**Hartwig von Schubert, Hamburg, May 2016**

**The Future of Political Europe**

**Migration and other crises. A political Europe on the long road toward legitimacy**

Commenting on European politics from an ethical standpoint is an ambitious undertaking, it encompassing the European unification project, eastern central Europe since the collapse of Soviet rule, and the arc of crisis from Kashmir and Afghanistan through the Middle East to North Africa and the massive migration into Europe in the turn of the tide of globalization. Do Western governments still see themselves as bound by principles? Who still believes in an international legal order as a framework for peace? Can politics adhere to reason anyway?

Let us look at Europe in the summer of 2015. If the people ‘here’ fail to care about the fate of those ‘there’, then those people will simply come from ‘there’ to ‘here’. Yet, what does it mean to face the world beyond our frontiers? How does one stabilise regions where statehood is weak? Ministries in every Western country are meanwhile aware of the limits of international crisis management. Salvage what can still be salvaged, and even that is only possible through alliances, and should they fail to deliver, they can at least be attributed the blame. Since it is difficult to evade public pressure, three options remain: (1) make a relatively ruthless choice based on the interests involved; (2) act as if you were doing something; or (3) claim a right to fail, internally at first, perhaps also publicly later. Progress is possible only in small steps, building upon the internal heterogeneity of the crisis regions, with ever new attempts to differentiate, and linked to the processes in the region. There is no global order in which common interests would be adequately reflected. Not even the closest partners pull in the same direction.

Political ethicists are well advised to embrace this spirit of modesty and give it sustainability and perspective. This is because, like the politicians themselves, learned political advisors must shed the illusion of being able to resolve conflicts through smart analyses and moral suasion. The principles of human rights and international law, of European treaties and national constitutions open up and reliably safeguard an ideal space that has been painstakingly fought for. Within that space however it is, invariably, only possible to address individual interests and current moral convictions so as, in turn, to measure up to other interests and convictions in a harsh political environment.

Common interests – collective security

Cold-heartedness and hypocrisy, even in Western politics, will hardly be dispelled by the West - enlightened by socio-scientific analyses and inspired by philosophical-­theological ethics - accepting its moral responsibility for the rest of the world, and by a new spirit of altruism and lawful conduct spurring on the societies and elites of mature industrial nations. We might, at best, find ourselves in a situation similar to when Germany began to integrate as part of the West after World War II, or when the new "Ostpolitik" approach was first taken under the threat of nuclear annihilation. But perhaps the world is not yet adequately 'out of joint' to provoke a similar contemplation of *common security*. World war and bloc confrontation were indeed more threatening scenarios than the crises in Greece and the Ukraine, Ebola in West Africa, the spread of apocalyptic sects such as Boko Haram and Islamic State and, of course, the considerable influx of one million people who sought refuge in Germany in 2015 alone. The great migration could by all means, though, significantly intensify the discussion about, among other things, a "New European Neighbourhood Policy". Appropriate immediate measures to deal with the refugee crisis or with crises such as in the Ukraine or in Syria have been and are indispensable individually. Yet they continue to lack any strategic rigour. They lack pathos. In particular, the European institutions lack legitimacy to at all take responsibility successfully. Many EU members have long decided to ‘help themselves’, as a new "right-wing international" strives for power. In view of the new agendas and their communication in the emerging European public domain, especially in issues of foreign, defence and security policy, the question thus arises whether there are any viable pathos formulae for them. Does the *might of the law* need to reassert itself over *might makes right*? Was this not one of the key issues of European Enlightenment?

Who can still be won over to this, however? How to find the needed minimum number of partners who even come close to being in favour of common legitimacy criteria? The following rough typology, according to integration or containment in alliance relationships as "primary partners" (e.g. USA, EU, Japan, Canada, Israel, Turkey, South Korea); "secondary partners" (e.g. Mexico and Australia); "primary challengers" (e.g. China, Russia, India, Brazil); "secondary challengers" (e.g. Indonesia and South Africa); "primary troublemakers" (Iran and North Korea), and "secondary troublemakers" (e.g. Cuba and Venezuela), may be suitable for at least outlining constellations of interests. Does it, though, offer any ethical orientation, as well? I would structure this differently: among the partners and challengers there are some, in particular members of the UN Security Council, who feel strong enough *not to be bound by any ties* and are largely absent from any lasting ethical reliability. Others, however, appreciate that they need partners and can also rely on others only as reliable partners; it is with those that one can work. Among the troublemakers, on the other hand, there are terrorist networks that forgo territorial gains, or warlords who become embroiled in frozen armed conflicts. In regions where statehood is weak, there are post-colonial neo-patrimonial regimes that compete with one another. These can all be qualified as denizens of the Hobbesian state of nature who think *they cannot afford any commitments* and are therefore unsuitable for any ethical reliability. They are fought against, subdued, bought-off and contained. This does not apply to types of rule ranging from established authoritarian to totalitarian in their diverse fascist, communist, oligarchic, theocratic, etc. forms, provided they are state monopolies generally functioning on the basis of a rent-seeking economy within clear territorial borders. They, too, are unable to 'afford' democratic institutions, a critical public, or all-round respect for human dignity and human rights due to the risk of overthrow. But as long as they offer their elites adequate prosperity and a level of internal and external security the population considers necessary, and as long as they manage to contain tensions internally, there will appear to be no alternative to them. They are recognised states, hence subjects of international law, thus giving rise to the question of what minimum of cooperation is ethically justifiable. The matter of outside intervention, even in such horrendous scenarios as North Korea, is firmly out of the question, however, given the prohibition of the use of force under the UN Charter.

This means, therefore, that mainly those partners and challengers who are willing to engage lawfully in systems of collective security will remain for ethical reliability. If these wish, in turn, to gain influence collectively in regions where statehood is weak, their representatives will be faced with the problem that it will be difficult for them to find acceptable local partners there, that the boundaries between regular and irregular warfare will become blurred, and that many provisions of international humanitarian law will no longer apply. An important characteristic of asymmetric warfare, for instance, is that, in the eyes of the public of mature industrial societies, regular troops lose a war if they fail to win it, while irregular fighters win a war by not losing it. Particularly states based on the rule of law are expected to exercise rule in accordance with human rights and international law. It is sufficient for non-state or para-state actors or also authoritarian states to hinder their adversaries in the long run from exercising stable rule, among other things by resorting to brutality, cruelty and insidiousness. If, therefore, suitable partners prove difficult to find, the ethical maxim might then perhaps again be "change through rapprochement", under the following conditions:

1. Only those forms of cooperation and interventions can at all be ethically considered for which all the stakeholders, structurally, can muster the necessary minimum level of strategic patience. And that minimum level will then be reached when there is *interaction between several states' own vital interests* that are coupled to the maintenance of peaceful conditions in a region.

2. And such interest has to find expression not only in changing coalitions of the willing and in the pursuit of a relaxed neighbourhood policy, but also in the gradual establishment of a reliable *regional* *system of collective security - in respect to Europe especially around the Mediterranean Sea.* Has not the time come to give the European Union its own institutional federal structure within UN and NATO and, from that structure, settle relations with its southern and eastern neighbors?

3. For a long time, *violent non-state actors* have been an aspect, but only seldom the subject, of the law governing armed conflicts. Although they are not accorded the right to combat, they too are nevertheless expected to fulfill basic obligations regarding the protection of conflict victims and non-participants. In order to increase their willingness to comply with international law governing peacekeeping and armed conflicts, representatives of the transnational community of states should gradually, coherently and credibly offer them that recognition which they are legitimately and, for their part, also gradually, coherently and credibly pursuing.

4. Civic involvement, diplomacy, development partnerships, as well as suitably operating and politically controlled security agencies, in other words the military and police including their special forces, interact on *concepts of networked security (comprehensive approach).* And this also involves money, but only in amounts that do not ruin the characters concerned! Legislation and persuasion are the more powerful weapons in the process of civilisation. Actors with a constitutional mandate adhere rigorously, whatever the temptations, to the highly robust rules of a law-abiding/pacifist professional ethos of diplomats, the police and the military.

5. The EU, as a system of collective security covering half the continent, communicates its standpoint on civilisation offensively through both *intense and credible "strategic communication".* Notorious "propaganda" is not answered with "counterpropaganda" but with the potential that is available to civilised societies: democratic structures based on the rule of law; a critical public; independent media, and a diversity of opinions instead of "herd journalism".

As far as the development of international law over the next few decades is concerned, three major 'paths' are essentially emerging. The first path bears the name of the predominantly *Western-influenced global international legal system* of the United Nations which is characterised by a network of five quite conflicting principles. The states in the north Atlantic/western central European region that have emerged from European expansion since 1492 are its historical origin. These have established a collective peace order, as a lesson learned from the crises of the modern age and the world wars. Within the states, it is based on (1) the sovereignty of the people and human rights. Outwardly it is based on (2) the peoples' right of self-determination, (3) the sovereignty of states and (4) the prohibition of the use of force as laid down under the UN Charter, which in turn is (5) enforced through the UN Security Council's power to impose sanctions. As, for good reason, that order is not based on any monopoly on the use of force, it lives from a global consensus which, however, draws solely on the appeal of the three last-named principles. The latter three alone also protect dictatorships, which see themselves threatened in their stability by the sovereignty of the people and by human rights being invoked, and seek to assert their power against the influence of democratic societies. The democracies, in turn - especially the U.S.A. as a leading power – stand strong by relying on their economic and cultural as well as political and military superiority and, unfortunately, also use this counter to the spirit of the Charter. In the past 25 years, both the south and east of Europe have been the setting for an epochal wave of democratisation that in the meantime, however, has come to a standstill on its fringes. A belt of unstable societies, stretching from the Ukraine, Belarus and Russia via Hungary and Turkey through to the Middle East, Central Asia and North Africa, fluctuate between dislocation and aggressive relocation, rebellion, re-feudalisation and authoritarian government, or even massive repression. The West has, for that matter, squandered trust on an enormous scale, politically through the failure of unilateral interventionism and economically through the tailing-off of growth and the crisis in banking and public finances, but has also, perhaps, gained a measure of sober insight. It remains to be seen whether these crises in combination with the instability on the fringes and the migration into its centres will divide or unify the West. The lessons learned from the world wars and from the Balkan conflict should however persuade the societies of Europe in the long term to prevent armed mass conflicts by political means and, where necessary, to contain them.

A second path could bear the name *Chinese System,* where international prohibition of the use of force and the sovereignty of states remain recognised principles although, in the extensive, neo-imperial regions of Asia and the post-colonial societies of Africa, principles such as human rights and peoples' right of self-determination have only little prospect, in contrast to selective economic and cultural openings that are conducive to prosperity and do not call the authoritarian state into question. Wars between states in Asia and the Middle East remain excluded. Outwardly well-functioning states such as the Iranian and Saudi theocracies or Egypt's military dictatorship, as well as the states of central and south Asia and of the eastern Asian-Pacific region settle their differences by peaceful means and collectively appreciate the threats posed by state disintegration, which is spreading from states such as Afghanistan and Pakistan, Iraq, Yemen, Libya and Syria. The West refrains from interfering in Asia and will limit any interventions in future to cooperation arrangements with Arab and African states, while it looks to the UN system especially where the construct of the sovereign nation state fails to reflect the real balance of power because of violent non-state actors having an appreciable co-influence on what goes on. In central and east Asia, China is establishing itself as a leading power alongside the U.S.A. and its alliance partners, with it being more open to question than in Europe whether cooperation or confrontation will dictate matters.

A third path could be entitled *Russian System*. It would imply a return to the European imperial order of the 19th century. In the 20th century, it was primarily Carl Schmitt, a German expert in constitutional law, who advocated this, and Hans Morgenthau, an American, also took up the very same idea. It envisages powerful states such as the U.S.A., Russia and China maintaining open markets or oligarchically controlled areas around themselves, occasionally including frozen armed conflicts, and, in each case, spheres of influence to control raw material sources and flows of goods. This system knows no civil rights, acts neo-conservatively, behaves anarchically and is thus extremely adaptable. The rules on international relations can take any form - the hegemon and its favourites decide how they will be interpreted. The disadvantages are obvious: the cost of social disciplining is high, economic efficiency is low, and there is a constant battle going on for the major geopolitical regions.

Facing these three pathways: why would anyone need the EU? Great Britain has answered this question in a referendum: the nation sees itself as not needing the EU and as better-off without and outside the European Union than with and in the Union. Political Europe will not be able to exercise a regulative and pacifying influence inwardly or outwardly until it gets its own house in a sustainable order. Having experienced the repeated resurgence of totalitarianism, and in view of the recurring threat of market absolutism and the eruptions of violence in the Middle East and other trouble spots, as well as the ecological crisis, European societies in the 21st century face the challenge of redefining their scope for political action.

Which is why an appeal is now directed toward the citizens of Europe, which I will then underpin with the pathos of Kant's concept of right: Citizens of Europe: our nation states are *no longer*, and our Union *not yet*, capable of the necessary political action. The winners in this power vacuum are the digitally/cybernetically strengthened market radicals and right-wing populist authoritarian regimes. While the idea of governance by the people is becoming forgotten in the modern, nationally established constitutional state, or even despised as in many an eastern European country, it has not yet even reached the European level. We have more than one political Europe - EU Europe, Schengen-area Europe, euro-area Europe – and we are not yet one European people; we lack a European public sphere or society and thus any mature democratic legitimation at the levels on which alone the crises can at all still be managed. We lack strong European diplomacy and a European parliamentary army. The ordinary parliamentary legislative procedure introduced under the Lisbon Treaty and the 2014 European elections failed to change much in this respect, as they were not yet supported by the public sphere. The struggle to answer the question whether the Union is more likely steered by the Commission or, instead, by the Council of Heads of State and Government lays in the nature of the Union, therefore, and will not be settled in the present structure. This is the reason why Europe's social democratic Keynesianism has so far been unable to constitute an adequate political power to counter the influence of corporations and banks, which has grown enormously like never before since the 1980s. It is rather the case that, since 2008, the community of states has – for want of possibilities to impose political sanctions – let their taxpayers' money be extorted by an oligarchy of investors. The states of the EU are, in the meantime, successfully taking countermeasures in the banking union: treaty-based ties between the creditor countries and the borrowing countries are bolstering both budgetary responsibility and solidarity within the Union, not least in the interest of collective self-assertion in the international environment.

We citizens of Europe are able to stand up to the oligarchs, the corporations and the authoritarians in the spirit of European Enlightenment and in the name of freedom of speech and religion and of freedom from fear and hardship. To this day, our executive powers are, like it or not, fatefully in league with them through national­hegemonic institutions. We must give them the laws to abide by, we must become aware of the powers vested in us by the Lisbon Treaty; our parliaments must not only back up the governments' packages of measures, the protests from the streets and, in some places, from jurisdiction, but rather transform them into legislation and, by doing so, show what democratic self-legislation is capable of, even in continental dimensions. Whether our European “people” in the European states votes conservative, socialist, social democrat-Keynesian, ordoliberal, neoclassical or otherwise, must be left to it, just like the question of which matters should be decided on a centralised or de-centralised basis. No option will be declared as heresy. That said, however, the level to which we transfer the decision-making powers must then also bear the liability, along with all the consequences: bailout in exchange for reforms, that was and continues to be at the heart of "German austerity policy". Democracy together with the right to vote and parliamentarianism, however, is not an effective means for disciplining national economies, it is an important, necessary and splendid means for legitimising, vitalising and bringing together political associations. Europe must look to more democracy and not to the hypertrophic idea of a community of values and moral standards and, instead, breathe life into the realistic idea of a multifarious community based on the rule of law.

Peace through Law

Why do I, as a theologian, favour law and the aforementioned first path so emphatically despite its many contradictions? Kant, the Königsberg-born philosopher, not unlike Aristotle before him who – contrary to Plato – complemented his ethics with politics, accompanied his "Doctrine of Virtue" relating to the individual and community with a philosophy of law for the judiciary and the state. Kant's philosophy of law and the state did not achieve the same effect as his ethics of the individual. However, as his central concern was also to give reasons, a priori, in support of right and the state based on principles of a purely practical rationality, Kant deserves a prominent place among the guiding intellectual forces of political freedom. He provides sensible reasons for limiting any form of rule based on the idea of freedom, and for orienting the modern state, initially defined as a constitutional state solely by virtue of its monopoly on the use of force, toward the idea of a Law of Humanity, and for basically differentiating between private and public law.

People, in their *morality*, consent to what appears to them collectively in the long term to be beneficial, reasonable and desirable. Soon, however, the situation of one morality against another arises. People therefor by resorting to the medium of *law* define the scope of systems of enforced rule and thus the limits in which moral systems may compete. So that a family clan and its morality cannot claim to be equal in rank to a state and its laws, for instance, ethics provides protection, based on the concept of goodwill, for the *internal* freedom *of many* rational beings against the pressure of prevailing moral systems: every individual may choose a moral principle for him-/herself that is consistent with his/her freedom and the freedom of all other rational beings. And for the *external* coexistence of *all* rational beings, it also provides a similarly a priori and purely rational concept, analogous to goodwill, which allows external freedom within a community, and is referred to in German as 'Recht' (right/law/justice).*.* It is

*»the aggregate of those conditions under which the will of one person can be conjoined with the will of another in accordance with a universal law of freedom«,*

as Kant expounds in the Metaphysical Principles of the Science of Right in his book on the Metaphysics of Morals published in 1797/1798. There he consciously speaks of will in the first instance and of freedom in the second. Will, in this context, is not about rising above inclinations, desires or patronising attitudes to achieve autonomous self-legislation; nor is it about virtues, values or commodities. It is solely about freedom, about being able to do or not do what one wants, whenever and wherever, and for whatever reason. If people want to live their lives as Catholics or Lutherans, Orthodox, Sunnis or Shiites, materialistically or humanistically, they should do that but only if, in doing so, they do not hinder others in their self-development or declare their morality to be the rule and the law applicable to all. This sober starting point is nothing less than the response of European Enlightenment to centuries of religious civil wars. It is not internal freedom of will but the external freedom to act that defines the legal framework in which of course internal moral freedom - which outwardly is perceptible only as "will" - can also effectively evolve. Policy-making should seek to apply not morals but laws. Yet having external laws would be to grossly misuse them as pure techniques of rule and governance, as they find their legal and ethical legitimation only in their equivalence to the freedom of man: although they do not predicate the latter in essence, they enable, ensure and limit its application, always within the scope of *equal* *freedom of will.*

The differentiation between morality and law, between internal freedom of will and external freedom to act, is thus so important because, according to Kant, only safeguarding the external freedom to act provides adequate reason for universal authority to exercise command and use force and, therefore, for the legitimation of rule in the form of a state or international order. Even if the claim is made repeatedly: safeguarding moral self-legislation – including that of a collectively and generally recognised religion, or of a nation passionately fought for, or of the Occident – does not help to legitimate rule, nor does it need to, nor is it its business to do so. Only safeguarding external freedom provides the generally binding principle for the legitimation of a system of rule. If this applies to national constitutions, how much more it might apply to legal systems that embrace half a continent or even the globe! We don’t need Europe so much as community of values, but as a community of rights! Kant thus takes up a differentiation from Protestant tradition in the way Luther developed it with the differentiation between spiritual and worldly rule, and Grotius did in the thesis on the validity of international law *etsi deus non daretur*.

To put an even finer point on things, in contradiction to the apologists of Hobbes' Leviathan: only free consent to the rules of communicative power in the form of the »legal revolution« of a continuous democratic learning and negotiation process and of the repetitive universalism of good examples and arguments establishes, what is law among those assembled. Force, including use of force by the state, is not a suitable means to *justify* the power of the law. It is, though, in view of the permanent threat of, as well as experienced, relapses into the natural state, indispensable to *maintain* the law – and even that only secondarily This is because, primarily, the law is maintained by the constant renewal and situational adaptation of that free consent, in other words by continually suppressing the natural state through cultivation of the legal status by means of political will formation on the part of dedicated groups in the media and parliaments, through free elections, legislation, jurisdiction and legal obedience. It cannot be emphasised enough: not through force but – and here beats the heart of Protestant theology – through freedom alone do compassion and charity, as well as right and justice, find nourishment. The »just peace« born of freedom forms the basis for acquiring, managing and equally distributing the resources for human life and thus also for, among other things, staving-off that material hardship which, time and again, leads to violence and war and is also compounded by violence and war. Such a peaceful power against the spiral of arrogance, poverty and violence will induce anyone to seek his or her path to happiness within the limits of universally applicable right and ensure cultural diversity, irrespective of whether people are indifferent to one another or whether they reciprocally share in the life of others.

Is it too much to expect European nations to continue, on the one hand, on their path together, and on the other also together with their neighbors in western Asia and North Africa, towards a common law, carried along by the pathos of fair rules in view of common interests that are of rapidly growing importance? Living together in freedom always involves sacrifice. But what does it offer in return? Individuals could not be certain of their own sphere of freedom if they and everyone else were not at all times willing, of their own accord, to limit their liberty rights in favour of making the freedom of all sovereign actors possible, in accordance with the law and to precisely the extent as is compatible with making the same freedom possible for all sovereign actors. Are the member states of the Union prepared to make that sacrifice, step by step and in a soberly calculated manner that is to their mutual benefit and, consequently, also to the benefit of the countries in their southern and eastern neighbourhood, in systems of collective security and common law? And are those states, peoples and societies prepared on their part also to make such a sacrifice and not impose their religion and morality and their family, tribal and oligarchic loyalties on others? Only a system that is plural and rational in every respect and thus "secular" can be a legitimate system in an enlightened sense. Has this actually, ever, been publicly and broadly discussed in east-west and north-south forums in such a, or similar, manner: national diversity instead of continental dominance, cultural respect instead of propaganda, fair political negotiation instead of administrative disciplining, differentiated supply and sanction mechanisms instead of hegemonic dependencies?

I would at least like to take up one objection that is put forward against my pathos of the concept of right: *Should we now let in everybody?* According to Kant, »every man by virtue of his humanity« is entitled to that freedom which »can coexist with the freedom of every other in accordance with a universal law«. That freedom is the right to have rights. As a pre-state law, human right is the benchmark against which every state that wishes to bear the honorary title of »constitutional state« has to gauge itself. The constitutional state, though, is an institution of the second order.Historically contingent ownership rights to items, services and status relationships such as marriage, family and real estate are provided by institutions of the first order, which the state is unable to create but only protect, as this considerably limits its power and scope. The state itself is the result of a legislative act. Political ethics, consequently, takes precisely the following order: ethics of political *will* formation, of *law-making* communication, and of *law-preserving* force. Such inclusion inescapably implies exclusion. What about those, then, who go without any property and any state protection? It was the late Kant with his work "Zum ewigen Frieden” (On Perpetual Peace) from 1795, who offered an epochal because complete outline of political theory and also political ethics. Human Rights are divided in (1) *Citizen Rights* (relation: citizen - state) as the basis of individual citizenship and the internal sovereignty of the people, (2) *International Law* (relation: state - state) as the basis of external sovereignty of states and the interstate abolition of violence and (3) *Cosmopolitan Law* (relation: citizen – international community) whose guarantors are the states which undertake to grant non-citizens guest or alien law. If states respect these rights, they are in the full sense political, if not, they lack it. The deficiency can be allowed ethically, because even states need time to mature.

About displaced persons

The general formula regarding asylum and refugee protection is, according to the Geneva Convention: Every person as a refugee has the right to dignified refuge and to escape routes along which he/she is not at risk from drowning, from dying of starvation or thirst, or from being threatened, robbed or raped. In contrast, the general formula that addresses the principle of sovereignty in ethical terms from the viewpoint of civil rights reads: Every person, as a citizen of his/her state, is entitled that the institutions of his/her state comply with the laws and regulations on human rights also with regard to the territorial integrity of the state territory, citizenship, and the provisions governing orderly entry and exit, asylum and immigration. Although neither formula contradicts the other, nor are they identical. Since an international community of states as a system for peace and rule of law is preferable to a world state, the human right that universally applies to all human beings is broken down into *civil rights*, which distinguish beneficially between *state citizenship* according to the principle of sovereignty, and substitutional *world citizenship* or *rights for foreigners*, for people who are unable to exercise their civil rights. Rights for foreigners require the existence of civil rights, because only actual, historically rooted civil societies sustain states which, in turn, are alone able to take in people who do not belong to any state. The citizens of the one state take in citizens of another state until their lost civil rights are reinstated, *according to a substitutional legislative arrangement*. In short: the Geneva Convention only comes to life if states actually apply it. But how would they do this if they had to surrender their borders permanently and, along with them, other institutional pillars of their sovereign self-determination? The described conflict of rights centres on the issue of border regimes. Borders between states serve, firstly, to protect citizens by maintaining the state's territorial integrity vis-à-vis neighbouring states and. secondly, to define precisely the geographical scope of states' legal systems. Borders play a key role in international law: Border conflicts can pose a threat to international peace and escalate into wars.

The "peace through law" concept advocated here draws on the principles of the right of self-determination of historically rooted communities founded on the rule of law; of truth and truthfulness in the establishment of facts; of equality when it comes to respect for fundamental rights; of credibility in complying with treaties; of the incorruptibility of judges, and of proportionality in the choice of action. It would intrigue the author to hear why these legal-ethical principles should *not* claim transcultural validity. And if any moral framework serves to support that, so much the better!