

“A Remarkably Beautiful Text”: Navid Kermani on the 65th Anniversary of the Basic Law (2014)

Abstract

At the sixty-fifth anniversary of the creation of the Basic Law, Iranian-born German writer Navid Kermani reflects upon the positive contribution of the constitution to the peaceful and democratic development of the Federal Republic while insisting it must guarantee the right to asylum.

Source

Speech by Dr. Navid Kermani at the ceremony to mark the 65th anniversary of the Basic Law

Distinguished Presidents, Madam Chancellor, Distinguished Members of the German Bundestag, Excellencies, Honored guests,

A paradox is not a form of expression customarily deployed in legal texts, whose purpose, after all, is to achieve the greatest possible clarity. By definition, the inherent characteristic of a paradox is that it contains a puzzle, a conundrum. Indeed, it is located at the point where clarity would tend towards falsehood. That’s why it is a device most commonly used in poetry. And yet paradoxically, as it were, the Basic Law for the Federal Republic of Germany begins with a paradox. For if human dignity were indeed inviolable, as the first sentence claims, there would be no need for the state to respect and certainly not to protect it, as the second sentence demands. Dignity would exist independently of, and be unaffected by, any authority. With this simple and barely discernible paradox – that human dignity is inviolable, but still requires protection – the Basic Law reverses the precepts of Germany’s earlier constitutions and, instead of the state being the “telos”, the end in itself, as it were, it places the state at the service of the people – all people, humanity, emphatically and as a matter of principle. Linguistically, one could call it brilliant, were it not inappropriate to apply aesthetic terms to an eminently normative text. It is, however, quite perfect. Generally, though, it is impossible to explain the impact and the astounding success of the Basic Law without paying tribute to its literary quality. Both in terms of its main characteristics and its content, it is a remarkably beautiful text, and so it should be. It’s no secret that Theodor Heuss vetoed the original version of Article 1 on the grounds that the German was poor. “Die Würde des Menschen ist unantastbar” – “Human dignity shall be inviolable” – on the other hand – is a magnificent sentence in German. It is so simple and yet so complex. Its meaning is immediately clear, but the more we consider the sentence which follows it, namely that there is, nonetheless, a duty to respect and protect human dignity, the more elusive its meaning becomes. The two sentences cannot be true simultaneously, and yet they can only be true together, and in Germany, they have proved to be true to an extent that hardly anyone would have thought possible on 23 May 1949. In the German-speaking countries, the Basic Law can, perhaps, only really be compared with the Luther Bible in that it has created reality through the power of the word.

“Every person shall have the right to free development of his personality”: how absurd that must have sounded to most Germans as they struggled to survive amidst the ruins of their cities and their world views. How absurd it must have sounded – the prospect of anything as airy and intangible as free development of the personality. But what a seductive idea it was at the same time!

“All persons shall be equal before the law”: the Jews, the Sinti and Roma, the homosexuals, the disabled,

all the outsiders, dissidents and those who were different had certainly not been equal before the law, but now, they should and would be.

“Men and women shall have equal rights”: the weeks and months of resistance to this particular article provided the clearest evidence that in 1949, men and women certainly were not considered to be equals; the truth of this particular sentence only became reality through its application.

“Capital punishment is abolished”: this was not supported by the majority of Germans; a survey revealed that three-quarters of Germans were in favor of retaining the death penalty, whereas today, attitudes have completely reversed.

“All Germans shall have the right to move freely throughout the federal territory”: this sentence was something of an embarrassment to the members of the Parliamentary Council in view of the plight of the refugees and the lack of housing. But 65 years on, it applies not only in reunified Germany but across half of Europe. The Federation can “consent to such limitations upon its sovereign powers as will bring about and secure a lasting peace in Europe”: this clause – in 1949! – presupposed the existence of a united Europe, indeed, a United States of Europe.

And there’s more: the ban on discrimination, freedom of faith and conscience, freedom of expression, arts and sciences, freedom of assembly and freedom of association – when the Basic Law was promulgated 65 years ago, all these were statements of commitment rather than descriptions of the reality in Germany at the time. And at first, it seemed unlikely that the principles set out in these simple but compelling statements of faith would really appeal to the Germans.

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This is a good Germany, the best we’ve ever had, the Federal President said recently. I cannot disagree. No matter which period of German history I consider, there has never been a freer, more peaceful or more tolerant Germany than the one which exists today. Even so, the Federal President’s words would not flow quite so easily from my own lips. Why not? We could write off the sense of unease in voicing pride in our own country simply as another sign of typical German self-hate. But that would be to ignore the very reason why the Federal Republic has become a country where life is worth living and which people are even inclined to like.

But when and how did Germany – whose militarism aroused suspicion as early as the 19th century, and whose murder of six million Jews stripped it of any vestige of honor – when and how did Germany regain its dignity? If I were to name a single day, a single event, a single gesture in Germany’s post-war history that seems to merit the word “dignity”, I would have to choose the moment when Willy Brandt knelt before the memorial to the Warsaw Ghetto Uprising. And I am certain that the majority here in the Bundestag, the majority of Germans, and most certainly the majority up there in the celestial gallery would agree with me.

Applause

Even more remarkable than the paradox in the opening sentences of the Basic Law, and probably unprecedented in the history of the world’s nations, this country regained its dignity with an act of humility. Isn’t heroism generally associated with strength, with manliness, with physical prowess, and, most of all, with pride? And yet here, one man showed greatness by suppressing his pride and accepting guilt – guilt, what’s more, for which he personally, as a member of the resistance to Hitler and an exile, bore least responsibility. But honor was demonstrated with his public expression of guilt and shame. For Willy Brandt, patriotism meant kneeling in honor of Germany’s victims.

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This is the Germany that I love: not the grandiloquent one, not the boastful one, not the “proud of being - German and Europe is finally speaking German” Germany, but a nation which despairs of its own history, which wrestles with itself and beats its breast to the point of self-reproach, but one which has also matured through its own failings, one which will never again need pomp and ceremony, a nation which modestly calls its constitution the “Basic Law,” and which would prefer to be slightly too welcoming and slightly too ingenuous towards others than ever to fall back into xenophobia and arrogance.

It is often said – and I have heard this from speakers standing here at this lectern – that the Germans should develop a normal, unconstrained relationship to their own nation again at last, as enough time has been spent overcoming the legacy of National Socialism. I always wonder what these speakers mean. This normal and unconstrained relationship never existed – not even before National Socialism. There was excessive and aggressive nationalism, and as a counter-movement, there was German self-criticism and an appeal for Europe, a shift towards “world citizenship” and, incidentally, towards world literature, with a level of commitment that was unique, at least in the 19th century.

“A good German cannot be a nationalist,” said Willy Brandt with great self-assurance in his Nobel Lecture in 1971. And, he continued:

“A good German knows that he cannot refuse a European calling. Through Europe, Germany returns to itself and to the constructive forces of its history.”

Applause

Since the 18th century, at least since Lessing, who deplored patriotism and was the first German to use the word “cosmopolitan,” German culture often had an ambivalent relationship to the concept of nation. Goethe and Schiller, Kant and Schopenhauer, Hölderlin and Büchner, Heine and Nietzsche, Hesse and the brothers Mann all wrestled with the notion of Germany, regarded themselves as citizens of the world, and believed in European integration long before politics discovered the project.

It was this cosmopolitanism, espoused by German intellectuals, that Willy Brandt made his own – not only with his struggle against German nationalism and for a united Europe, but also in his early plea for a “world domestic policy”, through his commitment to the North-South Commission, and in his role as President of the Socialist International. So it perhaps sheds a less favorable light on today’s Germany when, in TV debates in the run-up to the Bundestag elections, there are now rarely any questions about foreign policy. The same applies when a constitutional body plays down the importance of the forthcoming European elections,

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when the development funding provided by such a strong economy does not even reach the OECD average, and when, with nine million Syrians homeless as a result of the civil war, Germany takes in just 10,000.

Applause

Ultimately, engagement in the world, exemplified by Willy Brandt, also means more openness to the world. We cannot celebrate the Basic Law without recalling the ways in which it has occasionally been mutilated. Compared with other countries’ constitutions, the Basic Law has been amended with remarkable frequency, and very few of these interventions have actually improved the text. Aspects which the Parliamentary Council deliberately framed as generalizations and over-arching principles have in some cases been laden down with detailed regulations by the Bundestag and Bundesrat. Article 16 has undergone the most serious distortion, not only in terms of language.

Paradoxically, the Basic Law – a document in which Germany appeared to have enshrined its

commitment to openness for all time to come – now closes its doors to those who rely most urgently on our openness, namely the politically persecuted. A wonderfully concise sentence – “Persons persecuted on political grounds shall have the right of asylum” – was inflated, in 1993, into a monstrous ordinance of 275 words in a complex and impenetrable paragraph which has only one purpose: to conceal the fact that Germany has, in effect, abolished the basic right of asylum.

Applause

Should we really have to remind ourselves that Willy Brandt, the mention of whose name caused so many of you, from all parties, to nod in approval, was also a refugee – an asylum- seeker? Even today, there are people – many people – whose survival depends on the openness of other democratic countries. Edward Snowden, to whom we owe a great debt of gratitude for defending our fundamental rights, is one of them.

Applause

Every day, others drown in the Mediterranean, with thousands of lives lost every year – some, very probably, lost while we are here at our celebration today. Germany does not have to take in all those who are weary and burdened, but it has enough resources to protect the politically persecuted, instead of foisting the responsibility on so-called “third countries.”

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Indeed, it is in our own best interests to give other people a fair chance to apply to immigrate legally, so that they do not have to resort to claiming asylum.

Applause

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This is a good Germany, the best we’ve ever had. Instead of closing itself off, it should be proud of the fact that it now exerts such a powerful appeal.

My parents did not flee Iran. But after Mossadegh’s democratic government was overthrown in 1953, they – like many Iranians of their generation – were pleased to have the chance to study in another country with more freedom and justice. After graduating, they found work and watched their children, grandchildren and even their great-grandchildren grow up. They have grown old in Germany. And this entire extended family – there are 26 of us now, and that’s only counting the direct descendants and those who have married into our family – has found happiness in this country. And we are not the only ones: since the Second World War, many millions of people have immigrated into the Federal Republic, and if we include the expellees and resettlers from Eastern Europe, they amount to more than half the present population. Compared with other countries, too, it was a massive demographic shift, which Germany had to manage in a single generation. And I believe that overall, Germany has managed it well.

Yes, there are cultural, religious and especially social conflicts, particularly in the urban centers. There is resentment among Germans, and there is resentment among those who are not only German. And unfortunately, there is also violence and even terrorism and murder. But all in all, Germany is a remarkably peaceful country. It is still relatively just and it is very much more tolerant than it was even in the 1990s. Without really noticing, the Federal Republic has achieved a magnificent feat of integration, and I’m not talking about reunification.

Perhaps, here and there, there was a lack of recognition, a clear public gesture, especially towards my parents’ generation, the guest worker generation, acknowledging how much they have done for

Germany.

Applause

But conversely, perhaps the immigrants themselves have not always made it sufficiently clear how much they appreciate the freedom that they enjoy in Germany,

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the social justice, the professional opportunities, free schooling and universities, and a first-class health system, the rule of law, the sometimes agonizing but nonetheless precious freedom of expression, and the freedom to practice one's religion.

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I can speak ... for the less successful immigrants, the needy and even the offenders, for – just like the Özils and Podolskis – they belong to Germany too. I speak on behalf of the Muslims who enjoy rights in Germany which, to our shame, Christians are denied in many Islamic countries today. And so I speak for my devout parents and an immigrant family of now 26 people. And on their behalf, let me make at least a symbolic bow and say this: thank you, Germany.

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(Sustained applause – Audience rises to its feet)

Source: Speech by Dr. Navid Kermani at the ceremony celebrating the 65th anniversary of the entry into force of the Basic Law, in the brochure *Ceremony at the German Bundestag Celebrating the 65th Anniversary of the Entry into Force of the Basic Law for the Federal Republic of Germany* (Berlin 2014), pp. 64–74, English translation: Language Service of the German Bundestag, in cooperation with Hillary Crowe. The translation has been edited for length and the spelling changed from UK to US English.

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