

Speech by Dr. Navid Kermani Celebrating “Sixty-Five Years of the Basic Law” (May 23, 2014)

Abstract

Dr. Navid Kermani gave the keynote speech at the ceremony celebrating “Sixty-Five Years of the Basic Law.” In his speech, the writer and publicist discusses the extent to which the Federal German Constitution imagines and thus creates democracy, identity and belonging. Kermani emphasizes the “literary quality” of the Basic Law: “Perhaps comparable in the German-speaking world only to the Luther Bible, the Basic Law has created reality.” In his eulogy, Kermani also expresses clear criticism of the restriction of the right to asylum under basic law passed in 1993. In 2020, the Basic Law was once again the focus of a debate over the use of the word “race.” In November, the German government announced its intention to remove the word from the Basic Law and replace it with another term.

Source

Most honorable President, Federal Chancellor, Representatives, Excellencies, and dear guests!

The paradox does not belong to the usual means of expression in legal texts, which ultimately strive for the greatest possible clarity. A paradox necessarily has the character of a riddle; indeed, it has its place where unambiguousness passes over to a lie. For that reason, it is the most popular device of poetry.

And yet, of all things the Basic Law of the German Federal Republic begins with a paradox. For if human dignity were inviolable, as is stated in the first sentence, the state would not have to respect it and certainly not protect it, as the second sentence demands. Dignity exists independently and unaffected by any force. With a simple paradox scarcely noticeable at first—dignity is inviolable and yet requires protection—the Basic Law turns around the premises of the previous German constitutions to their opposite and declares that, instead of being the telos, the state is the servant of man, in fact, fundamentally of all men, of humanity in an emphatic sense. Linguistically, that is—it may not be called brilliant, because an eminently normative text would thus be aestheticized—it is perfect, nothing but.

Quite generally, the effectiveness, the almost inconceivable success of the Basic Law cannot be explained without also acknowledging its literary quality. In any case, in its essential characteristics and declarations it is a remarkably beautiful text, and should be. As is known, Theodor Heuss prohibited the original version of the first article with the argument that it was bad German. “Human dignity is inviolable,” on the other hand, is a marvelous German sentence, so simple, so difficult, immediately evident, yet of all the greater depth the more often the following sentence is considered: It must still be protected. The two sentences cannot be true at the same time, but they can together, and only together, prove true, and have proven true in Germany to a degree that scarcely anyone would have thought possible on May 23, 1949. Comparable in the German-language region perhaps only to the Luther Bible, the Basic Law has created reality through the force of the word.

“Every person shall have the right to free development of his personality”: How absurd for most Germans, who in the ruins of their cities and world view were concerned with naked survival, how absurd the outlook for something

as airy as developing one's own personality must have seemed to them. But at the same time, what an enticing thought it was!

“All persons shall be equal before the law”: Jews, Sinti and Roma, homosexuals, the handicapped, all people on the margins, alternative-thinkers, and foreigners, they in particular were most definitely not equal before the law—therefore they had to gain that status.

“Men and women shall have equal rights”: The weeks- and months-long resistance to this article in particular shows most clearly that men and women by no means had equal rights in 1949; the sentence only became true in application.

“Capital punishment is abolished”: That in particular was not the wish of the majority of Germans in a survey, three-fourths of whom appealed for retention of the death penalty; today it meets for the most part with approval.

“All Germans shall have the right to move freely throughout the federal territory”: The sentence was almost painful to the members of the Parliamentary Council in view of refugee poverty and the lack of housing; 65 years later it applies not only in a reunified Germany but in half of Europe. The Federal Republic can “agree to limitation of its sovereign rights,” effecting “a peaceful and enduring order in Europe.” That was the long- term plan—in 1949—for a united Europe, indeed, for the United States of Europe.

And so forth: The prohibition on discrimination, religious freedom, freedom of arts and sciences, freedom of opinion and assembly—as the Basic Law announced 65 years ago, those were affirmations of belief more than a description of the reality in Germany. And at first it did not at all appear that the appeal inherent in these simple and emphatic tenets was heard by the Germans.

The interest of the public in the Basic Law was from today's perspective embarrassingly slight, the approval within the population marginal. Asked when things were best in Germany, 45 percent of Germans in 1951 still chose the German Empire in a survey using a representative sample; 7 percent chose the Weimar Republic; 42 percent, the period of National Socialism; and only 2 percent, the Federal Republic. Two percent! How happy we should be that there were politicians at the beginning of the Federal Republic who based their actions not on surveys but on their convictions.

(Applause)

And today? I have no doubt that the members of the Parliamentary Council, if they were to follow our celebration from the heavenly VIP gallery, would be satisfied and astonished that the roots freedom have grown in Germany in the last 65 years. And they would probably also get the point and nod in approval that today a child of immigrants brings to mind the declaration of the Basic Law, a child who moreover belongs to a religion different from that of the majority. There are not many states in the world where that is possible. Even in Germany, it would have been difficult to imagine not so long ago, let's say on the fiftieth anniversary of the Basic Law, that a German who is not only German is delivering the celebratory speech in the *Bundestag*.

In the other state whose passport I hold, this remains unthinkable, despite all the protests and all the sacrifices for freedom. But I would also like to say from this podium, honorable President, Federal Chancellor, Representatives, Excellencies, dear guests, and not least His Excellency the Ambassador from the Islamic Republic, who today also sits in the gallery, though not the heavenly one, that it will not take 65 years, not even 15 years, before a Christian, a Jew, a Zoroastrian, or a Bahai as a matter of course delivers the celebratory speech before a freely elected parliament in Iran.

(Applause)

“This is a good Germany, the best that we know,” the Federal President said recently. I cannot argue with that. No matter what period of German history I look at, in none is it freer, more peaceful, and more tolerant than in our time. Nevertheless, the statement of the Federal President does not pass as smoothly over my lips. Why is that? The discomfort about expressing pride in one’s own country could be dismissed as typically German self-hatred, and that would overlook the very reason why the Federal Republic has become livable and even likeable.

For how and when did Germany, which was already distrusted in the nineteenth century for its militarism and which with the murder of six million Jews appeared completely dishonored, how and when did it regain its dignity? If I wanted to name a single day, a single event, a single gesture for which word “dignity” seemed appropriate in the German post-war period, it was—and I am certain that a majority in the *Bundestag*, a majority of Germans, not to mention a majority there in the heavenly gallery, will now agree with me—it was the Warsaw Genuflection.

(Applause)

That is even more extraordinary than the paradox with which the Basic Law begins, and is probably without example in the history of peoples: This state gained dignity through an act of humility. Isn’t the heroic usually associated with strength, with manliness, thus also with physical power and most of all with pride? In this case however, a person exhibited greatness by suppressing his pride and taking on the burden of guilt, moreover, guilt for which he personally, as an opponent of Hitler and an exile, was least responsible. In this way, he proved his honor, by being publicly ashamed. For him his patriotism meant going down on his knees before Germany’s victims.

When watching television, I am not inclined to sentimentality, and yet I reacted as did many when on his one-hundredth birthday the images of a German chancellor were repeated, a chancellor who stepped back before the memorial in the former Warsaw ghetto, hesitated a moment, and then completely surprisingly fell on his knees—to this day, I cannot see that without tears coming to my eyes. And the strangest thing is that in addition to everything else, the emotion, the memory of the crimes, the amazement that is new every time, they are also tears of pride, of very quiet but definite pride in that kind of Federal Republic of Germany.

(Applause)

That is the Germany that I love, not the boastful, not the swaggering, not the proud-to-be-a-German-and-Europe-finally-speaks-German Germany, instead a nation that is disconsolate about its history, is struggling and wrangling with itself to the point of self-accusation, and at the same time is mature about its own failure, no longer requires pomp, modestly calls its constitution a “Basic Law,” and prefers to act a bit too friendly, too trusting to the foreigner rather than ever again falling into hostility toward strangers and arrogance.

It is often said—and I have heard speakers say it from this podium—that Germans should finally once again have a normal, relaxed relationship with their country now that National Socialism has been overcome for long enough. I always ask myself then what the speakers mean. There never was this normal, relaxed relationship, not before National Socialism, either. There was an exaggerated, aggressive nationalism, and as a counter-movement, there was German self-criticism, a plea for Europe, a turn to world citizenship and furthermore also to world literature, which in its purposefulness was in any case unique in the nineteenth century.

“A good German cannot be a nationalist.”

Willy Brandt said that full of self-awareness in his Nobel prize speech. And further:

“A good German knows that he cannot deny himself a European destiny. Through Europe Germany will return home to itself and to the constructive forces of its history.”

(Applause)

Since the eighteenth century, at the latest since Lessing, who spurned patriotism and as the first German used the word “cosmopolitan,” German culture has often had an antipodal relationship to “nation.” Goethe and Schiller, Kant and Schopenhauer, Hölderlin and Büchner, Heine and Nietzsche, Hesse and the Mann brothers—they were all at odds with Germany, saw themselves as world citizens, and believed in European unification long before politics discovered the project.

It is this cosmopolitan part of the German spirit that Willy Brandt carried forward—not only in his struggle against German nationalism and for a unified Europe, but likewise in his early plea for “global domestic policy,” in his involvement in the North-South Commission and during his presidency of the Socialist International. And today’s Germany is put in a not particularly favorable light, when as good as nothing is asked any longer about foreign policy in the television debates before the *Bundestag* election or a constitutional body trivializes the significance of the upcoming European election,

(Applause)

when the development assistance of such an economically strong country is still below the average of the OECD states—or Germany accepts just ten thousand of the nine million Syrians who have lost their homeland in the civil war.

(Applause)

Finally, involvement in the world for which Willy Brandt is exemplary also means by implication more openness to the world. We cannot celebrate the Basic Law without recalling the garble that has been added to it here and there. Compared to the constitutions of other countries, the wording has been changed unusually often, and only a few of those changes have improved the text. What the Parliamentary Council consciously left general and on a big-picture level has sometimes been weighed down with detailed regulations. The distortion of Article 16 is most serious, and not only linguistically.

(Applause)

It is of all things the Basic Law, in which Germany seemed to have laid down its openness for eternity, that today locks out the people who most urgently depend on our openness: the politically persecuted. A wonderfully succinct sentence—“Politically persecuted people have the right to asylum”—in 1993 became a monstrous regulation 275 words long, words that were chaotically stacked on each other and inextricably nested only in order to hide one thing: that Germany had practically eliminated asylum as a basic right.

[Applause]

Do we actually have to be reminded that even Willy Brandt, upon whose appointment many of you on all sides approvingly nodded, was a refugee and an asylum-seeker?

Even today there are people, many people who must rely existentially on the openness of other democratic

countries. And Edward Snowden, to whom we owe much for protecting our basic rights, is one of them.

(Applause)

Other people drown in the Mediterranean—several thousand annually—in all probability even during our ceremony. Germany does not have to take on all the laboring and heavy-laden people of the world, but it has sufficient resources to protect politically persecuted people instead of foisting the responsibility off onto the so-called third countries.

(Applause)

And it should in its own well-understood interests give other people a fair chance to apply legally for immigration so that they do not have to resort to the right to asylum.

(Applause)

Even two decades later there is no question of a uniform European refugee law, which motivated the 1993 reform, and even just linguistically, the misuse made of the Basic Law is painful. The right to asylum was robbed of its content, and Article 16, of its dignity.

(Applause)

May the Basic Law be cleansed of this ugly, heartless stain by the seventieth anniversary of its promulgation, honored Representatives.

(Applause)

This is a good Germany, the best that we know. Instead of closing itself off, it should be proud that it has become so attractive.

My parents did not flee from Iran. But after the putsch against the democratic government of [Mohammad] Mosaddegh in 1953, they were happy, like many Iranians in their generation, to be able to study in a freer, more just country. After their studies they found work. They have seen their children, their grandchildren, and even their great-grandchildren grow up. They have grown old in Germany. This whole large family—in the meantime twenty-six people, if I count only the direct descendants and their spouses—has been happy in this country. And not only us: Many millions of people have immigrated to the Federal Republic since the Second World War; expellees and resettlers make up more than half of today's population. In comparison also on an international level, that is a huge demographic change that the country had to handle within a single generation, and I think that Germany handled it well on the whole.

There are cultural, religious, and especially social conflicts, particularly in the metropolitan areas. There are resentments among Germans, and there are resentments among the people who are not only German. Unfortunately, there is also violence, and even terrorism and murder. But viewed on the whole, it is downright peaceful in Germany, still relatively just, and much more tolerant than in the nineties. Without actually noticing, the Federal Republic—and here I am not even speaking of reunification—has performed a great feat of integration.

Perhaps recognition has been lacking here and there, a clear, public gesture especially to the generation of my parents, to the guest worker generation for how much they have accomplished to the benefit of Germany.

(Applause)

However, by the same token, the immigrants have perhaps not always made sufficiently clear how much they value the freedom they share in Germany,

(Applause)

the social balance, the professional opportunities, the no-cost schools and universities, and furthermore an outstanding health care system, the rule of law, a sometimes distressing but still very valuable freedom of opinion, free exercise of religion.

Thus, at the end of my speech I would like to actually say once by proxy and in the name of—no, not in the name of all immigrants; not in the name of Djamaa Isu, who almost exactly a year ago to the day hanged himself with a belt in the Eisenhüttenstadt refugee reception camp for fear that he would be deported to a so-called third country without his asylum application being examined; not in the name of Mehmet Kubasik and the other victims of the National Socialist underground, who for years were vilified as criminals by the investigating authorities and the country's largest newspapers; not in the name of even only one Jewish immigrant or returnee who will never be able to consider the murder of almost his entire people sufficiently dealt with—but in the name of many of millions of people; in the name of guest workers who long since are not just guests; in the name of their children and their children's children, who are growing up as a matter of course with two cultures and finally with two passports as well; in the name of my writer colleagues for whom the German language is likewise a gift; in the name of the football players, who in Brazil will give their all for Germany, even if they don't sing the national anthem;

(Applause)

in the name, too, of the less successful, of the needy, and even of the delinquents, who likewise—like the Özils and the Podolskis—belong to Germany; in the name especially of the Muslims, who enjoy rights in Germany that much to our embarrassment today are denied to Christians in many Islamic countries; thus in the name also of my pious parents and of a family in the meantime numbering twenty-six, I would like to say, and at the same time at least symbolically give a bow: Thank you, Germany!

(Long-lasting applause—The people present stand)

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