

American war, German realpolitik and international law

A press round-up

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10 May 2003

“Power only submits to a greater power. Power, however, is legitimised by success!... Success is the verdict of history, the ‘world court’ of supreme authority, from which there is no appeal for human things.”[1]

Ludwig August von Rochau (1810-1873) published this and similar nostrums as “The principles of *realpolitik*”, drawing his demoralised conclusions from the failure of the bourgeois revolution of 1848-49. The liberal journalist recommended his readers among the German bourgeoisie and middle classes to foreswear their high ideals of democracy and liberty and come to terms with the Prussian police and military state, which was entirely legitimised by its success in crushing the revolution in blood. The book became a bestseller.

Today in Germany, Rochau and his writings are forgotten; not, however, *realpolitik*. The attitude of the German media towards the war has provided a particularly odious reminder of this fact in the last weeks.

Until the very day the US army marched into Baghdad, the German media was full of criticism of America and Britain. US disregard for the Geneva Convention and Security Council resolutions were denounced as a breech of international law in numerous editorials and feature articles. But the arrival of American troops at the gates of the Iraqi capital on April 2-3 changed the situation in editorial offices in Germany.

Symptomatic of this was the April 4 edition of the *Süddeutsche Zeitung*. The front pages still report extensively on the crimes against the Iraqi population, the forthcoming danger of the destruction and plunder of the country’s cultural treasures. On the feature pages, however, bourgeois globalization opponent Ulrich Beck suddenly poses the question of the war’s “legitimacy” anew. According to Beck, not only was opposition to the war legitimate, but equally legitimate is a war conducted in the name of “rescuing civilisation from the danger posed by weapons of mass destruction” in the name of “liberty and democracy”. It only depended upon how one perceived the war and the dangers cited for conducting it, and here, unfortunately, there was no objective truth:

“There is no ‘objectivity’ regarding the dangers independent of their cultural perception and evaluation. Rather, the ‘objectivity’ of a danger consists and arises from the belief in it.... Whoever believes in a particular danger lives in another world to those who do not share this belief, or considers it hysterical.”

Ulrich Beck then describes the struggle that he and those like him are presently undergoing—a struggle that rages in the soul of every one of them between the “against” embodied in yesterday’s opposition and the “for” involved in today’s adaptation: “However, this putrefying dynamic affects everyone.... Does the *for* and *against* the war really only split countries and continents? Doesn’t the moral battle take place inside every one of us?”

In an editorial entitled “The new Europe” in the same edition of the *Süddeutsche Zeitung*, Stefan Kornelius recommends that, faced with the

new realities in Baghdad, Europe drop its complaints about the US so that this inner “moral battle” does not have a paralysing effect on European politics. According to Kornelius, the “system of world order”, its institutions like the UN or NATO and its “rules of procedure”, are severely damaged. The US has made clear that it is ready to tear it all down completely in order to assert its interests. Then he concludes:

“Old Europe must act quickly and overcome several barriers if it wants to shape world politics. Three lessons should be drawn: Europe—both old and new—cannot be united by confronting the US, but will be fractured by this conflict.... Lesson number two: Germany, Europe’s geopolitical hegemonic power, should never have to choose between Paris and London. This would also tear apart the continent and unleash the ghosts of the past from their tomb. The third lesson is: Europe must stop complaining and, instead, act. A four-nation submarine fleet, an air force of the core European powers including Britain, a joint foreign aid budget for developing countries with concrete political demands.”

In other words: Europe, with a common navy and air force, should act as an equal power to the US, and, like Washington, should put the colonial countries and regions under pressure “with concrete political demands”.

Kornelius remains silent as to how this should all happen without intensifying the conflict with the US and its pretensions as a global super power, thus bringing about the break-up of Europe—according to “lesson number one”.

His call for Europe to rearm is neither an isolated one nor has it gone unheard. In lockstep with the American soldiers on the streets of Baghdad, the government in Berlin is already marching in a new direction. At the start of the US assault, Chancellor Schröder and Foreign Minister Fischer still rejected the war against Iraq, at least verbally, as “flatly unjustified”. But as soon as the fall of Baghdad approached they wished American troops “rapid success” and an end to the “criminal regime of Saddam Hussein”. This transparent attempt to ingratiate themselves retrospectively with the US is aimed at assuring that they do not end up completely empty-handed when the booty is shared out. At the same time, Berlin has taken energetic steps for the rearming of Europe with the transformation of the *Bundeswehr* (armed forces) into an army of intervention and the construction of a European armed force.

In reality, the “ghosts of the past” have already emerged from their tombs: the spectres of militarism and war also haunt Europe.

And what of the publishers, leader-writers, editors-in-chief and features writers of the German press? In predictable fashion, they are marching in the same lockstep—and now provide the arguments to justify this shameless rightward turn by the Social Democratic Party-Green Party coalition in Berlin.

On April 12/13, Stefan Kornelius produced another comment. Up to this point, the *Süddeutsche Zeitung* had expressly advocated the observance of

international law and the Geneva Conventions on human rights. Now Kornelius argues the opposite: instead of enforcing the adherence to international law, new laws would now have to be devised and established. By whom? By the US. Under the headline “America’s victory, America’s duty” he writes:

“More important, however, than the future regime in Iraq is the system by which the states of the world intend to act towards each other. Here also, this system cannot be established without the US. Washington has made clear that it will no longer obey the old rules, because it regards them as an obstacle and outdated. The new rules—preventative action, coalitions according to the mood of the day—only serve America in the first instance. What serves the rest of the world? And how can at least a part of this remaining world serve [sic] American interests and by doing so again win influence in Washington?”

Rules are essential in order to legitimise politics (vis-à-vis the general population), says Kornelius, who adds, “America must develop these rules with its allies ... because—to use Churchill’s words about this government—history is written by the victors.”

In other words: the US no longer wants to adhere to any superior international law and, as befitting the victor, it may now dictate its own rules to the rest of the world.

The weekly *Die Zeit* carries out the same *salto mortale* (mortal leap) from the defence of international law to bowing before the victorious aggressor. In its editorial in the March 27 edition under the headline “War in the ruins of law”, Michael Naumann opines as follows: “The absolute values of European natural justice, which developed over centuries—respect and freedom of the individual, equality, public interest—are none of them bound to divergent forms of reason of state. Therefore they are also not freely available variants of democratic foreign policy, but should be their yardstick.”

In the same paper on April 3, however, under the headline “The reality shock”, Josef Joffe states the exact opposite: “The new force of the twenty-first century ... can no longer be contained by classical international law. It would be outrageous to reject this tradition, but when new facts emerge the law must also change. Anyhow, this is what we hold to in our own country.”

According to Joffe, in the future it will not be the superior values of natural justice that guide politics, but the violent politics of the victor that provide the yardstick for a made-to-measure system of law.

One week later in *Die Zeit*, Bernd Ulrich blows the same trumpet in a lead article entitled “Helpless Europe”: “Of course, this war violates international law. The Americans are to be criticised for this—and so is international law.” *Die Zeit*’s philosophy of law could be described as follows: if a violent thief breaks the law and establishes “new facts”, then the law must be criticised, changed or abolished.

In the *Frankfurter Allgemeine Zeitung*, Reinhart Mueller shares the same opinion, but dresses it up, however, in a form that German jurists can live with more easily: “International law is not at an end,” he writes on April 16, even if the US had clearly damaged it. “International law is not a rigid, but a dynamic system. It is made by states unilaterally and reciprocally.... A breach of valid laws can damage them, but it can also strengthen them, according to the reaction of the international community.” The latter, however, must recognise the fact that the US, even if it breaks the law, is the only “democratic state” that “has the means and the will to take over responsibility for the entire world”.

This “flexible attitude” towards international law and democratic rights does indeed have, as Josef Joffe writes, a tradition in the “inner world” of Germany—it is, however, a dire one.

The memoirs of the journalist and writer Sebastian Haffner are very informative in this regard. He evocatively describes a scene in the Berlin High Court after Hitler’s seizure of power in 1933. Young “newcomers” among the judges, who are completely ignorant but staunch National

Socialists (Nazis), advise their older colleagues that the old legal paragraphs must now take second place, that it depends not on the letter of the law, but on its spirit, and in particular on the will of the “Führer”:

“While this was going on, it was pitiful to study the faces of the old judges. They looked into their files with an expression of indescribable sadness while their fingers fiddled agonisingly with a paper clip or a piece of blotting paper. In the past, they would have failed a law student for the sort of talk they now had to listen to, presented as the highest wisdom. But now the power of the state stood behind this talk, and behind that the threat of being sacked for showing a lack of national-political reliability, penury, the concentration camps.... One of them coughed slightly; ‘Naturally we entirely share your opinion, Herr colleague’, he said, ‘However you will understand...’ And pleaded for a little understanding for the Civil Code and tried to save what could be saved.”[2]

This scene was symptomatic of how in 1933 the judicial authorities were brought into line—and the same applies to the universities and newspaper editorial boards—less by brute force than through becoming fellow travellers, through the grovelling adaptation of most judges, state attorneys, lawyers and professors to “the new facts” of the Nazi state.

Another historical parallel comes to the fore in view of the almost boundless attempts of the German politicians and media to curry favour with the gangster clique in Washington.

In the editorial “Helpless Europe” of April 10, while the bombing of Iraqi cities was taking place before the eyes of the world, Bernd Ulrich announced in *Die Zeit* that Bush’s proclaimed war aim of “democratising the Middle East” should be taken as good coin, and his love of peace and human rights even understood as a stroke of luck for mankind:

“Herein lies a big opportunity, if the US really wants to accomplish more than lending their old power politics a new garb—and if the Europeans take the US at its word.... If in a globalised world only democratisation brings security, then the West must risk everything to export liberty. Firstly, into the dangerous, endangered Middle East. The Americans have understood this better [!] than the old Europeans. But why have they seized upon the worst means [!] first?... As far as the future goes, however, one thing is certain: The Europeans can only act as a brake on American militarism if they take their idealistic impulses [!] seriously.”

Who can fail to recall how London and Paris justified their accommodating policy of appeasement to the Nazi regime and particularly the “Munich Accord” of 1938? British Prime Minister Neville Chamberlain and French Prime Minister Edouard Daladier had agreed at that time to the secession of the Sudetenland from Czechoslovakia and its incorporation into the Third Reich as demanded by Hitler. Beforehand, Hitler had protested his love of peace and had promised them that the “liberation of the Sudeten Germans” would be his last territorial demand.

“Only by accepting the word of a violent aggressor, as soon as they declare that human rights, peace and liberty are their goals, can one ‘influence them’ and prevent something worse from happening,” is the argument advanced by the advocates of “realpolitik” then and now. Three weeks after the Munich conference, Hitler ordered the *Wehrmacht* to prepare for the military occupation of the rest of Czechoslovakia. Five months later, the Nazis marched into Prague, and half a year after that into Poland.

Bush and Rumsfeld are a long way from being able to rest on a fascist mass movement in the US, as Hitler could in Germany. But on the international stage, the glossing over of their crimes in Iraq and the cowardly function of international law have implications similar to the policy of appeasement at that time: the law of the jungle has once again been made the rule in world politics. And the European powers now seek to lay claim to the very same law.

Notes:

1. Ludwig August von Rochau, *Grundsätze der Realpolitik* (*Principles of realpolitik*), Part 2, Heidelberg 1869, quoted by Hans Ulrich Wehler in

Krisenherde des Kaiserreiches (Flashpoints of the Kaiser's Empire),
Goettingen, 1979, p. 272.

In his youth, Rochau had revolted against the restoration of rule in Europe under the Metternich system and participated in the famous “storming of the police headquarters” with a crowd of student activists in Frankfurt am Main. For this he was condemned to lifelong penal servitude, but was able to flee and spent the next one and a half decades in exile. In 1848, he wrote as a journalist of the liberal middle class against the “lefts” in the Frankfurt Paulskirche just as sharply as he did against the conservative followers of the German princely houses. In 1852, he wrote the first part of his *Principles of realpolitik*, writing the second in 1869. After the military success of Prussia over Denmark and Austria in 1866 he submitted “to the judgement of the world court” and abandoned all remaining criticism of Bismarck and the Prussian military state.

2. Sebastian Haffner, *Geschichte eines Deutschen (History of a German)*, Stuttgart and Munich 2000, pp. 177-78



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