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“The first Swiss Human Rights Book:
Realizing Property Rights” -
A contribution to the discussion on
Swiss foreign policy

Speech by State Secretary Michael Ambühl,
Federal Department for Foreign Affairs

Conference of the University of Zurich on
the launching of the
Swiss Human Rights Book “Realizing Property Rights”

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0. Introduction

Do you know the story of the tourist who was dragging himself through the desert gasping, “Water!”? A Bedouin appeared from behind a dune and called out, “I’m selling ties.” The tourist stumbled on and after a day reached an oasis with a five-star hotel. The desperate tourist went up to an elegantly dressed porter and begged, “Water! Please, water!” The porter dismissed the tourist with a wave of his hand saying, “We have water here, but without a tie you are not allowed into the hotel.”

This story is intended to illustrate something of the complexity of the subject we are here to discuss today: property rights as a human right. It throws open some questions such as that of property rights and basic necessities – water in this case. At the same time, it raises the question of how access to property can depend on various factors – for example a just legal environment. The story however also shows me how closely property rights, as well as access to property, are linked to human dignity, and in this way clearly illustrates the human rights dimension of property rights.

I am very pleased to be with you here today for the launch of the first Swiss Human Rights Book, which is dedicated to the subject of property rights. I would like to thank the two publishers, Hernando de Soto and Francis Cheneval, and the

Chair of Political Philosophy at the University of Zurich under the direction of Professor Georg Kohler, as well as the publishing house “Rueffer&Rub” for this first successful edition.

I would like to take this opportunity to make a brief digression into Swiss human rights policy and to show how we intend to introduce the issue of property rights as a human right. To complete the picture, I would like to show at the same time how we integrate human rights policy in the overall structure of Swiss foreign policy. For this reason, my presentation comes in three parts, like three babushkas:

- Swiss Foreign policy as a policy of safeguarding interests
- Human rights policy as a part of Swiss foreign policy
- Property rights as part of Swiss human rights policy

1. Foreign policy as policy of safeguarding interests

Foreign policy is the politics of interests. Swiss foreign policy interests, as set out in Article 54 of our Federal Constitution, are divided into two basic categories: material interests and idealistic interests.

- By material interests what is meant is mainly our national economic interests, the maintenance of our security and our

prosperity. One of Switzerland's foreign policy objectives is therefore to defend good economic framework conditions worldwide. To achieve this, national and international rules are necessary which enable markets to function properly over the long term. Property rights and the rule of law are linked to the economic development of a country.

- The idealistic interests expressed in the Swiss Constitution refer to those to "alleviate poverty in the world", to "promote respect for human rights and democracy", the "peaceful co-existence of nations", and the "preservation of natural resources". As the various authors featured in the "Swiss Human Rights Book" show, property rights play an essential role in peace policy and in the promotion of human rights, as well as in humanitarian, migration and development policies.

In the implementation of foreign policy, we are guided by three time-tested principles: universality, neutrality and the rule of law. According to the principle of the rule of law, law has primacy over power and force. Institutionalised property rights, as an essential and integral part of the rule of law, protect especially small property owners against arbitrary actions by the state and private individuals. The very wealthy and/or powerful generally find a way to protect their property.

2. Human rights policy as a part of Swiss foreign policy

Switzerland has had a federal law on the promotion of peace and human rights since 2004. The Federal Department of Foreign Affairs has a credit framework approved by Parliament for measures concerning civilian conflict transformation and the promotion of human rights. Three weeks ago, the Federal Council submitted to Parliament the report on Swiss human rights foreign policy for this legislative period.

The law, the message concerning the framework credit, and the human rights report define the priorities and areas of action of Swiss human rights foreign policy today. I shall focus on the following *priority themes*:

- defence and promotion of fundamental human rights
- protection of especially vulnerable groups
- globalisation and human rights

and on the following instruments:

- human rights dialogues
- partnerships
- diplomatic initiatives.

- *Defence and promotion of fundamental human rights:*

Theory and practical experience today regard a number of human rights as imperative from the point of view of international law. These include the right to life, and the prohibition of genocide, of slavery, and of torture. The DFA actively supports the observance of these rights around the world through its own activities, as well as through supporting institutions and non-governmental organisations working in these spheres.

- *Protection of particularly vulnerable groups:*

Especially minorities, women, children and the elderly, refugees and prisoners suffer from violations of human rights and international humanitarian law - both during times of war and peace. At the bilateral level, we endeavour to see to it that human rights are respected, for example through demarches. Our interventions are undertaken for example on behalf of non-violent political prisoners and human rights defenders.

- *Globalisation and human rights:*

Globalisation should not erode human rights but rather strengthen them. This is the challenge for international

organisations, states, non-governmental organisations and the private sector of the economy.

Switzerland supports the so-called Global Compact, which was launched by the United Nations and is the most comprehensive initiative in the world for strengthening the social commitment of companies on a voluntary basis. Through the Global Compact, companies undertake to observe and promote ten principles in the areas of human rights, labour standards, the environment and anti-corruption. In spring this year, a group of Swiss firms founded the Global Compact Switzerland Network. We are convinced that active national networks can be an essential part of the future development of the Global Compact.

The issue of human rights in the fight against terrorism is also to be seen in the context of human rights and globalisation. Switzerland supports the struggle against terrorism, but this cause should not be used as a reason to lessen the importance of compliance with human rights law and the rules and principles of international humanitarian law. Under no circumstances should the ban on torture, for example, be called into question, as is currently the case in some places.

And now I would like to turn to the subject of instruments.

- Human rights dialogues:

Switzerland has been carrying out human rights dialogues for several years, for example with China and Vietnam. These long-term dialogues are conducted within the framework of regular visits by official delegations, and are supported by discussions between experts as well as projects on various related aspects of human rights. The aim of human rights dialogues is to improve the human rights situations in the countries conducting the dialogue in the middle and long term. The dialogues themselves focus on particular issues such as the abolition of the death penalty, protection against torture, women's rights, conditions of detention, penal procedures and human rights and business.

- Partnerships:

The Geneva-based Office of the United Nations High Commissioner for Human Rights plays an important role in the implementation of international human rights standards. The Federal Department of Foreign Affairs supports the office financially as well as through an contribution of substantive ideas.

Another example of a successful partnership is the collaboration with the University of Zurich in the production of the first, and I hope not last, “Swiss Human Rights Book”.

- *Diplomatic initiatives:*

Thanks to the federal law on peace and human rights promotion and together with the framework credit, we have increased the scope for taking diplomatic initiatives to strengthen human rights around the world. A diplomatic initiative is a process which can begin with a political mandate, an idea or a scientific study. It can be introduced into a multilateral process and, in the case of successful initiatives, can conclude with a concrete result.

An example of this is the idea developed by Professor Walter Kälin and launched two years ago by Switzerland which resulted in the creation of a United Nations Human Rights Council in March of this year. Switzerland participates since last Monday as a member in the UN Human Rights Council, and, over the next three years, will actively participate in shaping UN human rights policy.

3. Property rights as part of Swiss human rights policy

In the last few years, Switzerland has focused its human rights policy primarily on promoting civil and political rights. However, with the advance of globalisation, economic and social rights have increasingly become the subject of international debate. From Switzerland's perspective therefore, economic, social and cultural rights are the area of human rights with the most potential for development. Switzerland is determined to realise the potential of these rights as much as possible, be it in the context of its bilateral programmes in poverty reduction, democratisation, rule of law or peace promotion, or in the context of multilateral activities.

Property rights belong to the group of economic, social and cultural human rights. Article 17 of the Universal Declaration of Human Rights states: "Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property."

From the standpoint of human rights policy, property rights should not be seen in isolation. They should be linked with the implementation of other human rights. For example, property rights alone by no means ensure the return of internally displaced persons. Potential returnees require long-term security in the form of economic prospects, a functioning

police and judicial system and the establishment of democratic and political institutions in which the returnees can have confidence.

As mentioned, we would like to realise the potential of economic and social rights to the full, for example in the context of multilateral activities. How can Switzerland do this? There is the possibility of introducing a resolution at the UN, as Switzerland did with the resolution on human rights and transitional justice.

With the series of “Swiss Human Rights Books”, we want to take new route: We would like to:

- debate the human rights issue at an academic meeting;
- discuss the contents of the book at regional workshops; and
- analyse reactions, and if we get encouraging feedback create the basis for a possible future diplomatic initiative by Switzerland.

The first “Swiss Human Rights Book” is dedicated to the subject of property rights as a human right. The first part of the book is organised geographically and on a case-by-case basis, while the second part is thematically organised. The book asks the right questions and also suggests solutions, sometimes unconventional ones which will stimulate our discussion today.

4. Conclusion

- Human rights policy is a priority objective of our foreign policy. From a human rights policy perspective, property rights must not be seen in isolation but be coupled with the implementation of other human rights. Property rights contribute to ensuring social harmony and the emergence of an active civil society. At the same time, property rights are closely linked with the issues of refugees and migration, as well as with the restoration of justice and peace following conflicts both between and within states. Lasting solutions to problems relating to property rights are of fundamental importance for the return of internally displaced persons and refugees.
- For Switzerland, the creation of the Human Rights Council means a duty and responsibility to continue making substantial contributions to intensifying the protection of human rights throughout the world. With today's launch of the first "Swiss Human Rights Book", Switzerland wants to promote the discussion of the concept of "Property rights as a human right".
- Many of the points raised under this heading require further clarification. We look forward to your comments and to a critical debate about this book. Following an in-depth analysis, we shall look into the possibility, in about

a year's time, of launching a diplomatic initiative in the field of property rights in light of our previous contributions to the promotion of human rights.

Thank you.