning their responsibilities or when their essential interests are concerned.

Article 4 paragraph 2 Before the Federal Government takes up negotiations, it consults the cantons as a rule. Hearings complement the consultation procedure on treaties concerning international law.

Article 4 paragraph 3 The Federal Council takes into account the opinions of the cantons. If the competences of the cantons are concerned, their position is rated highly; if the Federal Council deviates from the position of the cantons, it has to inform about the relevant reasons.

Anything unclear?

Stop dismantling our Swiss model!

Federalism and direct democracy are the major strengths of the Swiss model. Thanks to the small-scale structure of Switzerland and the interplay of different cultures our country is in a good position in a world plagued by unrest and financial distress. Switzerland has the least unemployment, widely, especially among young people. We are almost the only country in Europe which has its financ-

Strengthening the family

by Erika Vögeli

In all cultures, it is the family that represents the basis and heart of human community. As a social being, man depends on solid human relationships for his entire physical, spiritual and intellectual development. In the 'social womb' of the family (Albert Portmann), being the very first human community, the child experiences the emotional support which is a fundamental influence to the development of his entire personality. The family is seen as the natural social entity, anthropologically as well as psychologically, which can provide for the development of the human being best. Even if in individual situations this responsibility fails or is too little safeguarded – no state and no institution are able to perform the humane commitment that mothers and fathers contribute on a daily basis and throughout the years to the raising of their children. Living together in a family is an entirely personal and intimate matter antecedent to the state – and it is the top responsibility of both the state and a sensible system of laws to protect and encourage this sphere. The family is the basis of a free democratic political system and not an object of stately influence and control. This is no argument against pedagogically well-run nurseries – they are needed as they provide a valuable and indispensable contribution for many families as well.

Unfortunately the discussion regarding the significance of the family has been totally twisted in the last decades through gender-mainstreaming and equal rights debates. Everything that has happened and is still happening in this spirit was defined as an *advancement per se*. The woman, who decided to

raise her children herself, was degraded as 'the good housewife'. The significance of educating a child was looked upon as a secondary organizational responsibility next to the career. People thought it was all about emancipation and freeing the woman from out-dated clichés, about equality and equal opportunities for careers – only a few added that this was like throwing the child out with the bathwater and undermining the basis of human nature as well, i.e. freedom and democracy.

The label of 'progressivity', well covered by the media, seems to have sustainably blocked any question about the 'cui bono?' of this development. As the article "Family politics in international contexts" clearly explains, there are other powers interested and involved in this development. And when above all Goldman-Sachs advances the gender debate mentally and financially¹ in order to generate more potential for economic growth, it should also be reason enough for careful consideration. No one has any serious objections against the equality of women. We do however object the one-dimensional over-rating of the parental contribution to economic growth against the significance and value of the educational tasks. In Norway – certainly not a "conservative" state in this respect – the women, if asked, testify that they have little desire to increasingly push into the man's world.² And speaking about career, we obviously think of highly trained women in the first place – whether the female workers at the assembly lines, in the factories, in the cleaning service, etc. realize their potential through their contribution to economic growth is another question.

The opponents of the initiative argue that a 'YES' to the family initiative would diminish the motivation towards a professional career. Even the Message of the Federal Council³ clearly expresses that the deduction for external childcare had led to the fact that more often both parents were earning a living or they increased their employment. "Subsequently a higher employment participation was achieved – particularly among mothers." It is equally obvious that it is not at all about less qualified women. Many families are actually existentially dependent on the wife's additional income – these women, however, can hardly afford external child-care. (Message of the Federal Council, p.7224). Therefore well-trained women contributed increasingly to the job market and added to economic growth. In other words: the introduction of the deduction for external childcare does not have anything to do with fiscal justice but was rather used as a control instrument towards the implementing of the support of certain "societal and political growth effects" (Message of the Federal Council p.7235).

This deliberate control of the family is unacceptable, a Yes for the Family Initiative would set a counterpoint and be an expression of the esteem we owe to one of the often most beautiful, sometimes very challenging, but certainly most valuable contribution for the common weal and the state.

- ¹ Cf. Goldman-Sachs website, Womenomics etc.
- ² Source: cf. Norsk Gendergate – 56 Millionen für Brainwash ausgegeben und das Gegenteil erreicht! http://agensev.de/wp-content/uploads/Norsk_Gendergate.pdf
- ³ Message of the Swiss Federal Council on the people's initiative "Familieninitiative"

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es under control. The different interests and positions of the individual cantons in our confederate state must remain that extra something of Bernese foreign policy. When in 2003 *Pascal Couchepin* (former Federal Council) declared on the occasion of the tenth anniversary of the Conference of Cantonal Governments, that federalism must "no longer be the sum of confused cantonal interests" and a "defensive federalism" would lead to a failure of "large projects", he showed not only a lack

of commitment to his country, but also a dangerous tendency to strive for "the bigger picture". Let's stick to the principles of the great Swiss *Niklaus von Flüe* centuries ago, when talking to the Swiss citizens: "Macht den Zun nicht zu wiit" ("do not reach out too far, don't think too big"). Let's stick to the more modest "small projects", the careful combination of many active citizens and civil society groups in accordance with the principle of the militia. Let's finish off the domination of the executives and let our country be in the vigilance of its cantonal parliaments and its citizens again – this way we will return

to the Swiss structure of federalism and of direct democracy. As an independent, small state we can take on our responsibility in the world even better than some superpower and some major unions. •

- ¹ http://www.chstiftung.ch/repository/proxy/oifiles/41238/documents/Medienmitteilungen/MM_Halbjahresbilanz_2013_DE.pdf
- ² see the detailed and very descriptive report of the Conference of Cantonal Governments (ed.), "The cantons facing the challenge of EU accession", report of the Working Group on "Europe reforms of the cantons", Schulthess, Zürich, 2001)
- ³ 10 Years Conference of Cantonal Governments CCG, 1993–2003, location and views, p. 6)

“Who takes care for the children at home, should be treated exactly the same way”

Interview with National Councillor Jakob Büchler, CVP

thk. On 24 November the Swiss voters are called to vote on the “Family Initiative”, which, in case of acceptance, eliminates a hitherto existing discrimination. Today only families, who give their children into extra-familial care, are allowed to deduct from their taxes the expenditure incurred, while parents looking after their children at home, are not allowed to claim any deduction. This unequal treatment is to be annulled with this amendment to the Constitution. In the following interview CVP-National Councillor Jakob Büchler explains why he recommends to adopt the initiative.

Current Concerns: You speak out in favor of adoption of the family initiative and thereby you are not following the recommendation of your party, why?

National Councillor Jakob Büchler: In the faction and in the party I have always made it clear, that I support the initiative. I make no distinctions. Who cares for the children at home, should be treated exactly the same as those giving them away. This question should really not be made a party-political issue, because in the center there is the family. The family is the foundation of our society, and what you give to a family will pay off in the future. With this question, one must not pursue party politics. Regardless of what party the idea comes from, it is correct, and that is why you should support it. It’s still basically a matter of creating equal opportunities for all.

What do you mean by “equal opportunities for all”?

There is the argument, that it should pay off if a woman goes out to work. But where is the balance here? Of course, there are families who are depending on a second income. But a mother staying at home with her child should have the same value as a mother going out to work and taking the child to a day nursery.

I am not opposed as a matter of principle to children going to the day nursery. Today, we often have only the nuclear family with one child. In the day nursery, the child has the chance to meet with other children, and I definitely support that. But both families should be given the same treatment, that is the central message for me.

Are families not already supported today? The argument, put forward by some opponents, that cantons already provide education credits and child allowances is too subtle. It does not convince the individual families. The voters are now to decide

whether everybody should be treated the same or not. It is disproportionate that the Chief Financial Officer in the Canton of St Gallen is so vehemently opposed. Of course, the state finances are important, but also in the future, the family should have our protection and our support. Our society lives and survives through families with children, so this support is absolutely essential. What’s more, the cantons themselves can decide the amount of the deduction. Today, about 77 percent of the children are cared for out of the family. This is a high percentage hardly to be changed. Society has developed in this direction, and therefore it is important, that we do not discriminate the 23 percent wishing to solve childcare in a different way.

Must we not reinforce the importance of the family for our country, today?

Our society has a disproportionate number of old people, today. The demographic composition of the Swiss people is clearly heading towards a higher age. We are living longer, are having fewer and fewer children, and the result is that in the future we will have more expenses in the social sector. Therefore, it is wrong to say that we have to scrimp on the children. This is completely incomprehensible to me. It is an important decision if parents or couples decide that they want to have children, and this decision should be supported, regardless of whether someone has his children looked after at home or outside the family.

What does the family mean for our culture?

The family is the foundation of our society. Without families with children we are dying. As a father of 5 children I am experiencing this now. We go to our children to look after our grandchildren, if once in a while the parents want to go out without their children. You know, that is something really nice for us. We have five children, who all have left home. Now we have 5 grandchildren, life goes on, and, you know, that is something that satisfies you. You have also contributed to retaining the society in Switzerland. And that is why we should do anything that supports families with children. The family initiative provides an opportunity to do so.

Therefore the importance of the family cannot be overemphasised.

Where do we end, if it is no longer possible for somebody to start a family? Then, one day we will be extinct. It certainly must not come to that. In developing

countries, we have a very different trend. In Mali, for example, there are 7.1 children per woman. Social conditions are of course very different, the infant mortality is very high, and there is scarcely any social and medical care. In Switzerland, we have an average of 1.2 to 1.3 children per mother. This is really insufficient in order to ensure the existence of the Swiss people, so all measures furthering the determination to have children are to be supported.



National Councillor
Jakob Büchler
(picture thk)

To have a family with children does not only contribute to one’s own fulfillment but also to the common good. Many are probably too little aware of this.

We know from active professional life of the past, that, with the introduction of the AHV (old age insurance) in 1948, there were four to five workers per retiree funding him. Today we have barely two workers per retiree. The active working population has considerably decreased in recent decades. Today barely 2 persons are liable for a retiree. The demographic curve has clearly shifted towards ageing. If we have no children, they will be missing in our society, which will lead to more immigration.

What can we do about it?

To organize politically that a family does not have to face a financial emergency is certainly the right way. Investments in the family, in the children, are ultimately investments in the future of our country. Later on as adults the children will be needed everywhere: in business, in politics, in defense of the country, in the communities, in hospitals – everywhere. We need young people with a good education and a large rucksack for professional life. They are the supporters of our state, our political system, our direct democracy, our society will and hand down our achievements in all fields. The sustainability of the family is ultimately the sustainability of our political, social and economic success model. With the family initiative, we can support that.

National Councillor Büchler, thank you for the interview.

Interview Thomas Kaiser

Excerpts from the Council's debate on the Family Initiative



Sylvia Flückiger-Bäni,
SVP AG

The family is the basis of our community. Parents and children deserve special protection and the recognition by state and society. Parents and single parents are responsible for the upbringing and development of their

children and provide warmth and affection. The child learns how to help and to respect each other and it acquires the ability to carry out and solve conflicts. There it finds security, love and happiness first and for all and above all in the first years of life with its parents and the family.

For the SVP, the Swiss People's Party the upbringing of children is and remains primarily a task of parents. All parents are free to choose the form of their family; the division of roles is their free individual decision. But parents are also responsible for the financial consequences of their decision. We believe that social development must not go towards assigning the responsibility for the education and childcare more and more to the state and causing high costs that must be covered. (...) But the mother is not an obsolete model; she cannot be replaced by anybody and anything, neither can the father and the family.

A family is something very special, unique and beautiful; it must be protected. This may not be forgotten in the pecuniary discussion that we are having today.

(...) By the way, the cantons of Valais and Zug already demonstrated that it works. The Family Initiative allows the cantons whether they want to grant a tax deduction at all and if so, how high it is; it must just be exactly equal for both models.

The only condition of the Family Initiative of the SVP is the following: if deductions for childcare out of the family is granted exactly the same deductions must be allowed for those families who look after their children themselves – regardless of how they organize the care.

Let us give an important sign today for our families who choose to care for their children at home! Those families perform a work of unestimable value for state and society. (...)

Federal popular initiative, Family Initiative : Tax deductions also for parents who look after their children themselves

“The Federal Constitution will be amended as follows:

Article 129 paragraph 4 (new)

“Parents who look after their children themselves must be granted a tax deduction for the childcare at least as high as the one for parents who have their children taken care of outside the family.”

This is demanded, after on 1st January 2011 in the Federal Law on the Federal Income Tax (Article 33 paragraph 3 and Article 212, Section 2 bis) a deduction of expenses for extrafamilial care of children was introduced, allowing the attested costs for foreign assistance to be deducted from the taxable income, but not more than 10,100 francs. With the federal law on tax harmonization for the cantons they were obliged to anchor the corresponding deduction also in the cantonal laws, the amount or limit of which they can freely fix.

The Cantons of Zug, Lucerne and Valais already know a deduction for parental care:

- In the Canton of Zug not more than 6,000 francs can be deducted for attested costs for extrafamilial care for each child under 15 years or the

same amount for parental childcare. The deductions are not cumulative, but if the extrafamilial care costs deduction is less than 6,000 francs, instead the deduction can be claimed for parental care.

- In the Canton of Lucerne a maximum of 4,700 francs deduction effectively incurred costs for out-of-family childcare and additional 2,000 francs deduction for parental childcare can be claimed for each child under 15. Thus, the maximum deduction for childcare amounts to a total of 6,700 francs.
- In the Canton of Valais 3,000 francs can be deducted for each child up to its 14th birthday for parental care or, equally the costs of extra-familial childcare up to the amount of 3,000 francs. The parental care deduction is subject to the condition that the employment of lone parents does not exceed 75% those of married couples 150%.

According to *Seco* (see Message of the Federal Council p. 7219) a full-time care in a nursery can cost up to 2000 francs without subsidies. The average cost of complementary childcare amounted to 400-500 francs a month according to the Federal Office in 2008.



Christophe Darbellay,
CVP VS

For my fraction, the well-being of families and the *mittelstand* has been the main point in its political engagement for decades. Without families, without the *mittelstand* Switzerland would never have become what it is today, a

success story. (...) We put the freedom of choice of any family in the center of our considerations: to interfere with the organization of the family is not the state's task. The upbringing and its organization are the business of the family and of no one else. (...) The family is and remains the fundament of our society. The importance of education and care provided by families must be acknowledged more by the

society. The relations between the generations are a very precious factor of prosperity, welfare and social cohesion. The Popular Initiative which has been presented to us stipulates that couples who take care of their children themselves are not punished. This idea was revived by the SVP, but originally realized by my party, the CVP in the cantons of Zug, Lucerne and Valais. The majority of our parliamentary group recommends adoption of this initiative which aims to pay tribute to the important contribution particularly of women by bringing up their children in the parental home. After the deduction for the costs of external care became possible, it seems to us important to restore the balance and justice towards the traditional family. In this sense, we support this initiative. (...)

(Translation *Current Concerns*)

"Excerpts from the Council's debate on ..."
continued from page 7



Albert Vitali,
FDP LU

The tax deduction for parental childcare is justified for me just as the out-of-the-home childcare deduction, and this for various reasons. On the one hand, it is about relieving the so-called traditional families. Although these families have no costs for external childcare, they also have no other income and thus consciously accept a loss of income. In the cantons Zug, Valais and Lucerne, parental childcare deduction exists. I have already defended such a solution in the Lucerne 'Kantonsrat' (Council of the Canton). We have found a very good compromise in the Lucerne Kantonsrat: Since the year 2011 our canton has granted a parental childcare deduction of about one third of the thirdparty childcare deduction. (...) We have to set an example for the traditional family, too. So it seems to me that a moderate parental childcare deduction of around one third or, for example, of 3,000 francs per child is just as justified as the current thirdparty childcare deduction of 10 100 francs per child. Why?

1. There are many families who have external childcare privately and have also costs and expenses.
2. Many parents work on weekends or in the evenings and organize the care among themselves.



Thomas de
Courten, SVP BL

(...) I would like to support the traditional family, too. I am making no secret of the fact that I would have liked a counter-proposal, but I will not introduce it in the National Council today. Under the headlines of equali-

ty and reconciliation of family life and working life, we promote the external childcare and the employment of parents in every possible ways already at present. At the same time, we already cover up all conceivable risks for children of single parents in our social welfare systems. But in terms of political recognition and support all those remain on the track, who take care of their children themselves, who are present for their children thanks to the traditional family model, who provide them with warmth, protection, encouragement, support, guidance and development opportunities. This educational work of the parents is no more appreciated in politics at all – I think this is most scandalous in this whole development. On the contrary: The reference to family work in the best sense is mocked with outdated stereotypes of the housewife or with "back to the stove" rhetoric. Politically everything is done, the longer, the more, that parents not only can be employed, but must be – and with that they have to pay taxes on their income. (...)



This Jenny, SVP GL

I must confess, that I advocate day nurseries. Nowadays one cannot argue away the need for them. I am planning a building project in order to realize fifty places in a day nursery, because this is a must. In our days

it is not a question of willingness or unwillingness. In most families both men and women must earn money to organise their life in a tolerable manner, living in such an expensive country as Switzerland is.

It is rather a question of whether those who chose another way should be relieved as well. I believe it would be helpful and an act of justice. To immediately conjure up the state's collapse from a monetary perspective is really out of place



Evelyne Widmer-
Schlumpf, Federal
Councillor

It is important (...) to uphold the appreciation of parental childcare and taking it really seriously. I may say that because I looked after three children until they reached compulsory school age: I know what that means. For that reason it bothers me to hear that women who were educated in gymnasiums must go out to work. I can tell you from my own experience: Women who are at home and care for their children and do all the work themselves are as well working. This is hard labour what they do – I would like to have that mentioned here, as well.



Stefan Engler,
CVP GR

I also know that many families in our country must rely on a second income. Even if these mothers wanted to commit themselves singularly to family-work, they do not have another choice than being employed. Adding

tionally the increasing uncertainty in the labour market can induce families to build up a second financial mainstay. Besides, in this country there exist many families, parents, both women and men, who in times of their children's early years are deliberately not seeking an employment and do not experience the traditional division of roles as a disadvantage. •

Source: [www.admin.ch http://www.parlament.ch/d/dokumentation/dossiers/familien/Seiten/default.aspx](http://www.admin.ch/http://www.parlament.ch/d/dokumentation/dossiers/familien/Seiten/default.aspx)

(Translation Current Concerns)

A contribution to the discussion on Curriculum 21

by *Elsbeth Schaffner*

Curriculum 21, drawn up behind closed doors for a long time, has been open to public consultation since this year's summer. It is a 557-page paper with main ideas and so-called competencies which in future pupils of all German-speaking Swiss cantons have to acquire during elementary school.

As early as on 29 June an article was published in the "Neue Zürcher Zeitung" which was apt to prick up our ears, "The selection of topics – politics, democracy and human rights, environment and resources, gender and equality, global development and peace, intercultural communication, business and consumption – is likely to arouse some interest." The author raised the alarming question whether "the little lads are to be trimmed from the beginning toward a politically correct behavior". In a later article the same author warned "of a state re-education plan, which appears in the form of a 'modern' curriculum" and "reminded the curriculum-makers [...] that the freedom of the individual – of both the child and its parents – is inviolable" (*Michael Schoenberger* in "Neue Zürcher Zeitung", dated 13.8.2013).

The following text deals with the question of whether Curriculum 21 contains a sustainable concept for Switzerland as to the education of our youth. If not, courage will be required for reconsideration.

Curriculum 21 – departure from the humanistic understanding of education?

According to the applicable cantonal statutes the elementary school's objective is to educate the future generations to become responsible citizens. In their later lives, they are to take on their responsibilities in the family, at work and as citizens helping to shape the destiny of our country. "In connection with the family, elementary school aims at the harmonious physical and mental development of the child to live as a strong homogenous personality." This is the purpose of elementary schools as described in the *Curriculum of the Elementary School in the Canton of Zurich* in 1978. "The elementary school forms the body [...] as well as mind and character. [...] It forms and promotes a sense of duty, the joy of working, strength of conviction, the pursuit of truth, openness and freedom, [...]. It lays the foundation for the individual to be able to educate himself in the spirit of the Enlightenment, of humaneness and tolerance." This understanding of education is still expressed in the school legislation of the cantons. So for example in the "Volksschulgesetz" (el-

ementary school statutes) of the Canton of Zurich it is laid down that "elementary school educates towards a behavior that is oriented towards Christian, humanist and democratic values."

However, Curriculum 21 moves completely away from our traditional understanding of education. A "paradigm shift" has taken place: Curriculum 21 as the "result of a global trend" was the title of an article in the Journal of the College for Teacher Education Zurich. "In the Anglo-Saxon area, under the influence of progressive education, constructivism and pragmatism, a position developed that emphasized experience and action-oriented learning. [...] Educational standards and output orientation are to be mentioned as other global trends that influence the development of curricula." (cf. *ph I akzente* 4/2011, p. 32)

Unfortunately, the Swiss school system has begun to reproduce the above-mentioned paradigm shift in many areas since the seventies. For example, the so-called self-directed learning has been incorporated into the teacher education in recent cantonal curricula and in many teaching aids. This happened although it was already known that this new "learning culture" had miserably failed at American and British public schools (cf. *John Hattie*, "Visible Learning", see below).

The "new" understanding of education goes hand in hand with a new definition of the teacher's role. Here, the teachers are supposed to consider themselves as mere "organizers of learning processes" and "coaches". This has already led to a situation where students have too little guidance in studying. Weekly schedules, individual working materials and "computer-assisted learning" as well as the challenge of constantly trying to find their own solutions is demanding too much of many students.

Teachers have to become aware again of their significance for their students' success in learning. This includes a well-structured, logical succession of learning steps and the teacher's benevolent leadership and guidance for the pupils. By the way, this is also one of the most important statements in the synthesis of over 800 meta-analyses by the Australian John Hattie, recently published in German. The results show that students' achievements in a well-managed, well-structured lesson are considerably higher than in a class where self-directed learning prevails and the teacher regards himself merely as a learning guide. High-achieving students require teachers with personalities capable of establishing a good relationship

with their pupils and wanting to guide and teach them well.

With Curriculum 21 we would go back beyond these findings. Behind Curriculum 21 there are exactly those concepts that have failed. The leading didactic ideas of "self-discovering learning" have become pepped up with the fashionable "output orientation" and "educational standards". With the competencies in Curriculum 21 the "self-directed learning" students are in the focus. They must "explore habitats", for example, and "open up information" and "recognize phenomena, investigate and characterize them". They have to "exchange ideas and assumptions and clarify them for themselves" and above all they always have to "be able to reflect", e.g. "their own behavior with regard to the sustainable use of resources and energy" (cf. Curriculum 21, RGZ 1.1. Secondary Level). The students must be able to "explain, describe and present" all self-discovered "knowledge". For example, high school pupils should "present interactions in the use of ecosystems between people, environment and economy, assess threats to ecosystems and reflect them (e.g. desertification, overexploitation of the seas, deforestation)." (Curriculum 21, RGZ 3.4. Minimum requirements). Furthermore, they are to "assess institutional protection measures and develop their own ways to protect ecosystems (e.g. national parks, environmental labels, campaigns)." This is not, gentle reader, to be found in the documents of a *Greenpeace* training weekend, but in Curriculum 21 (RGZ 3.4.). I want to refrain from quoting other examples on the topic "Sustainable Development". They run all the way through the entire 557-pages paper. Again, it is easy to detect the clandestine taking over of "global trends".

A sustainable Switzerland does not need this Curriculum 21. In times when already many commercial businesses complain about serious deficiencies in their apprentices' basic skills, be it in the German language, in numeracy and in their attitude towards work; in times when school children can either not cope with the tasks in the classroom or they are too easy for them, or when even the parents do not understand their children's homework, it is obvious that these are already the results of the above mentioned departure from our traditional understanding of education and knowledge.

What Switzerland needs today and in future is to return to the basic values of its pedagogical tradition. In this case the first

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"A contribution to ..."

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school years would focus on laying the foundations for language development, literacy, writing and arithmetic and provide an integral humane education. This would also include the musical and artistic sphere and the delight in one's fellow humans and in nature. A curriculum for entire Switzerland should meet the demands of those objectives that are laid down in the articles of today's cantonal educational regulations. This can only succeed if we observe the fundamentals of our own traditional understanding of education.

Is this to be the education of future citizens?

It is true, as well in Curriculum 21 there are statements about the orientation of school to be found: "It is based on Christian, humanist and democratic values." (cf. chapters Introduction, Education Objectives)

However, this promise is not going to be fulfilled. The view on history provided by Curriculum 21 consists of an arbitrary, disjointed and superficial alignment of themes from different times, of stories and myths, which only have to be assigned, assessed and understood as changes in the course of time. This selection competencies reveals a way of thinking which sees history as a mere set of rules and acknowledges the human merely as a part in it.

The classification of topics which does not at all correspond to the age and previous knowledge of the children is highly problematic. What was formerly taught in the higher classes at best is included in Curriculum 21 at a stage in which the children are still very absorbed with themselves and their nearest environment. Kindergartners and first graders need to be introduced into the classroom community by their teacher. This requires a lot of pedagogical tact and child-like stories on philosophical topics (e.g. the family, farm, artisans, dog, cat, apple, forest, playing together, helping each other, etc.).

Issues such as "Stone Age, the Romans, Late Middle Ages" and "the different roles and departments of a commune" were formerly introduced not before the years 4 and 6, the appropriate age in the development of the children. It is, however, absurd that Curriculum 21 limits the historical themes merely to certain aspects and introduces the latter at the level of kindergarten and years 1 and 2. Similarly, it is wrong to make years 3 to 6 deal with "political processes", "power structures"

and "forms of rule" ("dictatorship, monarchy, democracy"). I wonder what the parents will say when reading the following minimum requirement for pupils from third through sixth grade in Curriculum 21: They can "understand radical changes in economy and politics in the context of the changes in the working world (e.g. mechanization, industrialization, computerization, globalization)". (Curriculum 21, NMG 9.6.)

The well-proven, traditional structure of "Heimatkunde" (history of one's homeland), starting out from the well-known and near and proceeding to the strange and distant, is neglected in Curriculum 21 – and already in some teaching materials that have been used in the classroom for several years. Instead, pupils in year 3 and 4 should be able to "identify and describe their worries about questions and issues of our world and the way of life of people in the distance as well as assess what is important to them for the future on earth." (Curriculum 21, NMG 7.6.) Getting to know one's own community (village, district, station, post, roads, church, etc.) and the professions on site are taken into too little account. Without this background the pupils will lack knowledge and respect for the cultural achievements of previous generations, something they will need later on as serious young fellow citizens.

The authors of previous curricula still considered these facts. "Natural history, geography and history are incorporated into the teaching at primary level so that teaching plan and used materials always reflect the nature of children, the development of the pupil and the class' sphere of experience. Lessons are directly related to all aspects of language and in constant interaction with the development of language skills. Conceptualization and the related proper knowledge are to pay special attention. Mere juxtaposition of half-knowledge remains barren." (From the curriculum for the primary school of the Canton of Zurich, 1978, p. 408)

For the understanding and appreciation of our direct-democratic state adolescents must be made familiar with the values, traditions and the history of Switzerland. This includes, of course, that they know the history of their ancestors who fought hard against the oppression of the feudal system and to preserve their freedom. The equality of the townspeople and the rural people and the development of democratic coexistence according to the principles of federalism and subsidiarity are the results

of a long, persistent struggle throughout the centuries.

At this point let me again quote from the primary school curriculum of the Canton of Zurich dated 1978: "Children are particularly moved by local traditions, legends and tales. Thus, the bond with their homeland and its past will be strengthened and at the same time a living bond to the present is established. From the outset we ought to refrain from a chronological juxtaposition of political events." (p. 410)

How much we have become estranged from this humanistic tradition of education is shown in the competency objectives of Curriculum 21. Here is an example for 9 to 12-year old children:

"The students can critically reflect on the use of myths and legends in the actual present and recognize their use in the political debate." (Curriculum 21, NMG 9.5.9)

Similarly, pupils in years 3 to 6 should explain the "distribution of power by means of a historical example (e.g. Antiquity, high or late Middle Ages)", and as a minimum requirement realize "the emergence of state structures in an example (e.g. Confederation of 13th and 14th century)." (Curriculum 21, NMG 10.5.)

Swiss history is dealt with in Curriculum 21 – if at all – only in examples and also only fragmentarily on the upper level, reduced to the knowledge of some historical data, for example. At the same time, pupils are always requested to critically question traditional descriptions. By the end of their elementary school time, most pupils would not be aware that they live in a country with a unique history that has been formed by the people. Instead, they would have learned from an early age on to have an opinion and make a judgment about everything – while they are lacking the necessary knowledge about things.

In order to achieve the educational mandate (again) which is to educate the children to be responsible citizens, we need a curriculum that is based on the historical and cultural traditions of our country.

Real maturity as citizens is certainly not created by the adoption of "global" guiding principles on human rights, politics and democracy by a curriculum. On the contrary, upon acceptance of Curriculum 21 it must be feared that the already existing frequent lack of rootedness in many young people leads to enhanced suggestibility by the media, political tractability and (involuntary) loudmouthedness. •

Quotes from Curriculum 21

es. *The examples cited are from the subject area of NMG (Natur – Mensch – Gesellschaft: nature – man – society, chapter 7, 9 and 10) for the primary school (formerly Mensch und Umwelt/Realien: Heimatkunde und Geschichte: man and environment/science: local and general history).*

The competency goals in bold are mandatory minimum requirements!

The objectives for the 4- to 8-year olds clearly show how the children are overburdened. The quotations from the goals for the 9- to 12-year olds make it clear what M. Schoenenberger means when he writes, "Are the little lads to be trimmed from the very beginning towards a politically correct behaviour?" ("Neue Zürcher Zeitung" of 29.6.2013)

For 4- to 8-year olds:

NMG 7.4.

The students ...
can identify and describe differences of everyday situations in children's lives in other parts of the world based on reports, stories, images.

NMG 9.4.

The students ...
can gain ideas about the life and culture of a former society (e.g. Stone Age, Romans, Late Middle Ages) based on discoveries and old objects.

NMG 10.4.

The students ...
 can name and distinguish occupational titles and functions in the commune (e.g. – policeman/woman, fireman/woman, (female) forest warden, local councillor).
can name public institutions and bodies and understand their functions (e.g. hospital, school, fire brigade, refuse incinerator, court of law)

can assign the various tasks and the various departments of a commune and explain their interaction.

NMG 10.5.

The students ...
 can make responsible decisions for others when a task is taken on (nota-

bly when being team leader) and also abide by instructions in the team.
 can reflect on power, limitation and abuse of power (the principle of power limitation).

For 9- to 12-year olds:

NMG 7.4.

The students ...
can deal with selected questions about differences and inequalities on earth (e.g. of food, schooling, child labour) and thus compare situations in other areas of the world with their own life-style.

can reflect on possible changes of living conditions in the future and mentally develop their own opportunities for action.

NMG 9.2.

The students ...
can describe what a possible future of Switzerland or the world might look like.

NMG 9.5.

The students ...
 can explain which features make the difference between history and mere stories.

can, aided by given criteria, differentiate between fictional or fantastic stories (e.g. legends and myths of Switzerland) and a current historical presentation (narration).

can perceive the use of myths and legends in the present time (e.g. Tell legend).

can critically reflect the use of myths and legends in the actual present and recognize their use in the political debate.

NMG 9.6.

The students ...
can understand radical changes in economy and politics in the context of the changes in the working world (e.g. mechanization, industrialization, computerization, globalization).

NMG 10.4.

The students ...

can distinguish between basic models of the exercise of power and decision-making (in particular, dictatorship, monarchy and democracy).

can recognise and understand current forms of the exercise and of the control of power.

NMG 10.5.

The students ...
 can explain the distribution of power by means of a historical example (e.g. the Ancient Times, the High or Late Middle Ages).

can recognize the historical evolution from a society based on family law to a territorial law with the basic approaches to the rule of law (e.g. the Swiss Confederation of the 13th and 14th century and the Federal Charter).

can recognize the emergence of state structures in an example (e.g. the Swiss Confederation of the 13th/14th century).

can recognize the interaction of economy, politics and law in an example (e.g. the Swiss Confederation of the 13th/14th century).

NMG 10.7.

The students ...
 can comprehend political processes using a current example at home or abroad (notably conflict resolution, problem solving).

can monitor and analyse a political process in their immediate surroundings (problem definition, opinion formation, solution search, decision, evaluation).

can recognize opportunities of participation in this political process.

In the case of many of these competencies references are made to the so-called "education for a sustainable development" (ESD).

Here are some examples :

Violence – social justice / democracy – political processes/human rights and children's rights/globalization and regional development/prosperity, growth and environment/population and migration/racism and discrimination

Family policies in an international context

by Karl Müller

A glance at the book by US strategic analyst and strategist *George Friedman* "The next hundred years – The world order of the future", published in 2009 in German translation shows the real extent of dimensions of family policy. Friedman's core thesis is that, despite some setbacks for the US, the 21st century will be the actual American Century. The potential competitor Europe, however, is in decline.

Friedman makes a connection between the prophesized destiny of Europe and the change of the family here and in combination with it the demographic development: "In the past, loss of population always meant loss of power. This will also be true for Europe". The starting point, however, was in the USA, writes Friedman: "At the beginning of the American era, the United States have great interest in breaking traditional social patterns. This creates the degree of instability that gives them the greatest leeway."

It must be noted that Friedman's diction tries to evoke the impression that he was on to discovering some kind of natural law of social, economic and political development, and it rarely shines through that he refers to developments that have been brought about deliberately or should be brought about in future. Thus he writes that "the change of the family cannot be stopped", and justifies this change purely materialistically – without naming the actors who intend to cause or bring about this change.

According to Friedman, the most important development in this context was "the dramatic decline in the birth rate in the world." "This demographic change characterizes the 21st century", and some "of the major industrial nations of the world, especially Russia and Germany" would "lose a relatively high proportion of their population."

As a materialist Friedman claims that there was "no more economic need for marriage", and as just such a materialist he speaks of the "demographic roots of feminism": "Since women spend less and less time on pregnancy and raising children, they are now far less dependent on men than they were fifty years ago." "Traditional life patterns," Friedman continues, "have served their time". "Previously the coexistence of partners went along with a formal marriage," but both were "now completely decoupled." Even re-

production was "not any longer bound to marital or to non-marital partnerships." Increased life expectancy, lower birth rates and longer training times had "led up to the disintegration of traditional biographical and social patterns". This development was "irreversible". Friedman's conclusion is: The "traditional differences between men and women" disappear in the short or long run. Same-sex and childless relationships were a "reasonable alternative".

EU wants to bring family policy into line

For a number of years, there have been similar patterns of argumentation in the field of family policy in Europe, and in most European countries those who are trying to define the family policy in the following way have media air superiority: First of all, men and women must have the opportunity to be in employment. Women who prefer to devote themselves to the care and education of their children for a number of years without a wage labor are considered disadvantaged or backward. Children should be placed as early as possible nationwide in public or private childcare and child-rearing institutions. For this purpose state funds must be provided. Financial support by the state for parents who have nevertheless decided to care for their children and to educate them at home is rejected.

This fits with the targets of the EU: the expansion of childcare outside the home in accordance with the "Barcelona targets" and the increase in female employment as part of the "Lisbon strategy". Family policy is always subordinated to some economic considerations.

Actually, the EU has no authority to draw up family policy. Nevertheless, it strongly interferes with the family policies of the member states. The "Barcelona targets" were decided by the European Council in March 2002. After that, the EU member states were supposed to "remove barriers that prevent women from labor force participation and, in accordance with the demand for childcare facilities and in line with national patterns of provision, strive to provide childcare to at least 90% of children between three years and the mandatory school age and to at least 33% of children under three years of age by 2010." According to a EU Commission report of October 2008 the "Bar-

celona targets" were "an integral part of the European growth and employment strategy." Even the latest report of the European Commission from June 2013 was entitled: "Barcelona targets. Expansion of care facilities for young children in Europe with the aim of a sustainable and integrated growth".

The "Lisbon strategy" is a program adopted in Lisbon by the heads of states and governments of the EU in March 2000, according to which the EU should become the space with the most competitive and dynamic knowledge-based growth in the world within 10 years.

However, it is a chimera if you believe you can promote Europe's economy really sustainable if the principles of coexistence are being eroded at the same time. For whose tricks you have fallen is to some extent answered by George Friedman. •

Current Concerns

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Letter to the Editor

Guide children to pro-social behaviour

Thank you for the outstanding article, for all teachers and parents revolutionary and beneficial by Mr Burger about Alexander and the problems of our students today. As a long-time experienced special education teacher (currently at a school for mentally handicapped) I can confirm all of this completely. In addition to the diagnoses ADHD (attention-deficit/hyperactivity disorder) etc. a special type from the so-called "autism spectrum" is diagnosed more frequently, for example, when children don't make any eye contact and if they pretend not to listen to the adult, if certain demands are placed on them, they shift it away from themselves violently, apparently they seem to live in another world, developing their "own" language, etc. Often it is found that they understand

very well when you call them, and that they are quite able to be in a position to do a lot if you only had confidence in them. I think that many of our students who were classified "mentally handicapped" feel like Alexander. Another major problem of our students, who have only a little sense of community, is also the pampering. They can not do ordinary things, they are used to be helped into the jacket, their shoes are to be closed and they have trained to behave "stupidly" or force the adults to help, that there is really a risk to assess them to have a "disturbed perception" etc. Since neither parents nor teachers understand what is on the kids' mind, they slip through all nets and finally end up in our type of school, where the curriculum aligns to the truly mentally

handicapped students, that means the cultural techniques are in the background. In addition, the students practice their evasive maneuvers, copy each others' regular "foibles" and are quite amazed and feel taken seriously, if you tell them, that these are "quirks", which they can stop immediately.

After completely exhaustion in the first weeks of work in such a class, the article has greatly reinforced me to stay on track and to find ways with my colleagues, how to teach our children more consistently positive social behaviour and support them in reading, writing and arithmetic as far as possible.

M. Kupsch, Wachtberg

(Translation *Current Concerns*)

Helping the young to lead a meaningful life

My gratitude and respect for the excellent special issue on education, which should be a must-read for each educator, to whom it is a heartfelt concern to help our youth to lead a meaningful life that is oriented toward the common good, and for each teacher from primary school to university.

The issue addressed the ideological-motivated reform mania at schools and the failures in teacher education, but also the positive effects of pedagogy based on Adlerian psychology with a guided classroom community. You also wrote about the healing work of well-trained teachers

who can help a student if they understand his development in the family and can carefully include him to the class community and introduce him into learning.

The sustained dismantling in performance and education has begun in Germany back in the 70s/80s in the newly established comprehensive schools of the red-green-ruled Länder and is still being operated in some Länder to this day (such as in the *Gemeinschaftsschulen* in Baden-Wuerttemberg) - with all the negative effects such as isolation of pupils, falling behind of the weak, disturbed social behavior. As a teacher and educationalist I

have experienced this decline of the German education system.

I can only hope for Switzerland as well as for Germany that reasonable forces in the educational policy – respecting the cantons' and federal states' control over education – will decisively oppose the reform mania in schools and universities ("Pisa" and "Bologna") and revert to the strengths and established principles in education.

Dr Rudolf Hänsel,

Lindau (Lake Constance)

(Translation *Current Concerns*)

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World Food Day 2013: “Sustainable Food Systems for Food Security”

by Dr Eva-Maria Föllmer-Müller

The *World Food Day*, which has existed since 1 October 1945 is celebrated in 150 countries. In 2013 it is still a *World Famine Day* because 842 million people are still starving worldwide. That is roughly estimated one-eighth of the world's population. This is what a report by the *Food and Agriculture Organization (FAO)* shows, published at the beginning of October. Imagine: Although we are producing enough food to feed the entire world population, every 8th man must starve on our planet! Pope Francis rightly calls it a “scandal” that there is still hunger and malnutrition in the world (see below). Most chronically hungry live in “developing countries”, 295 million of them in Southeast Asia. Their share of the population is highest in sub-Saharan Africa, one in four is affected.

Similar findings come from the *Global Hunger Index 2013*. It counts 19 countries where the food situation is precarious, the majority as well in Southeast Asia and sub-Saharan Africa. Currently, the supply situation is particularly serious in Burundi, the Comoros and Eritrea. On the other hand, the situation has improved especially in East and Southeast Asia and Latin America.

Another 2 billion people are suffering from vitamin or mineral deficiency according to the FAO. A third of all food is wasted or lost before it comes to the plate. One of the primary goals is therefore to stop this waste, according to FAO Director-General José Graziano da Silva. Since with the wasted foodstuff, nearly two bil-

lion people more could be fed, without having to produce one single additional kilogram.

Particularly children are affected

According to the UN Children's Fund *UNICEF* each year around 3.1 million children die from malnutrition, 2.6 million of them are children under 5 years. One in four children under the age of 5 is underdeveloped because of under- or malnutrition, according to the FAO and will never reach its full physical and cognitive potential.

In his book “We let them starve” Jean Ziegler impressively describes the consequences, which a long-term malnutrition has, which also includes the lack of vitamins and minerals for a young person: “Vitamin and mineral deficiencies namely can lead to serious health problems: significantly increased susceptibility to infectious diseases, blindness, anemia, lethargy, limited ability to learn, mental retardation, congenital malformations, death” (cf. *Thomas Kaiser*, “Hunger is not a natural law, but politically wanted”, *Current Concerns* No. 25 from 12.8.2013).

To change this scandalous situation worldwide, the FAO focuses on improving the food system* and a broader understanding of the problem of hunger.

Importance of small farmers

The FAO report notes that indeed economic growth potentially helps to reduce hunger. Very often, however, this growth does not arrive at the people. The vast majority of the world's hungry are farmers and rural families. This as well is a scandal, because it is above all them who have a large share in the solution of the problem of hunger.

Kanayo Nwanze, President of the *International Fund for Agricultural Development*, pointed to the importance of the small farmers at the opening ceremony of the World Food Day: “We know that small farms can contribute to sustainable food systems, if they can draw on a well-functioning infrastructure as well as on support of policies and institutions. We see that in Brazil, China, Malaysia and Vietnam”.

It is therefore very welcome that the United Nations General Assembly has proclaimed the coming year the “International Year of the Family Farming” (see box). The FAO is in charge of the refinement (implementation) of the International Year.

Participants of the World Food Day also agreed on the goal of deepening the cooperation between the FAO and the “*International Cooperative Alliance*” (ICA) with a Memorandum of Understanding. It serves the deepening of the broader cooperation initiated in the International Year of Cooperatives in 2012.

A further deepening of cooperation was fixed in a Memorandum of Understanding between the FAO and the *International Federation of the Red Cross and the Red Crescent Societies*. The intensified cooperation was decided on in an action plan. This concentrates among other things on strengthening the resilience of the population, together with coordinated responses in the field, advocacy and communication, capacity-building and knowledge and sharing of information. All these developments are also a full confirmation of the results of the *World Agriculture Report*, which last but not least was included in the agenda of food security with the publication of the UNCTAD Report 2013 (*United Nations Conference on Trade and Development, UNCTAD*) “Wake up, before it's too late”. The report confirmed the paradigm shift in agriculture, demanded by the World Agriculture Report five years ago, to get away from the monoculture and advance towards a greater diversity of agricultural cultivation in the rich and poor countries. •

* A food system includes environment, people, institutions and processes through which agricultural products are produced, processed and brought to the consumer.

UN General Assembly: 2014 International Year of Family Farming (extract)

“The General Assembly, [...]

Affirming that family farming and smallholder farming are an important basis for sustainable food production aimed at achieving food security,

Recognizing the important contribution that family farming and smallholder farming can play in providing food security and eradicating poverty in the attainment of the internationally agreed development goals, including the Millennium Development Goals,

Decides to declare 2014 the *International Year of Family Farming*,” [...]

(A/Res/66/222)



HEALTHY PEOPLE DEPEND ON HEALTHY FOOD SYSTEMS

Sustainable Food Systems for Food Security and Nutrition
World Food Day • 16 October 2013



Food and Agriculture Organization
of the United Nations

www.fao.org

“I think it is necessary, today more than ever, to educate ourselves in solidarity”

*The Holy Father's Message to Mr. Jose Graziano da Silva, Director General of FAO**

The World Food Day places us before one of the most serious challenges for humanity: that of the tragic condition in which millions of hungry and malnourished people still live, among them many children. This acquires even greater gravity at a time like ours, characterized by unprecedented progress in many fields of science and ever greater possibilities of communication.

It is a scandal that there is still hunger and malnutrition in the world. It is not just a question of responding to immediate emergencies, but of addressing together, in all areas, a problem that challenges our personal and social conscience, to achieve a just and lasting solution. No one should be obliged to abandon his country and his own cultural environment because of the lack of essential means of subsistence.

Paradoxically, at a time in which globalization enables us to know the situations of need in the world and to multiply exchanges and human relations, the tendency seems to be growing to individualism and to shutting ourselves in on ourselves, which leads to a certain attitude of indifference – at the personal, institutional and State level – vis-a-vis those who are dying of hunger or suffer malnutrition, almost as if it were an unavoidable fact.

However, hunger and malnutrition can never be considered a normal event to which one must become accustomed, as if it were part of the system. Something has to change in ourselves, in our mentality, in our societies.

What can we do? I think that an important step is to bring down, with determination, the barriers of individualism, of being shut-in on ourselves, of the slavery of profit at all cost; and this, not only in the dynamic of human relations, but also in the global economic and financial dynamic. I think it is necessary, today more than ever, to educate ourselves in solidarity, to rediscover the value and meaning of this very uncomfortable word, often left to one side, and to make it become a background attitude in decisions on the political, economic and financial plane, in relations between persons, overcoming egoistic and partisan visions, in the end,

we will also be able to achieve the objective of eliminating forms of indigence determined by the lack of food. A solidarity that is not reduced to different forms of welfare, but which makes an effort to ensure that an ever greater number of persons are economically independent. Many steps have been taken in different countries, but we are still far from a world where all can live with dignity.

The topic chosen by FAO for this year's celebration speaks of “sustainable food systems for food security and nutrition.” I think I read in it an invitation to rethink and renew our food systems from a perspective of solidarity, overcoming the logic of unbridled exploitation of creation and orienting better our commitment to cultivate and look after the environment and its resources, to guarantee food security and progress towards sufficient and healthy food for all.

This implies a serious question on the need to really change our lifestyle, including that of food, which in so many areas of the planet is marked by consumerism, the waste and squandering of food.

The data furnished, in this connection, by FAO indicates that approximately one third of the global production of food is not available because of ever greater losses and wastefulness. It would be enough to eliminate them to reduce drastically the number of hungry people. Our parents educated us in appreciating what we receive and have, considered as a precious gift of God.

However, the waste of food is but one of the fruits of the “throw away culture” which often leads to sacrificing men and women to the idols of profit and consumption; a sad sign of the “globalization of indifference,” which makes us “accustomed” slowly to the suffering of others, as if it were something normal. The challenge of hunger and malnutrition does not just have an economic or scientific dimension, which refers to the quantitative and qualitative aspects of the food chain, but also and above all an ethical and anthropological dimension. To educate in solidarity means, therefore, to educate ourselves in humanity: to build a society that

is truly human means to always put the person and his/her dignity at the center, and never sell him/her off cheaply to the logic of profit.

The human being and his/her dignity are “pillars on which to build shared rules and structures that, overcoming pragmatism or the mere technical data are capable of eliminating divisions and of more than satisfying the existing differences” (cf. Address to the Participants in the 38th Session of FAO, June 20, 2013).

We are already at the doors of the International Year that, by FAO's initiative, will be dedicated to the rural family. This offers me the opportunity to propose a third element for reflection: education in solidarity and in a way of life that overcomes the “throw away culture” and really puts every person and his/her dignity at the center, as is characteristic of the family. From it, which is the first educational community, we learn to take care of the other, the good of the other, to love the harmony of sustainable creation.

To support and protect the family so that it educates to solidarity and to respect, is a decisive step in moving towards a more equitable and human society.

The Catholic Church follows this path with you, aware that charity, love, is the soul of her mission. May today's celebration not be a simple annual event but a real opportunity to urge us and institutions to act according to a culture of encounter and solidarity, to give adequate answers to the problem of hunger and malnutrition, as well as to other problems that affect the dignity of every human being.

In formulating cordially my best wishes, Mr. Director General, that FAO's work is ever more effective, I invoke upon you, and upon all those who collaborate in this fundamental mission, the Blessing of Almighty God.

Vatican, October 16, 2013

Source: www.zenit.org

Original text: Spanish, Translation by ZENIT

* The message was read by the Holy See's Permanent Observer to FAO, Archbishop *Luigi Travaglino*, in the course of the solemn ceremony on the occasion of the World Food Day.

2013 – the International Year of Quinoa

by Andrea Roscher-Muruchi

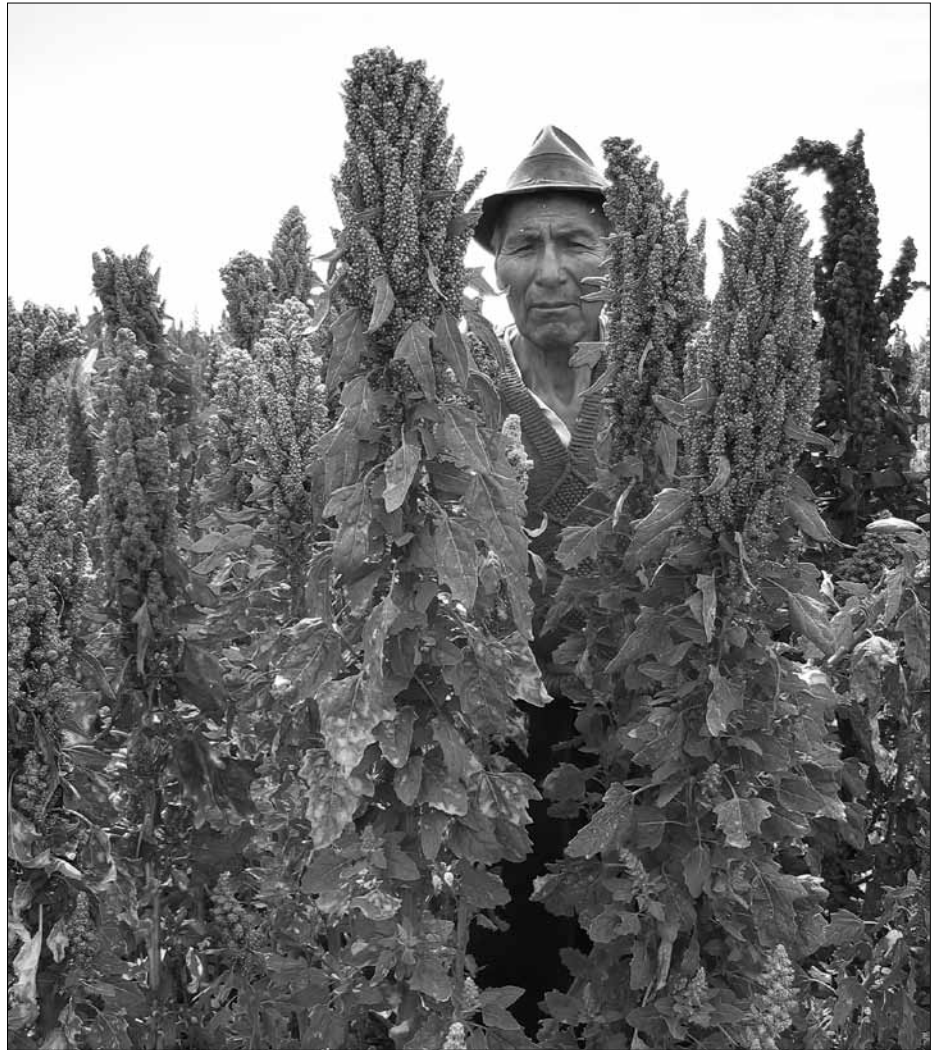
“A future sown thousands of years ago” is the slogan by which the UN and the *Food and Agricultural Organisation* of the UN (FAO) kicked off the *International Year of the Quinoa* for 2013.

Description and systematics

Quinoa, with the emphasis on the first syllable or “kinuwa” as it is called in the Inca language of Quechua is an annual herbaceous plant which grows to a height of between 20 cm and 3 m, with an upright branched stem and leaves in the shape of a chenopod and panicles of between 30 and 80 cm length. Each panicle has 80 to 120 tufts and may contain 100 to 3,000 seeds. The scientific name is *Chenopodium quinoa willd.* Willd named after the German botanist *Carl Ludwig Willdnow* who described the plant for the first time in 1797. The plant is called Inca grain or Peru rice, even in colloquial language. But quinoa is not grain, it rather belongs to the family of Amaranthaceae and the genus of the Goosefoot family. Thus, quinoa is more akin to spinach, chard and beetroot. The seeds of the plant are eaten, even the leaves can be eaten as salad.

Area of cultivation

The “Inca” grain in fact is much older than the Inca culture. For 7,000 years it has already served the natives of the South American Andes as a vital basic food resource. During the Inca period, quinoa was cultivated in the highlands, valleys and slopes of the Andes at an altitude of



Quinoa-farmer in Bolivia. (picture M. Hermann)

Year of the “Golden Grain”

Since thousands of years the quinoa grain has been cultivated as basic food for the indigenous people in the Andean region, on an altitude of more than 4,000 meters. Since a couple of years the “Gold of the Incas” has been enjoying great popularity not only in Latin America but also in the northern hemisphere. In honour of the peoples who have managed to preserve quinoa in its natural state, the United Nations has declared 2013 as the “International Year of Quinoa”. Thereby a plant shall be promoted which could contribute to food security. For, quinoa has a high nutritional value; it contains all essential amino acids, but also trace elements and vitamins. Also, it has the ability to adapt to the most different ecological environments and climates, even to adverse conditions, it can withstand temperatures from minus 8 to plus 38 degrees Celsius.

Resistant to drought, it can be grown also in semiarid zones. It can be adapted particularly in the Sahel, where malnutrition is rampant.

Source: www.fao.org/quinoa-2013

between 2,500 and 4,000 m above the sea on the territory of present-day Peru, Bolivia, Ecuador and Chile. With the arrival of the Spaniards, the triumph of the European type grains like wheat, barley and oat in the “new world” started and the decline of the native quinoa began. Only at altitudes of up to 4,000 m, where the “new” grains could not grow, the plant continued to be cultivated to the self-sufficiency of the Andean people.

From despised “Indio feed” to nourishment sought-after internationally

Until recently, the seeds of high nutritional value were considered “cheap Indio feed” by the wealthy urban population. They were more or less ignored. Over twenty years ago, however, the boost of the quinoa production had its start. For this, several factors were responsible. Quinoa became internationally known because of the NASA research into quinoa and Amaranth and the publication of reports on the exceptional nutritional value. It was demanded by consumers with vegan and vegetar-

ian lifestyle as well as by consumers with a gluten intolerance in the US and Europe.

The economic crisis in the Andean countries at the beginning of the 80s favoured response to the new markets in the US and Europe. Since 1983, a group of Bolivian smallholder farmers forming the *Asociación Nacional de Productores de Quinua (Anapqui)* has been trying to improve processing and marketing of quinoa as ever more smallholder farmers and their families left the southern highlands (Altiplano) and therefore the quinoa production ceased. Anapqui is supported by the *Society for the Promotion of Partnership with the Third World (GEPA)* and other European non-governmental organizations.

Characteristics

It is astonishing that food products with a nutritional profile like quinoa has been neglected until recently. Above all, the seeds of the plant are quite something special. The protein content of the grain is about 15 percent and hence exceeds wheat, oat,

continued on page 17

"2013 – the International Year of ..."

continued from page 16

corn, and rice. The amount of protein is not only higher, but quinoa is one of the best protein sources at all. The seeds contain all nine essential amino acids which can be absorbed by the body most easily. Many essential minerals like calcium, iron, zinc, magnesium and phosphorus, important vitamins such as A, C, B1, B, and E are found in this "miracle grain". It is rich in essential unsaturated fatty acids and contains omega-3 fatty acids like those in fish. Another decisive advantage versus corn is that the seeds are free of gluten and, therefore, are of lower allergy potential than wheat and others.

Quinoa is versatile as an ideal basic foodstuff in the kitchen. As a starter, main course, dessert, snack, and drink, the seeds may be cooked, sprouted, ground, and popped.

As if that weren't enough, the plant is characterized by its robustness. It tolerates scorching heat, freezing cold, drought, and a soil which is salty and acidic. In Bolivia, the best quinoa, the "Quinoa Real", in German "Royal Quinoa" grows around the Salar de Uyuni and the Salt Lake Coipasa, both known for their Lithium deposits. At an altitude of almost 4,000 metres, the plant finds ideal conditions and the traditional quinoa cultivation can manage without pesticides and artificial fertilizers. Since the demand for quinoa in Bolivia increased to such an extent (since 2006, the demand from abroad increased by a thousand times), sowing is going on at lower levels as well. In the poorly adapted cultures, the pressure of vermin rose sharply and with this the temptation to rescue the threatened crop with chemical means of protection. To counter such threats, the GEPA, apart from the fair price pays an additional premium for ecologically grown products. The German association of cultivation Naturland is responsible for the certification. To this effect it cooperates with national supervisory authorities. The bitter-tasting saponins protect the plant from harmful insects as well. The saponin-free breeding varieties (sweet quinoa) are, therefore, not popular with smallholder farmers. In an unprocessed state, the bitter quinoa (with saponin) is inedible. Commercial quinoa, however, is peeled or washed and has thereby exempt and debittered the saponin. Export companies have helped with the mechanization of the modifying of quinoa. In the tradi-

tional way, the preparation of the seeds of the same amount would need one month versus 24 hours they need today. In Germany, especially the "Quinoa Real" from organic farming is on offer. 22 main varieties are grown in Bolivia. It is also the location of the largest GenBank with 3,800 registered varieties. On account of this variety and its other positive attributes this plant could contribute significantly to food security worldwide.

Bolivia –**Main producer and main exporter**

At present, Bolivia is the largest producer of quinoa with a share of 46% of world production. With a share of 42% of world production, Peru takes the second place and third are the United States. For the first time, thousands of indigenous families in Bolivia benefit from the Altiplano (high plateau in the Bolivian Andes). Traditionally, they have lived in abject poverty since the colonization. In his speech at the 68th General Assembly of the United Nations, the Bolivian President *Evo Morales Ayma declared*, "We have reduced poverty and extreme poverty. According to the United Nations, one million Bolivians have moved up to the middle class. That means, 10% of the population have improved their economic situation".¹ Many of the smallholder farmers from the Andean plateau belong to these 10%.

In 2012, the revenue of the quinoa export in Bolivia scored to 71 million US dollars. In 2013, the acreage shall rise by 25% compared to the previous year and the quinoa production by 56%.² The increased demand is still higher than the supply. The extensive expansion brings new problems along. The Altiplano smallholder farmers, who traditionally grew quinoa also operate animal husbandry (Lamas, alpacas, sheep) in parallel. The pasture for this husbandry is reduced in order to benefit the quinoa cultivation with the consequence of less manure for the quinoa fields. In the past, after harvesting the quinoa, either the ground was left resting for up to 8 years or interim fruits and quinoa were grown in mixed crop. The humus layer on the Altiplano is very thin and needs careful treatment. With monocultures and annual sowing of quinoa on the same surface, the soil erosion is on the advance. Currently, in the International Year of Quinoa the Bolivian government undertakes any effort to further expand export. Concentrating on export,

however, is also a double-edged sword. The price of quinoa has tripled in recent years. Today, not everyone who previously consumed quinoa can still afford the product. The urban population, however, does hardly feed on quinoa. But still domestic consumption has increased, since the demand for high quality food products has emerged in parts of the affluent population. Currently, there is a discussion on the support price of quinoa domestically. The Deputy Minister of Agricultural Development, *Victor Hugo Vásquez* refused this call for price support (50% were requested) with the argument that quinoa has never been part of the consumer basket representative for the population in Bolivia and that quinoa was already cultivated in 70 countries. In addition, the decreasing demand from abroad might lead to sinking prices on the Bolivian market.³ At present, the Bolivian government offers the programme "free school breakfast" and the "mother-child programme" to feed part of the poor population with quinoa products.

The good adaptability of the "Inca grain" to different climatic conditions in the most different countries threatens Bolivia's supremacy in the production and export of quinoa. The best quinoa, however, the organically grown "Quinoa Real" has no equal on the international market. In a public hearing before the European Parliament on 18 September 2013, the Deputy Minister Vasquez explained that the Bolivian government ensured that ever more countries around the world (at that time there were more than twenty) are to acknowledge the Bolivian origin of the "Quinoa Real" as the quinoa that is cultivated at the salt lakes.⁴ Because of this top product and the relevant international marketing, Bolivia could remain a major exporter of quinoa in the future as well. •

¹ http://www.bolivia.de/fileadmin/Dokumente/Presse-Medien_Dr%2BSp/Presseerklarungen/2013/PRESSEMITTEILUNG_COMUNICADO_nO_24_-2103-_eVO_EN_LA_onu.PDF (accessed on 20-21-2013)

² http://www.erbol.com.bo/noticia/09102013/vice-ministro_dice_que_no_hobra_subvencion_la_quinoa (accessed on 10-21-2013)

³ dito.

⁴ http://www.la-razon.com/economia/Bolivia-defende-Parlamento-Europeo-beneficios_0_190909154.htm (accessed on 10-21-2013)

Other sources :

http://bolivia.de/fileadmin/Dokumente/DestacadosEmpfehlenswertes_Footer/PoliticaNacionalQuinoa.pdf (accessed 9-22-2013)

<http://www.quinuainternational.org.bo/menu> (accessed 9-22-2013)

Sovereignty, law and democracy versus power politics

by Prof Dr phil Dr hc Dr hc Hans Köchler*



Prof Dr phil Dr hc Dr hc Hans Köchler
(picture©
Hans Köchler)

I shall discuss the topic in the following respects: (I) The concept and history of sovereignty; (II) the “integral definition” of sovereignty and, related to it, the question of whether it is possible to transcend power politics; (III) normative con-

tradictions, and their consequences, in the Charter of the United Nations; and (IV) the question “quid nunc?” (what now?), namely how to conceptualize a fundamental reform of the current international system.

* Hans Köchler is a professor of Philosophy (with special emphasis on Political Philosophy and Philosophical Anthropology) at the University of Innsbruck, Austria, and the founder and President (since 1972) of the International Progress Organization, a non-governmental organization in consultative status with the United Nations. In 2000 he was nominated by then UN Secretary-General Kofi Annan as an observer at the Pan Am Flight 103 (Lockerbie) bombing trial. Professor Köchler is Life Fellow and Co-President (since 2010) of the *International Academy for Philosophy*. His bibliography contains more than 400 books, reports and scholarly articles in several languages (Albanian, Arabic, Armenian, Chinese, English, French, German, Italian, Japanese, Korean, Persian, Russian, Spanish, Serbo-Croat, Thai, Turkish).
Some of his other activities or functions: Coordinator of the *International Committee for Palestinian Human Rights (ICPHR)* (since 1988); Member of the Advisory Council of the *International Movement for a Just World (Malaysia)* (since 1997); Member of the International Advisory Panel of the *Center for Civilizational Dialogue* at the University of Malaya (Kuala Lumpur) (since 1997); Member of the International Advisory Council of the *Committee for a Democratic United Nations*, Germany (since 2003); Member of the International Advisory Board of “Youth for the Alliance of Civilizations”, an initiative of the *Islamic Conference Youth Forum for Dialogue and Cooperation* (since 2007).

Köchler has been the organizer of major international conferences in the fields of transnational co-operation, democracy, human rights, terrorism, inter-cultural dialogue, and conflict resolution.

Through his research and civil society initiatives, Professor Köchler made major contributions to the debates on international democracy and United Nations reform, in particular reform of the Security Council. In 1985, he organized the first colloquium on “Democracy in International Relations” on the occasion of the 40th anniversary of the United Nations in New York. His work has influenced the discourse on the dialogue of civilizations (a term which he used for the first time in 1972).

Speech delivered in German language to the readers of *Zeit-Fragen*.

Thus, one might say that both the *internal* as well as *external* sovereignty of the state is derived from the sovereign status of the subject. The state is not an *end in itself*.

I Concept and history of sovereignty

Sovereignty is a pivotal notion when it comes to a proper understanding of the *rule of law* and *democracy*, and to an adequate conceptualization of the related issues of international politics. In the international (i.e. inter-governmental) context, sovereignty is generally regarded in connection with equality. Article 2, Paragraph 1, of the Charter of the United Nations, which sets out the principles binding upon all member states, uses the term “sovereign equality”.

State sovereignty is indeed a cornerstone of modern international law even if it is increasingly being eroded in the wake of present-day globalization. In the modern context, the main aspect is that of *popular* sovereignty. Unlike in earlier centuries, sovereignty is not some metaphysical quality that would be particular to the state and on the basis of which its agents are empowered to rule in an undisputed (“sovereign”) manner. If – in the modern context of democracy and the rule of law – it is to have any meaning at all, sovereignty is ultimately nothing but the expression of the unalienable dignity of the human

“I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them but to inform their discretion by education. This is the true corrective of abuses of Constitutional power.”

Thomas Jefferson (1820)

the concept of “sovereignty” seems appropriate. In the context of (international) law, it must obviously be understood as a *normative*, not as a *descriptive* term – a point, which, almost a century ago, *Hans Kelsen* made in his classical work “The Problem of Sovereignty and the Theory of International Law” (1920). When I say that one must not conceive of sovereignty as a purely descriptive notion, I mean that it cannot be interpreted in terms of the *actual power* (i.e. in relation to the power potential) of a state. If it were understood in this (descriptive) sense, only the great powers would actually be “sovereign”, and all other small and medium-sized countries would not. In actual fact, sovereignty is to be defined in a normative sense, i.e. with respect to the *legal status* of a country in the inter-governmental (international) context. The *actual ability* of a state to project its power internationally and, thus, act in a “sovereign” manner (in the true sense of self-determination) – its external power potential, so to speak – is not to be confused with the *principle* of sovereignty itself.

The dignity of man, which is the basis of popular sovereignty, can philosophical-ly also be deduced from the conception of *Immanuel Kant*, and in particular from his understanding of man as a subject with an autonomous will. According to *Kant*, autonomy “is the property that the will has of being a law unto itself;” which implies that man may never be made the object of someone else’s will. This makes evident that sovereignty and human rights are intrinsically linked.

The analysis of the concrete *application* of the principle in the framework of interstate relations is a further important step in the clarification of the notion. In the UN

International Covenant on Civil and Political Rights

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Source: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

person, whether as an individual or member of a community. According to this approach, popular sovereignty is at the very roots of democracy. Especially here in this country [Switzerland, ed.], this is rather obvious and requires no further explanation. At the same time, popular sovereignty is also the source and foundation of international law as a system of rules that govern the relations between states.

In order to avoid a common misunderstanding, a brief remark on the semantics of

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Charter, sovereignty is defined according to the principle of *equality*. This implies the principle of *reciprocity* – in the sense of the classical dictum that my freedom is limited, or “defined”, by the freedom of the other. (The Latin phrase “*de-finitio*” literally means to draw the borders.) Accordingly, it would be self-contradictory to claim freedom of action for oneself while denying it to all the others. This is evidently also true for the state as a collective of citizens, organized by law. As is the case with absolute freedom, *absolute* sovereignty is a contradiction in itself. (Again, the semantics of the Latin term “*ab-solutum*” [literally: detached] may help to clarify the issue; a state that understands sovereignty in this sense sees itself as being “detached” from all other states.) Under this assumption, one state would place itself above of all the members of the international community – which is exactly how the state was conceived of in the era of absolutism.

In the face of this doctrinal legacy, it must be stressed that the philosophical basis of the principle in the modern context is the “non-objectivability” (*Unvergegenständlichkeit*) of man as a person. This corresponds to Immanuel Kant’s concept of the subject in his “Metaphysics of Morals” or “Critique of Practical Reason”, but also to the personalist approach of *Karol Wojtyła* (the philosophy professor who became Pope John Paul II) who coined the term “irreducibility” to describe the impossibility to reduce the subject to the status of a mere object.

I shall now briefly deal with the history of sovereignty, or the interpretation of this principle in the different political constellations. It is an undeniable fact, almost trivial to state, that international relations have always been shaped by *power politics*. Until rather recently, this was mostly a policy characterized by an absolute, or *exclusive*, understanding of sovereignty. As Kelsen has convincingly demonstrated in the above-mentioned book, in such a framework, the norms of international law are only valid in regard, or subordinated, to the respective domestic legal system. Such an interpretation inevitably leads to the problem of mutually exclusive assertions of sovereignty. The German term *Souveränitätsanarchie* (“anarchy among sovereign states”) aptly describes the political and legal consequences that have plagued international relations through the centuries up to the present day. This absolute and exclusive understanding of sovereignty means that each state is the sole “master”, or creator, of legal norms, and that not only the norms adopted by other sovereign states, but those of international law in general, are valid only insofar as

they are “reaffirmed”, or re-enacted, in the domestic legal system. It goes without saying that this interpretation of sovereignty also includes the absolutist notion of a “right to war” according to which the ruler of a sovereign state, in the exercise of that very sovereignty, has the prerogative to use force against other states, and that he may do so without giving any reasons (or justifications). This *jus ad bellum*, as it is referred to in traditional international law doctrine, merely requires the observance of certain procedures such as a *declaration of war* before the actual commencement of hostilities. Interestingly, in our era, where in-

national relations theory). In such a context, “free of morals” means that states understand their actions according to the dictum that “states have no permanent friends, only permanent interests”, which implies that the latter may constantly change. Consequently, and regardless of any principles, whether moral or legal, what a state has to constantly be aware of is that “he who is my biggest enemy today can be my best friend tomorrow or the day after,” and vice versa. Even a cursory look at the history of international relations will produce a myriad of examples. The decisive factor, however, is that the competing

If – in the modern context of democracy and the rule of law – it is to have any meaning at all, sovereignty is ultimately nothing but the expression of the unalienable dignity of the human person, whether as an individual or member of a community.

international law doctrine does not anymore recognize such a right, states that nonetheless wage war would usually not declare it as such. The *jus ad bellum* (right to war), understood as a consequence and corollary of sovereignty, is not to be confused with the “*jus in bello*”, literally “the right in war”. The latter concept refers to the legal principles that govern the use of force once war has been waged. The current term is “international humanitarian law”.

In the context that I have described

powers hold each other in check, a process that eventually, though not necessarily in a peaceful way, may lead to something like a *balance of power*. Such a constellation of relations between sovereign states can be *multi-polar* – namely a system with more than two players – or possibly *bipolar*, as was the case in the decades after World War II, in the era of the Cold War.

We must also be aware that the traditional, or “absolutist”, understanding of sovereignty produces threats to peace and peo-

The assertion of a divine right of the absolute ruler was eventually replaced by an approach that defined the *res publica* as community of citizens, and not of mere “subjects” (in the sense of subordinates, i.e. as people subjected to the will of an absolute ruler). According to the paradigm of popular sovereignty, the citizen is indeed a free and autonomous subject (in the Kantian sense), a sovereign actor in the respective community (*res publica*), who decides for himself how the state should be constituted and who should be its representatives.

here, the dynamics of relations between states is characterized by a power struggle between sovereign actors that can not in any way be decided, or resolved, on the basis of *principles* (namely legal norms). Ultimately, it is the “law of the jungle” that counts, differences are fought out on the battlefield. It seems to be a historical fact that the competition for power between sovereign states almost always has been considered an area free of morality, something that is aptly described by the German word *Realpolitik* (that also has become a standard English term in inter-

ples’ rights that are particularly challenging in a situation where there is no balance of power. In such a *unipolar* constellation, or hegemonic order, one state alone can determine the guidelines to be followed by all other states. That state’s supremacy will almost be beyond challenge should the difference between its actual power, particularly its military potential, and the power of the closest competitor become so wide that, due to a collective state of mind based on fear and intimidation, the former feels

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"empowered" to command obedience from all the others. In such a constellation of supremacy of power, states have almost never been able to resist the temptation to regard themselves as guarantors of global order, and to communicate this self-image rather aggressively. In recent years, this has been most obvious in statements of US leaders who repeatedly spoke of their country as "the indispensable nation". In the unipolar context, such a claim to ideological supremacy may easily lead to an attitude that is tantamount to restricting or calling into question the very sovereignty of smaller or weaker states – a kind of generalized "Brezhnev Doctrine". (During the latter period of the Cold War, the Brezhnev Doctrine of "limited sovereignty" applied to the then Soviet Union's relations with her allies.) It goes without saying that this kind of a quasi-missionary self-interpretation of a state's role excludes any critical analysis of its real hegemonic status. It is rather typical of the *logic power* that a state actor who not only effectively places himself above the law, but at the same asserts this factual privilege as a consequence of his sovereignty, consequently tries to impose his will on the entire world.

Undeniably, under specific circumstances, a hegemonial power structure may also ensure *order* and *stability*. This is especially evident when power relations are sharply defined and the difference between the power of the preponderant state and the assembled power of the rest of the world is very large. However, it is equally clear that hegemony, as a constellation of an extreme imbalance of power relations, also carries the risk of *tyranny*. The hegemon's excessive and arbitrary freedom of action not only limits but negates the freedom of all other international actors. It is moreover a historically proven fact that a hegemon is not in any way prepared to acknowledge this state of affairs. For such a state, to overcome the state of denial and confront the social and political consequences of hegemonial rule is often a painful process. Finally, it is obvious that hegemony will also provoke resistance and rebellion, which may, in the long term, lead to regional, eventually global, instability. The time may come when the "lesser" states or peoples will no longer be prepared to accept a constellation that is essentially detrimental to their aspirations and interests.

Looking back in history, we can say that efforts have been made more than once at "taming" sovereignty, in the sense of limiting the excesses of power politics. These were mainly calls for the general recognition and enforcement of ethical restraints in the exercise of sovereignty. A case in point is the so-called *Holy Alliance Treaty* of

1815. After the end of the Napoleonic Wars, the victorious rulers of Russia, Austria and Prussia (joined by France in 1818) solemnly declared "their fixed resolution, both in the administration of their respective States, and in their political relations with every other Government, to take for their sole guide the precepts of that Holy [Christian/H.K.] Religion". (It is worthy of note, though only a marginal historical detail, that the Papal State never joined the Holy Alliance.)

One could also mention here conventions of international humanitarian law (*jus in bello*) that were adopted in the 19th and early 20th century with the aim of mitigating some extreme consequences of the sovereign exercise of power, or of unbridled power politics. These include the *Geneva Conventions of 1864 and 1906* (precursors

ever, that the subsequent process of codification of international norms was not free of contradictions and marked by many setbacks. I shall later deal with the most serious problem in that regard, namely a – yet unresolved – *normative contradiction* in the *Charter of the United Nations Organization* created in 1945.

II The integral definition of sovereignty (or: is it possible to transcend power politics?)

This brings me to the second part of my considerations, namely the question whether it is at all possible to go *beyond* power politics in the sense characterized above. Can we indeed imagine an international system that transcends an absolute understanding of sovereignty?

State sovereignty is indeed a cornerstone of modern international law even if it is increasingly being eroded in the wake of present-day globalization.

to the *Geneva Conventions of 1949*, which, after the dramatic experience of the Second World War, for the first time codified the norms of international humanitarian law in a comprehensive sense). One could also mention here the *Convention with Respect to the Laws and Customs of War on Land (Hague Convention IV)*, adopted in 1907 and entered into force in 1910, which, even if in a still rudimentary form, tried to curtail the most severe excesses of the use of military force.

In retrospect, one can say that all these intergovernmental initiatives were morally understandable efforts at a "legal taming" of war. Their basic intention was to minimize the inhumane effects of war through the binding formulation of principles and the enactment of regulations with respect to the treatment of the wounded and of prisoners of war, the protection of the civilian population and, more generally, the extent and nature of the use of armed force.

The crucial point in terms of legal theory and philosophy, however, is that all these treaties did not call into question the very source of the problem, namely the sovereign right to war, the *jus ad bellum*. They were merely concerned about linking the exercise of this right to some higher, so to speak humanitarian, standard, hence the name "international humanitarian law" for the body of norms that was traditionally referred to as the "laws of war" (*jus in bello*). Only the ban on the use of force in relations between states in the 20th century brought about a real *paradigm shift*. I refer here to the *Kellogg-Briand Pact* of 1928, named after the foreign ministers of France and the United States who had negotiated this treaty. One must not overlook, how-

The understanding of the concept as being rooted in the notion of *popular sovereignty* is of crucial importance for what I would like to describe as *transformation* of sovereignty towards a global order of peace that is just and democratic. This will also help demystify a concept that, through the centuries, was defined in the sense of some abstract, metaphysical or God-given, quality that would provide legitimacy to the state's exercise of power.

A process of rethinking has already begun in the course of the Enlightenment of the 18th century. One might also refer, in this regard, to *Rousseau's "Contrat social"* of 1762. The assertion of a divine right of the absolute ruler was eventually replaced by an approach that defined the *res publica* as community of citizens, and not of mere "subjects" (in the sense of subordinates, i.e. as people subjected to the will of an absolute ruler). According to the paradigm of popular sovereignty, the citizen is indeed a free and autonomous subject (in the Kantian sense), a sovereign actor in the respective community (*res publica*), who decides for himself how the state should be constituted and who should be its representatives. This "domestic" autonomy of the citizen is also the foundation of sovereignty in terms of the state as international actor. Thus, one might say that both the *internal* as well as *external* sovereignty of the state is derived from the sovereign status of the subject. The state is not an *end in itself*. As *res publica*, it exclusively serves the realization of the rights of its citizens on the basis of reciprocity. Etatism is an outdated doctrine. Only the sovereignty of the people

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and not some form of hereditary authority or "metaphysical" proclamation is seen to legitimise the actions of the representatives of the state. In such a system, the representative is not *master* but *servant* of the people (which is the literal meaning of the Latin word "*minister*").

What are the political and legal implications of this concept of sovereignty in the present context? **First**, the state is to be organized democratically at the *domestic* level. In the ideal case, this would mean "direct democracy". (Strictly speaking, the combination of these two words is a pleonasm since the Greek term "democracy" means rule of the people, not over the people or in their name only. Reversely, the term "indirect democracy" would be self-contradictory.) **Second**, the system of *international* relations must account for and ensure the legal equality (not to be confused with factual equality) of all people as citizens. This can only be achieved through the recognition and implementation of the principle of "sovereign equality" of states according to Article 2 (1) of the UN Charter. The legal equality of states follows from the legal equality of all people. In this context, it is absolutely essential to distinguish between *normative* (legal) and *factual* level. States are very different in terms of territorial size, number of people, wealth, power, military potential, etc. These differences nonetheless do not alter the fact of equality in the legal sense (or, with regard to the individual, in the sense of the universality of human rights).

In terms of legal doctrine, the notion of equality is certainly consistent with modern democratic discourse. However, when it comes to *democracy* and the *rule of law* in the present international system, the devil rests in the detail. Acknowledging the sovereignty of states in the sense of legal equality indeed implies the acceptance of *universal* rules that govern relations between states. Accordingly, this requires a democratic process of decision-making in the sense of "one state, one vote". This, however, is not the actual state of affairs. Today, as in past centuries, it is the laws of power politics, not the rule of law, that determine how the international community deals with crucial issues such as the use of force between states. Furthermore, when it comes to the respect for the sovereign equality of states and, consequently, for the rules of democratic decision-making between states, international treaties and the statutes of organizations created by sovereign states are often *incomplete* and *contradictory*. This has also been the predicament of organizations such as the United Nations Organ-

Charter of the United Nations – Preamble

Signed in San Francisco, on 26 June 1945

We the people of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom, and for these ends to practice tolerance and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and

security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples,— have resolved to combine our efforts to accomplish these aims.

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations. [...]

Source: <http://www.un.org/en/documents/charter/preamble.shtml>

ization, which, as a result, has simply been rendered ineffective.

We must not delude ourselves about the status quo at the beginning of the 21st century. The global order is still a precarious one. It is characterized, and hence rendered unstable, by a practice of the unilateral use of force. Though it is officially based on the noble ideas of *freedom* and *equality* of citizens and states alike, this order actually is the product of a barely restrained competition for power between

sovereign states – and it is only a few states that count. The "Purposes and Principles" of the *Preamble to the United Nations Charter* have mostly remained dead letter. Since the end of the Cold War's bipolar balance of power between East and West, i.e. since the 1990s, the situation has become even more serious. The *checks and balances* that the UN Charter was meant to provide for international deci-

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Charter of the United Nations (Excerpt)

Chapter I: purposes and principles

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members 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.

Source: <http://www.un.org/en/documents/charter/chapter1.shtml>

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sion-making are effectively only applicable to the interaction between a few privileged states, and have further been largely rendered inoperative due to the actual lack of a power balance.

III Normative contradictions and their geopolitical consequences

In the third part of my analysis I shall first deal (A) with the implications of this state of affairs for the doctrine of international relations and, subsequently, (B) with the effects on world politics. The recent revelations about the global espionage activities of the *National Security Agency* (NSA) of the United States may give a hint as to the relevance and urgency of the questions.

(A) *The theory of international relations* (as basis for an adequate interpretation of the facts of international realpolitik):

In spite of all the assertions to the contrary by the self-appointed guardians of the international rule of law, (legal) doctrine is still subordinate to power, namely the "national interests" of states. We cannot take at face value the proclamations of those states that nowadays pose as "international community" (essentially the US and her allies). The most obvious and poignant example of the influence of power politics in the legal domain appears to me to be the Charter of the United Nations. After all, this is the first truly *universal* organization of states (the League of Nations in the colonial period did not meet that standard), which is aimed at ensuring durable peace between all countries on the basis of *freedom* and *justice* for all peoples – if one believes the words of the Preamble. However, the actual *wording* of the respective principles, standards and procedures in the Charter falls back even behind what was achieved in the Covenant of the League of Nations, an organization that had failed due to the pressures of realpolitik in the period after World War I. Though the Covenant of the League, which was adopted as part of the Treaty of Versailles (a decade before the Kellogg-Briand Pact), did not outlaw war as such, it at least required unanimity for all decisions on the central issues of war and peace. In this sense, the principle of equality did apply to the members of the Council of the League of Nations. This is a striking difference to the Charter of the United Nations. The latter indeed contains a general prohibition of the use of force, including the threat of force (Article 2, Paragraph 4), which appears to be a progressive step in the development of international law. However, the principle of sovereign equality of states, which is

As already stated, each of the five permanent members of the Security Council is in a position to prevent coercive measures against itself, should it decide to use armed force against another state, occupy its territory, etc. A permanent member thus may act *with virtual impunity*, in a risk-free environment of power politics outside of international law. One of the most dramatic examples in recent history was certainly the invasion of Iraq by the United States in 2003.

also enshrined in the Charter (Article 2, Paragraph 1), is valid only with exceptions – and thus not valid at all. (If a general notion is "defined" by way of restriction, the principle as such does no longer make sense.) This normative contradiction, or inconsistency, also means an erosion of the international ban on the use of force and, ultimately, the restoration of *jus ad bellum*, the right to wage war, which well-meaning idealists tended to dismiss as an outdated relic from the European era of *Souveränitätsanarchie* ("anarchy among sovereign nation-states"). Why is this normative conflict so serious? I shall try to explain the issue in three brief points:

1. Article 2, Paragraph 4 of the UN Charter prohibits the threat or use of force in international relations. The right to *individual* and *collective* self-defence in case of an armed attack (Article 51) is, so to speak, the logical exception from the general ban. We have to be aware, however, that the term "collective self-defence" is rather vague –

2. Chapter VII of the Charter of the United Nations establishes and defines the competence of the Security Council to enforce the prohibition of the use of force. It authorizes the Council to take coercive measures, including the use of armed force, in cases of threats to the peace, or breaches of the peace, by member states. However, in any such case, the Security Council must first, according to Article 39, explicitly *determine* the existence of a breach of or threat to the peace, or of an act of aggression. Once the Council has adopted a Chapter VII resolution, based on such a determination, that resolution is, obviously, legally binding upon all member states and United Nations bodies.

The US Secretary of State in the period after World War II, *John Foster Dulles*, once bluntly stated: "The Security Council is not a body that merely enforces agreed law. It is a law unto itself." This implies that it actually stands *above* (international) law. Even if this may appear highly anachronistic at the beginning of the 21st century, the Council – due to certain statutory provisions – can in reality act like a sovereign ruler in the era of absolutism.

a lack of legal precision that may open the door to coalition wars in the tradition of Europe's great power era. Recent history of the United Nations testifies to this questionable state of affairs. One of the problems here is arbitrariness in the *interpretation* of the law, namely concerning the actual extent of a "permissible" use of force. This has been particularly obvious in the collective use of force against Iraq in 1991, which, though "authorized" by the Se-

Even the International Court of Justice, which is part of the United Nations system, does not possess the authority to review coercive measures of the Security Council – something which is highly problematic in view of the separation of powers, an essential principle of the rule of law. The US Secretary of State in the period after World War II, *John Foster Dulles*, once bluntly stat-

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ed: "The Security Council is not a body that merely enforces agreed law. It is a law unto itself." This implies that it actually stands *above* (international) law. Even if this may appear highly anachronistic at the beginning of the 21st century, the Council – due to certain statutory provisions – can in reality act like a sovereign ruler in the era of absolutism. Also as regards the previously mentioned competence under Article 39 (to determine the existence of a threat to or breach of the peace in a specific situation), there exists effectively no authority under the UN Charter that could review such an assessment as to its accuracy and appropriateness. As it were, the Security Council may dogmatically determine any and every situation – no matter what the circumstances actually are – as falling under Article 39, and consequently impose coercive measures – whether in the form of partial or comprehensive sanctions, or the use of armed force. The Council's margin of discretion is virtually unlimited. Under the statutory framework of the UN, there is no possibility whatsoever of an external review of such determinations. This became drastically obvious after the Council established international criminal tribunals (for the former Yugoslavia and Rwanda) by way of coercive measures under Chapter VII, whereby crimes committed in the past were interpreted as threat to the peace (something which can only relate to the future) according to Article 39.

3. One of the most serious problems affecting the legal status and credibility of the United Nations as such results from the decision-making rules of Article 27 of the Charter. This provision entitles the Council's five permanent members, in fact the victorious powers of World War II, to veto and block *any* decision on coercive measures (including and up to the use of armed force), and to do so without giving any reasons. Moreover, Paragraph 3 of this same article implies that a country's (actually self-evident) obligation to abstain from voting if it is a party to the dispute in question shall not apply in decisions under Chapter VII. Ironically, this obligation applies nonetheless for non-binding resolutions of the Council under Chapter VI ("Peaceful settlement of disputes"). We are dealing here with a statutory monstrosity, which means that in decisions that are ultimately of the nature of *recommendations* a permanent member of the Security Council will be under an obligation to abstain from voting when

it is itself party to the conflict, whereas, when it comes to *binding* decisions on the enforcement of the prohibition of the use of force, such an obligation does not apply for a state that is party to a conflict. This means that a state with the status of a permanent member may con-

The statute ("Rome Statute") of the International Criminal Court (ICC) (not to be confused with the International Court of Justice [ICJ] of the United Nations) reveals another interesting fact of power politics. According to Article 13(b), the Security Council may "refer" to the court

This means, as a consequence, that the *jus ad bellum* (the right to wage war) – which was abrogated by the Kellogg-Briand Pact of 1928 – has been reintroduced through the back door. Thus, one of the most substantial developments in the doctrine of international law appears to have been reversed.

duct a war of aggression and at the same time prevent the imposition of sanctions against itself in the Security Council. What else if not this duplicity demonstrates the logic of power politics? *Cordell Hull*, another US Secretary of State of the World War II era, who had played a key role in the drafting of the UN Charter, admitted in his memoirs with disarming frankness that the victorious powers of the Second World War would never have agreed to the creation of a body with such enormous powers as the Security Council if they themselves had not been exempt from the Council's coercive measures. ("... our government would not remain there a day without retaining the veto power.") To make a long story short (in the logic of the great powers): "*quod licet Jovi, non licet bovi.*" ["What is allowed to Jupiter is not allowed to the ox."]

(B) This brings us to the political realities that result from these regulations. As

a "situation" in any country whose officials or officers are suspected of having committed war crimes or crimes against humanity, or to carry out, or have carried out, a war of aggression. Due to this provision, the ICC would essentially have jurisdiction for the prosecution of international crimes anywhere in the world, irrespective of whether a country is a member of the Court or not. This, however, only applies in the cases where the Security Council has acted in the exercise of its coercive powers under Chapter VII of the Charter, which brings up the issue of virtual immunity for officials of permanent member states who may be responsible for the commission of international crimes. It means, for instance, that no American politician or military officer will ever be held accountable for possible crimes committed during the invasion of Iraq in 2003, unless a domestic US court decides to prosecute. The supreme irony of power politics lies in an-

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already stated, each of the five permanent members of the Security Council is in a position to prevent coercive measures against itself, should it decide to use armed force against another state, occupy its territory, etc. A permanent member thus may act *with virtual impunity*, in a risk-free environment of power politics outside of international law. One of the most dramatic examples in recent history was certainly the invasion of Iraq by the United States in 2003.

other fact, however. The provision of Article 13(b) of the Rome Statute on the Council's right of referral, by way of a binding resolution, of a "situation" to the International Criminal Court implies that a country that is a permanent member of the Security Council, but has not ratified the Rome Statute (and this is the case for three out of five permanent members), nevertheless may use the Court for its own purposes. Those countries whose

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officials enjoy total impunity at the international level (since their governments can use the veto power at any moment to prevent a referral) may bring to justice officials of states that are actually not members of the Court. It is exactly the Security Council member states with the most powerful militaries – the United States, Russia and China – that are not members of the International Criminal Court.

What does all this mean in terms of the modern doctrine of international law? I would like to emphasize four different aspects:

1. International law is *not (yet) law* in the strict sense. As I have tried to explain, it is exactly in the most serious cases of violations of international law that sanctions (enforcement measures) are not available, or in fact not possible. If we follow the definition of Kelsen, norms for which there exist no general enforcement procedures are not legal norms, but at best moral principles. In the unipolar environment since the 1990s, the phenomenon characterized as "policy of double standards" has indeed become a characteristic feature of this "extrajudicial" state of affairs.
2. The prohibition of the use of force (Article 2 [4] of the UN Charter) is not worth the paper it's printed on because it is "implemented" according to the earlier mentioned Roman dictum "*Quod licet Jovi, non licet bovi*". The norm is effectively inapplicable to those member states that would principally (because of their great power status) have to ensure that it is enforced, namely the five permanent members of the Security Council. Under Article 24(1) of the Charter, the international community confers upon the Council "primary responsibility" for the maintenance of international peace and security. Those very states on which it depends, because of their veto privilege, whether an enforcement action can actually take place or not are de facto exempt from the application of those provisions. They can revel in the immunity of power politics.
3. This means, as a consequence, that the *jus ad bellum* (the right to wage war) – which was abrogated by the Kellogg-Briand Pact of 1928 – has been reintroduced through the back door. Thus, one of the most substantial developments in the doctrine of international law appears to have been reversed.
4. Finally, this state of affairs means that the principle of the sovereign equality of states is actually not valid because five states, specifically named in the Charter, enjoy a special privilege

thanks to which they may, on the one hand, neglect or violate with impunity the sovereignty of all other states and, on the other hand, define and exercise their own sovereignty in a totally arbitrary, absolutist, manner.

Thus, in spite of all assurances to the contrary by the self-proclaimed guardians of the international rule of law, at the beginning of the new millennium we are still

begin with measures of reform right now. The global legitimacy crisis, expressed in an increasing rejection of the excesses of power politics by the world public, leaves no other choice. A fundamental reform will have to include, *inter alia*:

1. **The elimination of the conceptual contradictions in the Charter of the United Nations:** Specifically we are talking about the "veto right", a

It is for these reasons why all international actors should support the interpretation of sovereignty in the sense of *equality* of all states in the normative sense – in clear distinction from the term's exclusivist meaning.

dealing with the consequences of *Souveränitätsanarchie* ("anarchy among sovereign states"). As I said at the beginning, this fact weighs especially heavily under the conditions of a *unipolar* order – in a constellation where there is no separation of powers, neither in *statutory* terms (in the UN Charter) nor in terms of *actual politics* (which would require a genuine competition for power between comparable actors). A functioning system of a "separation of powers" requires a global "balance of power".

IV Quid nunc?

What are the prospects of international relations under these circumstances? It is an undeniable fact that the normative contradictions in the UN Charter have prevented the world organization from fully realizing its mandate, which the Preamble describes, in almost poetical words, by reference to the ideals of justice, equality and peace in the interest of all peoples. This deplorable state of affairs should be reason enough for the international community – and I do not refer here only to the Western states that nowadays pretend to speak on behalf of all – to take on the task of *reforming*, in a fundamental way, the system of intergovernmental relations. Dignified co-existence of citizens in a multitude of sovereign states is only possible if the core elements of sovereignty are (1) fully acknowledged, or integrated, in international treaties, and (2) implemented in *political reality*. (The latter must not be confused with "realpolitik"; what I mean here is the *actual implementation* of the principle of sovereignty in politics.) I would like to stress again that I understand the notion of sovereignty in an integral sense, comprising the sovereign status of the *citizen* with his inalienable rights as well as, derived from it, that of the *state* representing the citizen.

In spite of this being a mere vision under the actual circumstances, we need to

notion that, remarkably, is nowhere to be found in the text of the Charter and only implicitly referred to in Article 27(3). This rule, which is so openly at variance with the United Nations philosophy of *partnership* between states, more than any other illustrates the necessity of reforming the Charter in the direction of greater consistency among its basic principles. Only such a measure will ensure that the sovereign equality of states (Article 2[1]) will become a core organizing principle (or system principle) of the United Nations.

2. **The democratization and "legal structuring" of international relations,** in general and special terms, but first and foremost involving the United Nations Organization and large regional entities such as the European Union: With respect to the UN this means that, according to what I said earlier, the Security Council must not be above or beyond the law. Furthermore, the role and the competences of the International Court of Justice need to be strengthened so that it would be in a position – similar to a supreme court – to also review the lawfulness of binding resolutions of the Security Council. While the International Court of Justice should be better integrated into the UN system, the International Criminal Court, on the other hand, should be released from the grip of the Security Council as regards the latter's authority of referrals of situations and deferrals of investigations or prosecutions according to Articles 13 (b) and 16 of the Rome Statute respectively. This court is not part of the United Nations system. It was created in 1998, several decades after the foundation of the UN, and is legally completely independent from this organization.

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3. **The creation of intergovernmental cooperation structures at regional level**, and not only in Europe: A pertinent example is ASEAN, the Association of Southeast Asian Nations. Such a development could be an important step towards the formation of a *multipolar* world order. In that regard, the so-called BRICS countries (Brazil, Russia, India, China, South Africa), though not being a *regional* bloc, can play a pivotal role. If there is to be a real chance for reforming the United Nations Organization in a fundamental way, it will not come about within a constellation and mindset of unipolar rule but under conditions of a new balance of power.

Why, one might ask, are changes of the Charter only possible if there is a new balance of power? We must be aware of the drawback, or stumbling block, of any statutory reform of the United Nations Organization. According to Article 108 of the Charter, any, even the slightest, amendment requires the consent of the five permanent members of the Security Council. Why, one might further ask, would a country voluntarily renounce the special status (namely the veto privilege) that comes with permanent membership? We have to take account of the "logic of power" according to which no state will relinquish privileges, as scandalous and unjustified as they may be, without a political reason, that is, if there is no concrete benefit from such a step. This is even more so if, as in the cases of the UK and France, the state concerned actually no longer is a great power. Only a change of the global power constellation that leads to genuine multipolarity might convince the privileged actors that the *political price* for maintaining the status quo (that has existed since 1945) will be higher than the *benefits* from the preservation of their special status. Admittedly, this is a depressing insight. However, a comprehensive (not merely cosmetic) reform requires an adequate political framework. Mere emphasis on legal principles and the need to be consistent (i.e. to avoid contradictions between those principles) will not really impress political leaders. Reformist idealism will come to nothing unless one is prepared to take into account the laws of *realpolitik*.

In conclusion, I again would like to refer to the circumstances and conditions that are crucial for the exercise of sovereignty. The notions of "democracy" and "law", espe-

cially "rule of law", only make sense as *universal* principles. Consequently, they will also have to be applied at the *international*, not only at the *domestic*, level. A position that insists on a *lex privata*, a privileged status, for certain states fits into the outdated mindset of feudalism. The modern approach is oriented towards partnership and peaceful coexistence, values that have their basis in universal human rights and the idea of equality of all human beings. Not only in *human rights* issues, but also, and precisely, in matters of *democracy* – as a legal form of political organization

sivist meaning. The process of rethinking that the humanist philosophers of the 18th century initiated should not be reversed, or ideologically reinterpreted in favour of an absolutist mindset according to which one state declares itself as "indispensable nation" (*Madeleine Albright*, 1998).

In conclusion, I would like to sum up my approach with three maxims or imperatives:

(1) A state's claim to sovereignty at the international level is only justified if this includes recognition of the sovereign status, namely the inalienable rights, of each citizen of that state. This implies a call for

A fundamental reform will have to include, inter alia: [...]

The creation of intergovernmental cooperation structures at regional level, and not only in Europe: A pertinent example is ASEAN, the Association of Southeast Asian Nations. Such a development could be an important step towards the formation of a *multipolar* world order. In that regard, the so-called BRICS countries (Brazil, Russia, India, China, South Africa), though not being a *regional* bloc, can play a pivotal role. If there is to be a real chance for reforming the United Nations Organization in a fundamental way, it will not come about within a constellation and mindset of unipolar rule but under conditions of a new balance of power.

– should the international community avoid what has famously been called a "policy of double standards". One cannot preach democracy *domestically* and at the same time act as a dictator *internationally*. This seems to be the foreign policy dilemma particularly of the United States. In their recent history, in fact up to the present time, they often claimed for themselves the right to change the political system of other countries according to their own values and ideology. If considered necessary, the US version of "régime change" also included the use of force in violation of the UN Charter. Apart from its normative inconsistency, this interventionist policy has also proven to be counter-productive in concrete political terms. Not only did it destabilize the targeted countries and regions, it often created risks of new wars.

It is for these reasons why all international actors should support the interpretation of sovereignty in the sense of *equality* of all states in the normative sense – in clear distinction from the term's exclu-

domestic democracy.

(2) In relations between states, the concept of national sovereignty is only meaningful and legitimate if it is interpreted and implemented according to the principle of equality. This implies a call for **international democracy.**

(3) As a consequence of the autonomous status of the subject, the right to equality is inherent in the principle of sovereignty. This right has to be considered as basis of every legal order, whether domestic or international. Law without equality in the application of its norms is not law but despotism. This implies a call for the **international rule of law.**

Resulting from the notion of sovereignty, these maxims or imperatives – domestic democracy, international democracy, and international rule of law – are *jointly* indispensable for a just world order and for a dignified coexistence among peoples and states in the sense of the topic you invited me to