

Global Ethic, Law and Politics

Hans Küng

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This paper on basic principles makes clear that a Global Ethic should form the underlying basis for a global law, because this global law requires moral commitment and the power of moral persuasion.

I. Current Cases

Neither the global law nor the Global Ethic are detached from the realities of life. Thus I will not comment on the relationship between law and ethics as “more theologico” with abstract norms but, rather, in terms of “more iuridico” – with concrete cases. But which ones? There are any number of prime examples of unethical practices in many areas:

- a) Banking System: Legal regulations for the financial system were certainly not lacking prior to the financial crisis. And yet, the global financial crisis was tied not least to the fact that critical actors, with great style and panache, lied, stole, were disingenuous and bore false witness—amounting to a failure at the ethical level.

As advisors and sellers in their own business affairs, banks operated on the basis of foolhardy prognoses, with largely incomprehensible and worthless financial products and completely overblown compensation. There was uncontrolled speculation with derivatives, whose prices were determined by stocks, credits and other securities. Through securitization and clever packaging of such unsecured subprime loans, this problem spread worldwide and led to a global financial crisis. Stock market analysts on Wall Street and elsewhere recommended the purchase of these financial products (especially those introduced by their own investment houses) and accumulated millions while share prices went into freefall and their clients lost millions.

Paul Krugman was right when he wrote after the arraignment against the investment bank Goldman Sachs by the Security and Exchange Commission (SEC): “For the fact is that much of the financial industry has become a racket — a game in which a handful of people are lavishly paid to mislead and exploit consumers and

investors. And if we don't lower the boom on these practices, the racket will just go on." (International Herald Tribune, April 20, 2010).

In 2011, after working a year and a half with 700 witnesses and millions of documents, the "Financial Crisis Inquiry Commission" published an investigative report commissioned by the U.S. Congress in which the credit ratings agencies and financial institutions were accused of greed and incompetence. The Commission was particularly critical of the regulatory authorities: the SEC, the Office of the Comptroller of the Currency and the Federal Reserve Bank were accused of having violated their mandate; they did not "act in keeping with the political will" by scrutinizing the financial firms and holding them responsible for their actions. One could have added: their political will also was not reinforced by an ethically based intent to assume responsibility.

- b) Economy: For a long time, bribery was tolerated. In the Federal Republic of Germany, it was generally known that money for bribes for foreign business partners—"beneficial expenditures" (*nützliche Aufwendungen*)—were completely legal and even tax deductible. This was the state of affairs up to 1999, until pressure from the United States, which two decades earlier had declared bribery of foreign business partners illegal under the "Foreign Corrupt Practices Act" (1977), became too great. Siemens, Daimler, MAN, Ferrostaal and arguably other firms committed corruption—though everything, of course, was conducted under the fixed seal of "absolute secrecy."

"Everyone does it, they just haven't been caught," a Siemens representative in Munich told me. I disagreed and pointed to the international firm of Bosch. There, every person who has particular responsibilities must sign a written statement by which the person agrees to abide by the firm's regulations and further accepts that Bosch will not provide assistance of any kind if the person violates company regulations that incur damages. One hopes that in the future, Bosch will preserve its integrity and honest image.

Even after the ban in 1999, however, various German firms casually continued handing out bribes. Some of them eventually had to pay fines in the hundreds of

millions of Euro in addition to the legal costs they incurred. So was the bribery really worth it? Specialists, some from Transparency International, disagree that it was, just as they dispute the supporting claim that without bribes, Daimler would end up selling fewer cars or Siemens fewer high speed trains.

My problem, however, is with how people who act perfectly respectable at home could otherwise act so disrespectfully. I mean this less psychologically than ethically, but it is precisely the ethical dimension that some managers believe they can discard. They hold themselves to the letter of the law, they say, but exploit the greatest opportunities from which they can trick their way out of the legal provisions and stipulations.

What would have happened, then, if the ethical dimension had been respected from the very beginning? In a few words:

- During the period in which slush funds were still legal but already deemed objectionable, management would have instituted measures to abolish the system of bribery.
- Large corporations would have initiated contacts with other corporations in order to build a strong and common front against this type of corruption. The chief of an auditing firm confirmed this to me several years ago, at the World Economic Forum in Davos, when I had asked him to comment on possible provisions to fight corruption. His firm had over 2000 employees and conducted reviews of government contracts, particularly in Africa. Perhaps if someone, say, in the pharmaceutical or automobile industry could unite the largest corporations to agree on guidelines, many things would be possible.
- Already in 1999, when such payments became illegal, ethical and responsibly thinking managers would have ordered that from then on everyone had to comply with the law.
- Managers who were legally unassailable yet had acted in an ethically irresponsible manner would not have been promoted—a benefit to the firm and the common welfare.

At the beginning of the Davos World Economic Forum in January 2011, its founder and President, Professor Klaus Schwab, declared: “Too many managers are still

focused on short-term success instead of effective management. The view that what we have to deal with is above all a fundamental moral crisis, is still largely absent.”

- c) Politics: The second Iraq war under George W. Bush was clearly a war of aggression that violated international law, a preventive war premised on suspicions that is strictly forbidden under the UN Charter. The UN Charter is the first document in world history that once and for all completely prohibits wars of aggression. This is why the Iraq war found no support in the Security Council or in world opinion—and rightly so. In spite of this, the war was initiated by President Bush and supported by British Prime Minister Tony Blair. It was blatantly obvious that the war was built on monstrous lies and was contrary not only to international law but to the Christian ethic. It left behind a trail of political instability, economic distress, social misery and hardship, and religious fragmentation.

The construction of the Guantanamo detention camp and other reactions of the Bush administration clearly stand in direct contradiction to the Geneva Conventions and thus to international law. They were ignored, circumvented, and their meaning re-interpreted in order to accomplish certain political goals.

Of course this ethical dimension is relevant not only in “high politics” but in the politics of everyday life. The former German Constitutional Court judge, Professor Paul Kirchhof, warns that: “Today we must with great earnestness ask ourselves whether people are not overwhelmed by their various rights to freedom when the binding norms of one’s inner peace - care for fellow human beings, competing with fairness and integrity, and the willingness to engage in social behavior and take on honorary offices as a daily matter of course threaten to become lost. Litigation shows us that a fight for parking spaces can lead to blows, efforts to find new markets can lead to corruption, prestigious football victories showered with money feed off of intentional “tactical” fouls, and elderly parents at times grow lonely despite having large families ...*Freedom is built on pre-legal, ethical attachments.* Parents impart these standards by their example and the family culture they create and schools through training and education. One’s professional life creates it in the surrounding work environment and through the work itself, and churches teach it in the messages they proclaim. In this respect we don’t “read” growth and the future in balance sheets,

but in the face-to-face encounters with other free human beings. This living together, which we consider just and equitable, finds its full measure not only in the laws of the state but also in principles of ethics and morality developed and understood by human beings.”¹

“*Quid leges sine moribus*—what help are laws without morals?” Of course there is a need for law and regulations. Today there are parts of our social environment where far too much is regulated, while other parts are not regulated enough. But surely regulations cannot replace social norms. If these regulations are not supported by ethical values, standards, and attitudes, then just as these recent experiences show, they will be ignored on a grand scale, re-defined, and even repudiated.

Now, after these concrete examples, a basic clarification in a second line of thinking:

II. Law and Ethics: Two Different Dimensions

The cases mentioned above illustrate the difference between the dimensions of law and of ethical behavior (*Ethos*). The legal dimension is seen as a domain of laws and regulations, of adjudication and of course of legal studies and of jurisprudence. In this legal dimension, the direct analysis of legal rights and their enforcement is possible and often necessary. External sanctions of various kinds are available so that the legal rights can be asserted and enforced.

In contrast, enforcement or coercion at the level of ethics is not possible: the dimension of morality, of mores and customs, of ethical behavior, lies at the level of conscience—in other cultures the realm of “the heart,” after Kant the “internal court of justice.” Here, nothing can be directly determined (say, perhaps, whether someone tells the truth), and nothing can be coerced (say, perhaps, for someone to tell the truth). Up to now, forensic psychologists have not identified body signals or specific vocabulary that can discern with any great reliability when someone lies; and while lie detectors can measure body functions, even they cannot definitively expose a liar. And yet one’s conscience regulates its own internal sanctions, i.e. a pang of conscience, that can even find its way into one’s sleep. Often, even worse

¹ Paul Kirchhof, “Das Mass der Gerechtigkeit. Bringt unser Land wieder ins Gleichgewicht!” [*The Measure of Justice: Bring Our Country Back into Balance!*] München 2009, 34-35.

can be the psychosomatic consequences. The words *Ethos* and *Ethik* are often used interchangeably but in practice must remain separate: *Ethos* (in English, “ethic”) means ethical/ moral behavior. The term *Ethik* refers to a field of science that deals with the development of philosophical and theological ethics (in English, “ethics”), understood as a teaching or a system of ethics.

Of course, both levels have something to do with one another. I do not share the opinion of legal positivists who want to divide law from ethical behavior completely. Such positivism rejects every necessary and often every dependent connection between law and ethic. Today, in contrast, many lawyers reject this view—and rightly so; with the acceptance of formal criteria related to the formation of laws, the implementation of laws, and the effect of laws the question of an ethical justification for the content or substance of the law has not at all been resolved. The unjust laws passed under National Socialism and Communism clearly showed the devastating consequences of such legal positivism. A recent counter-example is one offered by the Obama administration, which has begun to correct the many legal manipulations of the previous Bush administration, particularly by its Department of Justice officials, and which raised anew the question of moral criteria in the making and interpretation of laws in the United States and in the rest of the world.

But if I am not a legal positivist, then I am also not one of the natural law philosophers who believe that law and ethic stand in direct relationship to one another and that all positive statutory law is based on natural law. This natural law consists of basic principles that, independent of human consent and human-generated (positive) law, would always remain in force, more precisely, in principles that themselves would be established within “the nature of things” or from an a priori defined “nature of human beings.”

But since Kant, a sharp distinction has been drawn between morality and law. As a theologian I cannot understand why the natural world, the nature of human beings, should contain within itself a criterion or measure for determining what is morally right.

So, for example, the question regarding what a naturally-derived morality would be in terms of sexual or social relations would, seemingly, be easy to answer. But

precisely this question elicits very different answers: with regard to content, the terms nature and law are seen quite differently, so that the concept of natural law has proven itself to be easily instrumentalized, even subject to manipulation. An example for how disastrous the deduction of moral precepts/commands can be is the ban against contraception issued by Pope Paul VI in the encyclical “*Humanae vitae*,” apparently because it is against the laws of nature.

Law and ethical behavior also cannot be completely separated, as in legal positivism, or seen as being directly related, as in the teachings of natural law. I myself would argue for an indirect relationship. Such a relationship would also replace the so-called “interpretative conception of legal reasoning,” as presented by arguably the most important significant legal philosopher in the Anglo-Saxon realm, namely, Ronald Dworkin at Oxford University (“*Law’s Empire*,” London, 1986). I cannot go into any great detail here. Rather, I would like to delve more deeply into the problematique through a more exact investigation of “global law” as well as “Global Ethic.”

III. What is “*Weltrecht*” – “Global Law”?

What I understand as “global law” is neither a utopian “global state” nor a future “global constitution” that as a new legal entity would supersede all existing local, regional, and national constitutions. Rather, what I really mean is *existing international law and transnational law including legal enactments of global institutions*.

Generally, jurisprudence makes a distinction among the three sources of “public international law”: contract (treaty) law, common law, and general legal principles.

1. “International Treaty Law”: meant here is the “positive,” “statutory” law as set down in formal international treaties and conventions. That is, it is a law generated through a legislative process that has a rational and technical advantage as a result of the specificity of its provisions. But international law for quite some time managed to get along without laws institutionally generated by states, because it was based above all else on customary international law, the second source of international law.

2. “International Customary Law”: International customary or common law is rooted in the generally binding practices of states and created by a continuous, steady exercise supported by the legal convictions formed within a legal community—hence the term customary law. At a time when there was no written law, or at the least only a handful of individuals who could read or write, such customary law was generated and conveyed through this actual exercise. Compared with international treaty law, customary law has a great advantage in that it has been preserved through long and ongoing experience and refined through reflection.

It could thus largely keep itself distant from and free of the strong influences of individual states and from one-sidedness. International customary law carries on this great tradition and legacy. This also highlights the relationship between legal regulations and prohibitions, on the one side, and moral responsibility on the other. However, this interrelationship becomes more evident through the inclusion of a further legal source of international law:

3. “General legal principles”: According to Article 38 paragraph 1 of the Statute of the International Court of Justice, the general international principles of law constitute the third legal source for international law (*Völkerrecht*), after international conventions and customary international law.² The extent to which these general international legal principles are compulsory—i.e. binding—is debatable, including whether they have the same compulsory status as treaty law or customary law.³ Even if one did not recognize their binding obligation, these general principles nevertheless can exert a great degree of influence on the international legal system. They can even reflect a self-producing consensus over fundamental principles, a consensus that can mature into a legal norm.⁴ A consensus exists among jurists that certain general legal principles are essential for the functioning of every legal system. Of course it would also help tremendously with the task of implementing general legal principles into law if a consensus among jurists could be

² Compare with W. Graf Vitzthum, *International Law (Völkerrecht)*, Berlin, 2007, 12-19; 71-73.

³ To this end, for example, M. Herdegen, *International Law (Völkerrecht)*, Munich, 2009, 145f.

⁴ “General legal principles common to the major legal systems, even if not incorporated or reflected in customary law or international agreement, may be invoked as supplementary rules of international law where appropriate.” (Restatement of the Foreign Relations Law of the US, published by the American Law Institute, 1987).

achieved that the implementation of general legal principles through an *Ethos* is necessary. My conviction is: without an ethical foundation, the implementation of these principles of law—from the very outset—would be rendered questionable.

Hence, now, the question:

IV. What Is “Weltethos” – “Global Ethic”?

I quote the definition in the “Declaration Toward a Global Ethic,” approved by the Parliament of World Religions on September 4, 1993 in Chicago: “By a Global Ethic we do not mean a global ideology or a single unified religion beyond all existing religions, and certainly not the domination of one religion over all others. By a Global Ethic we mean a fundamental consensus on binding values, irrevocable standards, and personal attitudes. Without such a fundamental consensus on an ethic, sooner or later every community will be threatened by chaos or dictatorship, and individuals will despair.”

In the Chicago Declaration, two fundamental principles and four imperatives are broadly outlined. The first fundamental principle is treating others humanely: “Every human being must be treated humanely and not inhumanely.” Then there is the fundamental principle of mutual reciprocity, or the Golden Rule: “Do not do to others what you do not want others to do to you.” On these two principles are built the four basic values and standards that are found in all great religious and non-religious ethical traditions:

- Do not kill, torture, torment, or harm. This means: a commitment to a culture of non-violence and respect for life.
- Do not steal, exploit, bribe, or corrupt. This means: a commitment to a culture of solidarity and a just economic order.
- Do not lie, deceive, fabricate or manipulate. This means: a commitment to a culture of tolerance and a life lived in truthfulness.

- Do not abuse one's sexuality or betray, humiliate, or debase others. This means: a commitment to a culture of equal rights and partnership between men and women.

As far as I have determined, there was one prominent expert on international law in the twentieth century who had something like a foreshadowing of a global ethic, and who already in 1955-1956 had used the term "world ethic." It was the Zürich Professor Max Huber (1874-1960), president of the Permanent Court of International Justice in the Hague, the predecessor of today's International Court of Justice, and for many years the president of the International Committee of the Red Cross.⁵ Huber developed the term "international ethic" as something that supported law but yet was above it, or transcended it—thus not capable of being grounded in law: "Neither law nor convention can hold their ground over the long term without the authority of an ethic from a different and higher realm to back them up, one that can elevate mere convention into morality."

But Max Huber was of the opinion that the multiplicity, discrepancies and dichotomies of existing religions and ideologies was so great that they could scarcely be overcome enough to be consolidated in a "global ethic." In his view, a legal "world organization" would be more attainable than a "global ethic." Today we have such a "world organization." However, one can believe that these legal "world organizations"—the United Nations, International Court of Justice, and more recently the International Criminal Court—often do not function demonstrably well because their international laws are not supported by a global ethic. Even Huber recognized the problem: "The law allows itself to be bent, like iron, as long as it is not an ethic itself. Ethic, by contrast, is like a crystal." And so the bending of laws undertaken by the Bush administration failed not least because of the crystalline properties of an ethic—present in the international public and in Bush's America—that prohibits government officials themselves, their spin doctors, and their offices from lying, just as bankers and managers together with their senior staff are prohibited from stealing. In this sense general legal principles, in contrast to commonly held opinions, have not shown themselves to be "soft law."

⁵ See M. Huber, "Prolegomena und Probleme eines internationalen Ethos," in *Die Friedens-Warte*, vol. 53, 1955/56, the quotes found on page 305ff and 328ff.

And now to the project of a Global Ethic. It was initiated over twenty years ago with the book “Project Global Ethic” (English title: *Global Responsibility*, 1990), at a time when the word “globalization” was hardly well-established), which today is widely recognized. This is evidenced, among others, by the presentation of a Global Ethic Speaker who has been invited to speak every year since 2000 at the University of Tübingen: Tony Blair, Mary Robinson, Kofi Annan, Horst Köhler, Shirin Ebadi, Jacques Rogge, Helmut Schmidt, Desmond Tutu, and Stephen Green. The Project Global Ethic is frequently editorialized on and has, not least, put into practice in many schools via the pedagogical tools developed by The Global Ethic Foundation. As a new project, it often encounters a great deal of misinterpretation. Permit me then to respond briefly to some of the recurrent misunderstandings:

Question 1: Is the Project Global Ethic a religious project?

Answer: No, it is an ethical project that religious and non-religious individuals can and should support. It can be philosophically-based as well as theologically-based.

Question 2: Are the ethical similarities—of peoples, religions, and world views—presumed by the Global Ethic founded on a democratic justification, that is on a consensus of prudent or rational societies and nations, and thus in the final analysis, on majoritarian views?

Answer: No, the Global Ethic is not a western conceived “superstructure.” There is a substantive reason for this, namely, that the Global Ethic is built on the ancient wisdom of humans collected through empirical evidence and on the essential rules of life as they have developed since the embodiment/personification of human beings as they emerged out of the animal world. Human beings had to learn to behave like humans, for example, to learn not to kill other human beings the way they could kill animals. This fundamental ethic is reflected in various religious and ethical traditions and in cultures as well as in common law. The Jewish Tora, the Hindu Bhagavadgita, the sayings of Buddha, the words of wisdom of Confucius—all remain explicitly or implicitly the foundation or framework for the faith, life, belief and action of hundreds of millions of people. Religions should hold on to their own separate identity and emphasize it in their religious teachings, rites, and

communities. At the same time, however, they should recognize and put into practice the fundamental directives they share with one another.

Question 3: But isn't the Global Ethic a western project that should be superimposed on the rest of the world?

Answer: Absolutely not! It is precisely the emphasis on humanity (*Humanum*) and the Golden Rule of mutual reciprocity that you find in Confucius, already five hundred years before Christ. And the four fundamental ethical maxims mentioned earlier---do not kill, steal, lie, and sexually exploit others—are found in Patanjali, the founder of yoga, in the Buddhist canon, and of course in the Hebrew Bible as well as the New Testament and the Koran.

Question 4: Shouldn't ethical norms be completely culturally independent, and isn't everything in other cultural traditions "completely different" anyway?

Answer: Without a doubt, there are large differences in the realization of ethical norms.

And dependent on time and circumstances, in particular epochal periods or paradigms, there is also a certain "obscuring" and "entombment" of norms (such as the Jesuanic non-violence during the period of the crusades or the at least in part culturally sanctioned female infanticide in South and East Asia). But certain *fundamental ethical measures* apply (or should apply) *to all cultures*. Whether a gangster murders in Japan, New York, southern Italy or Australia; whether a government leader in Germany, the United States, Peru, India or Japan lies to parliament or to the public; whether a scientist in Ulm or Nairobi falsifies his or her findings; or whether a banker in New York, Hong Kong, Munich, or Zürich manipulates his or her balances or accounts: this person typically must count on the loss of his or her credibility and on legal sanctions, especially when the sanction against one's own bad conscience have no success, or when the person has no conscience at all.

Question 5: Don't the ethical human obligations so important to the Global Ethic stand in contradiction to the human rights that were first formulated during the European Enlightenment?

Answer: On the contrary, without observing these basic human obligations we have to one another, there is no realization of human rights in general, and that is why it is not enough to proclaim or demand support for human rights. They must be backed up by the obligations or responsibilities we have to one another, which constitute the flip side of having respect for human rights. In all Asian cultures a proclamation of respect for human rights without responsibilities vis-à-vis the others and the community is largely ineffective. And from these moral responsibilities, human rights are more easily understood and substantiated.

I could easily vouch for this from my own personal experiences, especially in China. However, more important, ladies and gentlemen, is the following question: does it all come down to the Global Ethic being just a nice program on paper? How does it look applied in the real world – in practice?

V. Global Ethic and Global Law in Practice

Despite and in part because of globalization, today we live in a politically and religiously divided time that is marked as much by the presence of widespread war and conflict as by a general absence of direction. I am not a cultural pessimist, but with all of the positive development that has occurred, we can point to one thing that cannot be ignored: We live in a time in which many moral authorities have lost their credibility, and in a time in which many state, cultural, and, unfortunately, religious institutions are increasingly pulled into a maelstrom fed by deep and profound identity crises.⁶ At a time in which many standards and norms have begun to slip, many people in various stages of their lives—particularly the young—hardly know what is good or bad.

Who then would wish to argue with the view that a new social consensus is needed, and at the global level, because it is precisely globalization that demands a Global Ethic. This requires the political will of those who hold responsibility, especially in attempts to work for the common good of all people that comes at the cost of much sweat and demands much sacrifice including, under certain circumstances, the sacrifice of state sovereignty. All of this is hardly possible without an ethical

⁶ Regarding the Catholic church, see my book, “Can the Church Still be Saved?” (Piper, München, 2011).

impulse, without ethical momentum or moral energy, as was shown for example by the Marshall Plan, the development of a Universal Declaration of Human Rights, or the founding of a united Europe.

Of course, regarding the Global Ethic Project, it is a question of a decades-long process of change in conscience, just as the question of women's emancipation, ecology, and peace initiatives occurred. And in this process of realization, the general normative rules of the global law and Global Ethic will be subjected to the iron-hard test of practical experience.

Thereby, what hold true as a matter of principle: universal norms always must be applied in a situation-specific manner: norms without context are hollow; a context without norms is blind. This means: norms must illuminate the situation, and the situation must define the norms. To be morally good is thus not only what is in the abstract good or right, but what is concretely good or right. In other words, only in the particular situation does the responsibility or commitment become concrete. But in a particular situation, in which of course only the person affected can judge best, that commitment can for all intents and purposes become absolute. This means: our "how we are to be" ("Sollen") is always situational, but in a certain situation the "Sollen" can become categorical, e.g., without the "ifs and buts." Thus in every concretely moral decision one must always bind together the general normative constant to the particular situational variable.

Of course, ladies and gentlemen, I know that judges must render binding decisions in specific cases; he or she should not and cannot base decisions on abstract norms, and the Global Ethic does not make the judgment of an individual case any easier. These cases could break down quite differently:

- There are any number of relatively simple cases by which positive law fully suffices for the decision and a recourse based on general legal principles or Global Ethic principles is unnecessary. There is positive law such as the law of the road in traffic regulations, which has as such nothing to do with the ethic; driving on the left side of the road would be just as possible, which certainly could then become an ethical duty because it would be an issue of life and death.

- But there are also highly complex cases such as the stock market trade in derivatives—pure financial competition without any real exchange of goods. The extent to which this is unethical requires a precise examination by financial experts and the application of economic law and economic ethics. If in the end it is a matter of deception and stealing, then it would be immoral. Then the derivatives market would be banned and the offenders punished.

All of this means: the global ethic will not offer a legal or ethical casuistry but, rather, principles and guidelines for casuistry. In fact, general legal principles already can be supported through universal ethical principles, just as they have been adopted by the representatives from all major religious traditions in the already cited “Declaration Toward a Global Ethic” of the Parliament of the World’s Religions (Chicago 1993).⁷ I indicate only how in this document the most important universal basic legal principles are reinforced through ethical principles. Two examples:

1. The legal foundation of equitableness (“*aequitas*” in Roman and canonical law): This basic principle is a corrective to the positive norm and requires basing the appraisal of a case on a natural sense of justice or fairness, which can contribute significantly to overcoming the discrepancy between the dispensation of justice and the sense of what is right. It permits a more elastic application of positive law, which for example in the area of criminal law can have as an effect either a reduction in the harshness of a penalty (as perhaps for an adolescent) or an increase in the penalty. This basic principle can be understood as a legal application and concretization of the first basic principle of a human ethic, namely, of the *principle of humaneness*, or the humanity principle: *every human being must be treated humanely, not inhumanely!*

Of course the humanity principle must be more strictly defined. What does “more humane treatment” mean? In a fundamentally ethical sense, this means: every person should not be treated bestially or like an animal (the catchword here is Abu Ghraib, but also gulags and concentration camps!) but, rather, humanely, humanly, judiciously—that is, according to his or her human dignity and attributable basic values.

⁷ Newly reformulated in the succinct UN style, these basic principles can be found in a 1997 recommendation of the InterAction Council by former state and government leaders under the direction of former Federal Chancellor Helmut Schmidt, entitled a “Universal Declaration of Human Responsibilities.”

For judicial practice this sets at least negative constraints: “inhuman” is in practice easier to define than what “human” is; given the sexual abuse of children and adolescents, the murder of parents, teachers, and school mates through other youths and the rape of women, it is unnecessary to go into this in any more detail.

Likewise, I do not need to explicate further that positive “humane treatment” is not always easily ascertained, as can be seen in the never-ending and still unresolved discussion about this, especially in the field of employment law.

2. The basic legal principle of “good faith” (“bona fides”): it means that a certain behavior is demanded of every person, a behavior made manifest in honest, real and truthful people. This fundamental principle is supported by a second basic principle of the global ethic, namely, that of *mutual reciprocity*, or the Golden Rule: Do not do to others what you do not wish done to yourself.

This Golden Rule, ladies and gentlemen, is no idealistic slogan or rallying cry, but an ethical guideline that itself can be observed in the battle of economic competition and in political conflicts of interest—insofar that competitors and political enemies should be treated as fellow human beings and not to be “liquidated” (physically, in the media, or otherwise). Ethical criteria in economics and politics are not suspended, and lies and deception are not permitted either in the banking industry or in foreign policy. This does not exclude the unavoidable compromises and pragmatic solutions that are part of real life.

VI. Global Ethical Principles in Support of General Legal Principles

Although the Global Ethic Declaration was not intended as a collection of legal formulations or as an analogue to the UN’s Declaration of Human Rights, its contents has international importance—and this precisely in an era of regional warlike conflicts, genocide, environmental pollution, discrimination, a grossly unequal division of material goods, climate change and the precarious or inadequate access of many people living in the world to goods that are indispensable to life.

And that is why the principles of the Global Ethic Declaration can be a support for, and even a source for the basic principles of international law. Three characteristics of these ethical principles convey this view:

1. They are acknowledged by a broad international consensus. Admittedly, this consensus exists first within religious groups rather than within nation states, but most of these groups are, in their orientation, themselves transnational and transcultural. And the global ethic also is supported by prominent politicians—as, among other examples, the previously mentioned Global Ethic Speeches in Tübingen make clear.
2. Although the Global Ethic principles are not intended as legal rights and responsibilities, nevertheless they have *obligatory power*. They are obligatory, not freely chosen standards of behavior. So for example, the denunciation of corruption in the economy, as stated in the declaration, can over time find its expression in the international convention (or common law) against bribery. Increasingly, legal and non-binding ethical norms regarding codification of specific formulations have led to binding agreements. This is true especially in human rights legislation and in international environmental law.
3. Several principles in the Global Ethic Declaration are well suited as precursors for international legal norms: they address topics today that the process of globalization raises. The second directive of the Declaration that, for example, deals with a fair economy is relevant for transnational activities of multinational firms that only concern themselves with a body of rules and regulations favorable to their maximization of earnings. This leads to my next point:

VII. A Manifesto for Fair Economic Activity

The newest document of the Global Ethic shows that all of this is not just wishful thinking. Well before the beginning of the financial crisis, a working group consisting of economic scholars, entrepreneurs, and ethicists was commissioned by the Global Ethic Foundation to work on a “Manifest for a Global Economic Ethic”

that was then introduced to the public in Fall 2009 in New York, Beijing, Basel and Melbourne. The Global Ethic Foundation established its own website for it:

www.globaleconomicethic.org.

Both principles from the Global Ethic Declaration of 1993—the humanity and reciprocity principles—form the foundation (Part I) of the new manifest (Art. 1-4). And as in the global ethic declaration, the manifest builds on the four imperatives previously discussed: do not kill (i.e. Art. 5-6), do not steal (Art. 7-9), do not lie (Art. 10-11), and do not sexually abuse (Art. 12-13).

Allow me to provide an example of how the values of justice and solidarity are concretized in the manifest. Article 8 deals with corruption: “The attainment of profits is the prerequisite for a firm’s ability to compete and to exist and, thus, the basis of their social and cultural engagement. But corruption harms the well-being of the entire community, the economy, and the people because it leads to a failed process of allocation and wasted resources. The rolling back and elimination of all corrupt and unfair trading practices such as bribery, anti-competitive arrangements, patent violations, and industrial spying requires preventative engagement that is compulsory for all active participants in the economy.”

Ladies and gentlemen, you may perhaps ask: what is so special about your manifest? In reality, there are any number of other very useful ethical declarations and business codes of conduct. The special characteristic of our manifest is evident in two dimensions in particular:

It is manifest first in the *continuity* of these values and standards *in a period* that persists despite all failures. These values and standards have the authority of the great religions and ethical traditions of humankind behind it, as they have been set down by countless witnesses in various cultures in the course of centuries. Thus, there are not inventions our time but, rather, stem from the trove of ethical experiences of humankind that humans together have assembled—since when? Since the human ascended from the animal world and had to learn what it meant to be truly human, and then to act as a human! Learning, for example, not to kill other human beings as they had been free to kill animals.

Secondly, our document for an ethic for the world economy is manifested in the *universality* of these values and norms in time and space, a universality that despite all evident cultural conditionalities is by no means randomly revealed—but to what extent? Because humans in all cultures were interested in placing life, property, honor, and gender under special protection. In that way the values and norms are not at all chosen arbitrarily: the nonviolence and respect for life, justice and solidarity, honesty and tolerance, mutual respect and partnership are structurally constituted and set into the central aspects of life.

From this it is clear: our manifest does not presume to set up a specific ethical system, such as, say, that of Aristotle or Kant—no “ethic” in the strict sense. It only explicates a few elementary ethical values and standards that through empirical analysis have been established as being common to all humankind. Thus it is an “ethic” that functions as an inner ethical conviction or mindset, as a personal commitment to orient one’s life toward binding values, strong standards, and personal bearing or virtue. It offers of course no answers, panaceas, or pat answers for all possible problems in economic life or in the related areas of bioethics, scientific ethics or political ethics. However, it does point to concrete ethical baselines upon which every respective individual decision can and should be oriented. We hope that as many people as possible accept this manifest as their own guideline for their decisions in their daily economic life.

In 1990, when I laid out the programmatic foundation for the work on the Global Ethic in my book “Project Global Ethic,” no one could have imagined which national and economic circles this topic would have attracted. Back then, some considered this project to be a utopia. But the Global Ethic is no utopia, no “*Nirgendwo*” – no “nowhere”; rather, it is a *vision*: it shows how an admittedly not “healed” but better world should and can look like. It is a forward-looking vision: we and all people with whom we work with throughout the world are convinced of the urgent necessity for a commitment to respect and understanding between cultures and a commitment to ethical standards in society, in politics, and in the economic relations. And the Global Ethic is a realistic vision, that of course cannot be created overnight, but that must take some time. And so it was with the social problems of thirty or forty years ago: a new understanding of peace and disarmament, an awakening sensitivity towards environmental problems, a new and fair view of the roles of men

and women. All these questions had an ethical dimension as well, and the change in thinking took decades—until this very day.

And so we, too, need a new view of life regarding the relationship between global law and Global Ethic, and I hope that I have been able, through my remarks here to highlight for you their intrinsic, inseparable connection.