

# Quellen zur Geschichte der Menschenrechte

Lebensgeschichtliche  
Interviews

Herausgegeben von Daniel Stahl

Wallstein

Schriftenreihe Menschenrechte im 20. Jahrhundert  
Für den Arbeitskreis  
Menschenrechte im 20. Jahrhundert  
herausgegeben von Norbert Frei

Band 6

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WALLSTEIN VERLAG

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## Vorwort

Mit zwei Bänden unter dem Titel »Quellen zur Geschichte der Menschenrechte« schließt der Arbeitskreis Menschenrechte im 20. Jahrhundert ein Projekt ab, das ihn seit seiner Konstituierung im November 2012 begleitet hat. Die im vorliegenden Band präsentierten lebensgeschichtlichen Interviews mit Personen der Menschenrechtsgeschichte verstehen sich komplementär zu einem zweiten Band, der eine Reihe einschlägiger, aber nicht unbedingt geläufiger Dokumente versammelt und kommentiert. Beide »Textsorten« sind in den zurückliegenden Jahren für das Online-Portal des Arbeitskreises entstanden und werden hier – notgedrungen in einer Auswahl – gebündelt publiziert. Die Entscheidung, die Texte nicht allein in der digitalen Welt zu belassen, mag einer unbegründeten Skepsis hinsichtlich der Dauerhaftigkeit von Webpräsenzen geschuldet sein (obgleich sich in unserem Fall das Centre for Human Rights Erlangen-Nürnberg dankenswerter Weise bereit erklärt hat, die Homepage nach dem Ende des Arbeitskreises fortzusetzen). Aber vielleicht spricht für unsere Entscheidung auch die Beobachtung, dass die in den vergangenen etwa drei Jahrzehnten zunächst vor allem sozialwissenschaftliche, dann zunehmend auch historiographische Konjunktur des Themas Menschenrechte gegenwärtig in einem Abschwung begriffen scheint. Wenn es gelänge, dieser Tendenz mit unseren beiden Bänden ein wenig entgegenzuwirken, wäre schon viel erreicht.

An dieser Stelle habe ich die Freude, noch einmal Dank abzustatten: zuvörderst gegenüber der Fritz Thyssen Stiftung und namentlich gegenüber dem seinerzeitigen Vorstand Jürgen Chr. Regge und Dr. Frank Suder, seinem späteren Nachfolger, deren Initiative zur Einrichtung wissenschaftlicher Arbeitskreise unter dem Dach (und in den wunderbaren Räumen) der Stiftung am Beginn dieses Unterfangens standen. Mein weiterer Dank gilt den Mitarbeiterinnen und Mitarbeitern der Stiftung, die den Arbeitskreis und seine Veranstaltungen mit hoher Effizienz und auch logistisch stets perfekt unterstützt haben; stellvertretend genannt sei hier Dr. Thomas Suermann.

Die Produktivität unseres Arbeitskreises hat von der Expertise zahlreicher externer Kolleginnen und Kollegen profitiert. Dazu gehören vor allem die Autorinnen und Autoren der Kommentare zu jenen Dokumenten, deren kritische Präsentation und Erläuterung für unser Online-

Portal wichtig erschienen. Bei der Suche nach geeigneten Interviewpartnern haben uns mit ihren Kontakten und ihrer Expertise Dr. Robert Brier, Prof. Dr. Beatriz Gentile, Dr. Oliver Jütersonke, Dr. Sandra Krähenmann, Dr. Anne Menzel und Ramzi Merhej unterstützt. Ihnen allen sei hiermit noch einmal gedankt. Ein sehr besonderer Dank gilt freilich jenen, die bereit waren, ihre Geschichte mit uns zu teilen: Uns ist wohl bewusst, dass es keine Selbstverständlichkeit ist und mitunter Überwindung kostet, einen so tiefen Einblick in das eigene Leben zu geben, wie sie es getan haben.

Schließlich möchte ich diese Gelegenheit nutzen, meinen Dank zum Ausdruck zu bringen für das Engagement und die Verbindlichkeit, mit der die Mitglieder des Arbeitskreises Menschenrechte im 20. Jahrhundert die gemeinsamen Projekte vorangetrieben haben. Wir haben die in den vorliegenden beiden Bänden präsentierten Forschungs- und Dokumentationsformate nicht nur in stets konstruktiven Sitzungsgesprächen entwickelt, sondern die Texte in einem kontinuierlichem, von Daniel Stahl präzise und umsichtig moderierten Arbeitsprozess kommentiert, begutachtet und zur Publikationsreife gebracht. Diese Zusammenarbeit, auch über wissenschaftliche Disziplingrenzen und Milieus hinweg, behalte ich in bester Erinnerung.

Jena, im Juni 2020

Norbert Frei



## Einführung

### Zur biographischen Verortung von Menschenrechten im 20. Jahrhundert

Was brachte Menschen im 20. Jahrhundert dazu, sich für Menschenrechte zu engagieren? Welche Formen nahm ihr Engagement an? Wie reflektierten sie ihr eigenes Handeln? Welche Rückschlüsse kann man auf der Grundlage einzelner biographischer Erzählungen über die Geschichte der Menschenrechte ziehen? Diese Fragen bildeten den Ausgangspunkt des in diesem Band dokumentierten Interviewprojekts. Dabei eignen sich Menschenrechte auf den ersten Blick gut als Querschnittsthema eines transnationalen kollektivbiographischen Ansatzes, wie er zuletzt in der biographischen Forschung diskutiert worden ist.<sup>1</sup> Immerhin besagt der Grundsatz der Universalität, dass Menschenrechte überall und für alle Menschen gleich zu gelten haben, dass sie also überall auf der Welt relevant und bedeutungsvoll seien. Tatsächlich hat die jüngste Historiographie transnationale und globalgeschichtliche Ansätze erfolgreich für die Menschenrechtsgeschichte fruchtbar gemacht. Diese Ansätze haben wesentlich dazu beigetragen, die Vieldeutigkeit und semantische Offenheit der Menschenrechte sichtbar werden zu lassen – als Begriff, unter dem im Laufe des 20. Jahrhunderts eine Vielzahl politischer Projekte verhandelt wurde.<sup>2</sup> Doch obwohl die Biographien einzelner Menschenrechtsverfechter stets das Interesse der Öffentlich-

- 1 Vgl. Volker Depkat: Biographieforschung im Kontext transnationaler und globaler Geschichtsschreibung. Einleitung zum Schwerpunkt, in: Bios. Zeitschrift für Biographieforschung, Oral History und Lebensverlaufsanalysen 28 (2015), S. 3–18.
- 2 Für einen Überblick siehe Lasse Heerten: Menschenrechte und Neue Menschenrechtsgeschichte, Version: 1.0, in: Docupedia-Zeitgeschichte, 31.1.2017, URL: [http://docupedia.de/zg/Heerten\\_menschenrechte\\_v1\\_de\\_2017](http://docupedia.de/zg/Heerten_menschenrechte_v1_de_2017). Grundlegerend zur Geschichte der Menschenrechte im 20. Jahrhundert: Samuel Moyn: The Last Utopia: Human Rights in History. Cambridge, MA 2010; Stefan-Ludwig Hoffmann: Human Rights in the Twentieth Century. Cambridge, MA 2010; Norbert Frei/Annette Weinke (Hg.): Toward a New Moral World Order? Menschenrechtspolitik und Völkerrecht seit 1945. Göttingen 2013; Jan Eckel: Ambivalenz des Guten. Menschenrechte in der internationalen Politik seit den 1940ern. Göttingen 2015.

keit geweckt haben und ein beliebtes Mittel sind, um das schnell als reizlos erscheinende Feld der Rechtsgeschichte einem breiten Publikum zugänglich zu machen, haben sie bisher als methodischer Ansatz in der jüngeren Menschenrechts-Historiographie kaum eine Rolle gespielt. Die wenigen Studien, die diesen Weg gegangen sind, lassen allerdings das Potential einer biographischen Herangehensweise erkennen, indem sie etwa zeigen, dass und wie Lebensläufe als Legitimationsgrundlage für rechtspolitische Projekte dienten.<sup>3</sup>

Der vorliegende Band versucht, einen Beitrag zur Schließung dieser Forschungslücke zu leisten. Dabei ist das Projekt dem Ansatz der neueren Menschenrechtsforschung und ihren Grundannahmen der semantischen Offenheit und Konflikthaftigkeit von Menschenrechten verpflichtet. In diesem Sinne fragen die Interviews danach, worauf individuelles politisches Handeln von Akteuren zielte, die sich für Menschenrechte engagierten, und wie dieses Engagement aussah. Diese Herangehensweise lässt die Universalität der Menschenrechte schnell verblassen. In den Vordergrund rücken stattdessen zeitlich begrenzte lokale, nationale und internationale politische Agenden, die vielfältige menschenrechtliche Bezüge aufweisen, und eine große Bandbreite von Handlungsmustern, die menschenrechtlich eingerahmt wurden.

Der vorliegende Band spiegelt diese Vieldeutigkeit und -gestaltigkeit in Ansätzen wider. Anders als Interviewprojekte, die ein bestimmtes Milieu, die Bewohner einer Region oder eine Generation in den Blick nehmen, werden hier Akteure und Akteurinnen befragt, deren einziger gemeinsamer Nenner der Bezug auf Menschenrechte bildete. Zu Wort kommen Sozialarbeiterinnen, Politiker, Aktivistinnen, Völkerrechtlerinnen und Völkerrechtler, Richter, Ministerialbeamte und Anwälte aus Lateinamerika, Asien, Europa, Afrika und Nordamerika. Für Gladis Sepúlveda, Ulrike Poppe und Gladys Acosta bestand Menschenrechtsarbeit über weite Strecken ihres Lebens darin, ehrenamtlich in Gras-

3 Vgl. Annette Weinke: Zum Einfluss juridischer Felder auf Menschenrechtsdiskurse und -praktiken seit 1945, in: *Geschichte in Wissenschaft und Unterricht* 66 (2015), S. 25-45; James Loeffler: *Rooted Cosmopolitans. Jews and Human Rights in the Twentieth Century*. New Haven/London 2018; Roman Birke: *Zwischen Aktivismus und Diplomatie. Eleanor Roosevelts Bedeutung für internationale Menschenrechte, 1936-1962*, in: ders./Carola Sachse (Hg.): *Menschenrechte und Geschlecht im 20. Jahrhundert. Historische Studien*. Göttingen 2018, S. 72-99; Leora Bilsky/Annette Weinke (Hg.): *Émigré Lawyers* (erscheint demnächst).

wurzelbewegungen aktiv zu sein. Tecla Wanjalas, Andrew Claphams, Raja Shehadehs, Rainer Huhles und Louise Doswald-Becks berufliche Laufbahnen waren Ausdruck einer sich professionalisierenden Menschenrechtsarbeit, wie sie unter dem Dach von NGOs aber auch bei der UNO möglich wurde. Anthony Lake, Thomas Buergenthal und Anwar Al-Buni wandten sich dem Thema im Rahmen ihrer Berufstätigkeiten als Anwälte, Ministeriumsmitarbeiter oder Hochschullehrer zu. Manche dieser Akteurinnen und Akteure beschäftigten sich sehr intensiv mit der Konzeption von Menschenrechten und ihrer Übertragung in konkrete Politik. Für andere wiederum war dieser konzeptionelle Aspekt von nachrangiger Bedeutung – für sie war die Offenheit des Menschenrechtsbegriffs ein Instrument, um Allianzen zwischen heterogenen Gruppen zu schmieden. Einige der hier Interviewten spielten eine Rolle bei der Weiterentwicklung neuer Menschenrechtsnormen auf völkerrechtlicher Ebene, andere wiederum bei der Auslegung dieser Normen auf nationaler Ebene.

Eine solche thematische Annäherung an die Lebensläufe sehr unterschiedlicher Personen birgt Tücken. Aus dem Projektkontext heraus ergibt sich eine Gewichtung gewisser Aspekte der erfragten Lebensläufe. Während der Gespräche stand stets die Frage nach dem Engagement für Menschenrechte im Vordergrund. Relevant waren vor allem jene Episoden mit einem Bezug zum Thema. Aus dieser Logik heraus entwickelten die Gespräche ihre Dynamik. Das zieht interpretatorische Probleme nach sich. Es darf nicht aus den Augen verloren werden, dass die Zentralität der Menschenrechte in den erfragten Biographien ein Konstrukt ist. Andere Aspekte des Lebens geraten hier in den Hintergrund oder werden erst gar nicht angesprochen. Vor allem aber ermunterte der Projektansatz dazu, der gesamten Lebensgeschichte der Befragten ein Menschenrechtsnarrativ zugrunde zu legen und verschiedene Aspekte dieser Geschichte rückblickend diesem Narrativ zu unterwerfen. In einer Gesellschaft, in der Menschenrechte als etwas Gutes wahrgenommen werden, für das es sich zu kämpfen lohnt, wohnt einem solchen Narrativ eine hagiographische Verlockung inne – das umso mehr, als der universale und allumfassende Anspruch der Menschenrechte geradezu dazu einlädt, sehr unterschiedliche Erfahrungen zu vereindeutigen und auf einen Nenner zu bringen: ein Leben für die Menschenrechte.

Umso wichtiger war es, Menschenrechte in den Interviews nicht zu einer Leerformel werden zu lassen, die immer dann bemüht werden

konnte, wenn es um den Einsatz für etwas »Gutes« ging, um Rechte und Schutz vor Unrecht. Stattdessen ging es darum, zu Erzählungen anzuregen, die Ort, Zeitpunkt und Inhalt von Menschenrechten sichtbar werden ließen. Gerhart Baum etwa befasste sich bereits als Bundesinnenminister in den siebziger Jahren mit Datenschutz, Persönlichkeitsrechten oder Asylrecht. All diese Politikfelder könnte man rückblickend problemlos dem Thema Menschenrechte unterordnen. Entscheidend ist jedoch, dass der explizite Bezug auf Menschenrechte für Baum im innenpolitischen Kontext keine Rolle spielte. Er entdeckte die Menschenrechte in Südafrika. Die Kooperation der schwarz-gelben Regierungskoalition mit dem Apartheid-Regime bot dem kaltgestellten Innenpolitiker eine Möglichkeit, die von ihm vehement abgelehnte Regierung Kohl auf einer moralischen Ebene anzuprangern. Für die Bürgerrechtlerin Ulrike Poppe hingegen spielte diese internationale Dimension kaum eine Rolle. Sie nahm durchaus wahr, dass Menschenrechte während der siebziger und achtziger Jahren international an Bedeutung gewannen. Doch für ihr eigenes Engagement hatte das wenig konkrete Folgen. Ihr Kampf für Menschenrechte fand in der DDR statt. Und auch, als in den neunziger Jahren die Frage des Umgangs mit der Vergangenheit in postdiktatorischen Gesellschaften Menschen in Afrika, Lateinamerika und Osteuropa beschäftigte, hielt sie daran fest, dass die Erfahrungen anderer Regionen für Deutschland wenig relevant seien.

Auch die Frage, in welchem Lebensabschnitt der Bezug auf Menschenrechte im gesellschaftspolitischen Engagement der Befragten eine Rolle spielte, bietet eine Möglichkeit der biographischen Konkretion. Lebensgeschichtliche Interviews können Erfahrungen, Überzeugungen, Konzepte und Aktionsformen offenlegen, an die die verschiedenen Akteurinnen und Akteure anknüpften, als sie begannen, sich Menschenrechte zunutze zu machen. Allerdings gilt es zu vermeiden, in der Rückschau das Menschenrechtslabel jeglicher Form des Engagements anzuheften. Gladis Sepúlveda und Gladys Acosta etwa setzten sich in Argentinien beziehungsweise Peru schon in den siebziger Jahren für soziale Belange in ihrem Umfeld ein. Zu diesem Zeitpunkt waren Menschenrechte in vielen Gesellschaften bereits ein wichtiges Rechtskonzept, das eine Rolle in Debatten über Gewalt und Unrecht spielte. Dennoch verstanden beide ihren Einsatz für soziale Gerechtigkeit in dieser Zeit nicht als Menschenrechtsengagement. Das änderte sich erst in den achtziger Jahren, als Sepúlveda während ihres Asyls in West-

deutschland mit Menschenrechtsgruppen in Kontakt kam und sich nach ihrer Rückkehr nach Argentinien für die strafrechtliche Aufarbeitung von Menschenrechtsverletzungen einzusetzen begann. Und für Acosta kam der entscheidende Moment, als das Netzwerk linker Oppositioneller, dem sie angehörte, in den achtziger Jahren nach einem Vokabular zur Anprangerung politischer Repression suchte, das von der Regierung nicht ohne Weiteres als kommunistisch diffamiert werden konnte. Solche Momente zu identifizieren, ist eines der Ziele der hier versammelten Interviews.

Es gab deutliche Unterschiede, was die verschiedenen Akteure meinten, wenn sie sich auf Menschenrechte bezogen. Anthony Lake wurde 1977 von der Carter-Regierung zum Direktor der Abteilung für Policy Planning im State Department berufen. In dieser Funktion kam ihm eine wichtige Rolle bei der Ausbuchstabierung der Menschenrechtspolitik zu, mit der die neue Regierung das im Vietnamkrieg beschädigte Image der US-Außenpolitik aufbessern wollte. Er musste konkrete Antworten auf die Frage finden, wie Menschenrechten mehr Gewicht in der außenpolitischen Praxis beigemessen und verschafft werden konnte. Lake war es ein Anliegen, das Menschenrechtsverständnis zu erweitern. Während der Begriff in der amerikanischen Öffentlichkeit vor allem mit Blick auf politische und bürgerliche Rechte genutzt wurde, bemühte er sich darum, soziale und ökonomische Rechte stärker ins Bewusstsein zu rücken. Und auch den Kampf um Freiheit und Demokratie definierte er als Teil des menschenrechtspolitischen Ansatzes. Das ermöglichte es der Carter-Regierung, unter dem neuen Label der Menschenrechtspolitik an die entwicklungspolitische Agenda der Kennedy- und Johnson-Regierungen anzuknüpfen, die den 1977 ins State Department zurückkehrenden demokratischen Politikern und Politikberatern noch so vertraut war.

Eine solche Ausweitung war unter den Bedingungen einer Entwicklungsdiktatur, in der der syrische Menschenrechtsanwalt Anwar al-Bunsein Engagement entfaltete, weniger sinnvoll. Das Assad-Regime legitiimierte seine repressive Politik schließlich damit, die Bedingungen für sozialen Fortschritt zu schaffen. Für ihn stand deshalb der Schutz des Individuums vor staatlicher Gewalt im Vordergrund und später – als ihm die Flucht nach Deutschland gelungen war – die strafrechtliche Ahndung der Verbrechen. Auch Tecla Wanjala setzte sich mit der Aufarbeitung staatlicher Gewalt auseinander. Doch sie verstand ihren Ansatz der Menschenrechtsarbeit in Kenia als Widerpart zum Ansatz der Menschen-

rechtsanwälte. Deren Forderung nach vergeltenden Maßnahmen stellte in den Augen der Aktivistin, die viele Erfahrungen in der Beilegung von Konflikten auf kommunaler Ebene gesammelt hatte, eine Gefahr für den gesellschaftlichen Frieden dar. Stattdessen sprach sie von wiederherstellender Gerechtigkeit, die darauf abziele, gesellschaftliche Spannungen nach Phasen der Gewalt abzubauen. Entsprechend vehement trat sie Menschenrechtsanwälten in der kenianischen Truth, Justice, and Reconciliation Commission entgegen.

Menschenrechte haben in dieser Sammlung eine doppelte Funktion. Sie sind ein verbindendes Element, das Biographien über Landesgrenzen hinweg verbindet und akteurszentriert nach kulturellen und rechtlichen Globalisierungsprozessen fragt. Und sie sind ein bedeutungsoffener Bezugspunkt, der der biographischen Konkretion bedarf, dessen Kontextabhängigkeit als zeitliche, lokale und gesellschaftliche Bedingtheit sichtbar gemacht werden muss. Insofern geht es in den hier versammelten Biographien eben nicht darum, das Narrativ vom »Leben für die Menschenrechte« zu bedienen, sondern darum, Menschenrechte im Leben von Personen zu verorten und auf diese Weise ihre Bedeutung für die Geschichte des 20. Jahrhunderts erkennbar werden zu lassen.

# Lebensgeschichtliche Interviews





»To prevent what happened to us in the 1930s«

Thomas Buergenthal was born in 1934 as the child of German-Polish Jews in Czechoslovakia. He and his parents were forced into the Jewish ghetto of Kielce, Poland at the start of the Second World War, and in mid-1944 were deported from there to Auschwitz. After the war Buergenthal lived for a few years with his mother, in the north-central German town of Göttingen before moving to the United States at the age of seventeen. There he studied law and took up a university career. He belonged to a small group of international law specialists in the U. S. who in the 1970s undertook to lend new meaning to the issue of human rights. He advised the founding of the Inter-American Court of Human Rights and was appointed to it as a judge by Costa Rica in 1979. He served as a member of the Truth Commission for El Salvador appointed by the United Nations in 1992, and as a judge of the International Court of Justice at The Hague from 2000 to 2010.

*Daniel Stahl: You have written about your childhood, and in the past you have given biographical interviews about that time of your life.<sup>1</sup> So I suggest that we start with the period after the war, in the town of Göttingen. Did you speak to anyone about your experiences during the war years immediately after 1945?*

Thomas Buergenthal: I had the great advantage of having a wonderful private teacher when I first arrived in Göttingen, because I was not ready to enter a school, given that I had no real schooling before. And so I had a retired *Studienrat*, a secondary school teacher from the East, with whom I spent a whole year. Biedermann was his name. We met every day for two hours. He taught me how to read, how to write. And we also talked a lot about politics and everything else. I learned a lot. I asked him a lot of questions, which apparently surprised him, because he told my

1 Thomas Buergenthal: *A Lucky Child. A Memoir of Surviving Auschwitz as a Young Boy*. London 2009; Oral history interview with Thomas Buergenthal, 27 November 2001, United States Holocaust Memorial Museum.

mother that I was a child who doesn't know how to read or write, but his awareness of world politics seems to be very substantial. Of course, there was also my mother, and initially also my mother's second husband, Dr. Leon Reitter, who had been in the camp with us, a physician who was the only doctor who had survived in the Kielce ghetto. They were sort of influences on me and Odd Nansen<sup>2</sup> in Norway. He was the son of Fridtjof Nansen, the explorer, who was also in the camp. He wasn't Jewish. I met him shortly before the end of war in Sachsenhausen, while I was in the hospital. He started to help me.

*Stahl: Can you tell us something about your teacher's background?*

Buergenthal: He came from Upper Silesia. He had not been a member of the Nazi party. When I met him, he must have been close to 70, although at my age then, everybody seemed to be that old. But he was retired. He had been refugee and settled in Göttingen. He had a daughter and a wife. And he was a lovely man. This was sort of my first contact after the war with Germans who were not trying to kill me. He was nice. And I could have nice conversations with him.

*Stahl: What did you talk with him about?*

Buergenthal: About whatever was happening in the world. I had to write an essay every morning when I came in, in German first and then a little later in English about whatever I saw in the streets in Göttingen. And after a while, there was very little left to report about Göttingen. Even then it wasn't a big city. So, we talked about things that I heard on the radio. For example, this was the period when the Nuremberg judgements came out, and I talked to him about it. I listened to the trial. And he did not like Poland particularly, and I had just come from Poland, so we also talked about Poland. I really don't remember anymore, but I always asked why people became members of the party, all of those things, and he explained that. That is about all I can remember. He was the man who also got me interested in reading. Of course, my best reading was Karl May. I don't think my teacher recommended these books, although he

2 Odd Nansen (1901-1973) founded the Nansen Society to Aid Refugees and Stateless Persons in 1936. He was imprisoned by the National Socialists from 1942 to 1945, during the German occupation of Norway, and was eventually taken to the Sachsenhausen concentration camp. In 1946 he became a co-founder of UNICEF.

wanted to find something that would interest me to read. We also talked about things I heard on the radio.

*Stahl: Did you tell him what you had experienced during the war?*

Buergenthal: Yes.

*Stahl: What was his reaction?*

Buergenthal: His reaction was one that to me, as a child, struck me as being a very honest reaction. Because the usual reaction in those days in Germany was immediately apologetic: »I had nothing to do with it.« He simply said, how terrible he felt and that they had seen some things. And then, of course, he also pointed out that because of the Russians they lost their homes. I don't know where he had lived, but I also knew that the Russians mistreated the Germans.

*Stahl: Did you talk with him about Nuremberg? What was his opinion about the trials?*

Buergenthal: I don't remember but I'm sure we did. We must have discussed it. And of course at that time I told him the trials were wonderful; they should have prosecuted many more. But he was a sort of a grandfatherly type, and honest in his views, so that I could talk with him very, very freely. I learned a lot from him, not only to read and write, but about what was going on in Germany, the attitudes of people – much more than I learned later from my teachers in the Gymnasium.

*Claus Krefß: Can you still recall your reactions when you heard the Nuremberg judgments?*

Buergenthal: I was delighted because I kept hearing »by hanging«. You know, this was still the time when I had just come out of the camps. And I don't remember the time how I heard it on the radio, because I must have heard it after 1946 or the beginning of 1947. I didn't get to Göttingen until December of 1946, so it must have been some time later. I didn't change my mind about my hatred of the Germans for a number of years. That happened mainly through the influence of Odd Nansen. I think I describe it in my book. I met him again a few years after we had met in Sachsenhausen. I heard that he had published a diary.<sup>3</sup> That's how I got in contact with him again. The first conversation that started was,

3 Odd Nansen: *From Day to Day*. New York 1949.

when he sent me his book, the German edition. It indicated that he had given the income from the German edition to German refugees. I said to him: Why would you give it to them? Look what they've done to us. This started a conversation about reconciliation, about hatred. When I first came to Göttingen, I had this vision of standing on the balcony where we lived with a machine gun. And when the families would walk by on the weekends, I wanted to just give them all back what they had done to my father and my grandparents. Nansen helped a great deal.<sup>4</sup> And just living in Göttingen and going to school with children who obviously had nothing to do with the Holocaust made a big difference. Here, we would say, I mellowed in my hatred.

*Stahl: What arguments did he have that convinced you to change your mind?*

Buergenthal: His basic point was that hatred doesn't lead to anything. On the contrary, it just creates a cycle of violence. Hatred creates hatred. And I started to think about it. So, by the time I came to the United States when I was 17 years old, I had already reached that conclusion. I was surprised when I got there and stayed with my uncle and aunt. My uncle was my mother's brother from Göttingen. He had left Germany in 1938, and his wife was from Berlin. They hadn't experienced anything, from my point of view. But they were still very much full of hatred. They wouldn't speak German in the house, even though their English was not particularly good. My aunt and uncle gradually also mellowed, but my uncle never went back to Göttingen, even for a brief visit.

Why don't you mention what happened  
to people in the concentration camps?

*Stahl: How was the situation in the Gymnasium? Did you talk about the Nazi dictatorship?*

Buergenthal: Well, what happened there, I was in the Realgymnasium in Göttingen. There were some teachers who were still, at least from what my mother told us, »alte Nazis«. I had a wonderful teacher in English who had been a prisoner of war in Britain. The one experience I had with one teacher who started to talk about the war. The history they taught in

4 On the relationship between Thomas Buergenthal and Odd Nansen see Odd Nansen: Tommy. En sannferdig fortelling. Oslo 1970.

school in those days was not contemporary history. But at one point this teacher started to talk about Hamburg and the bombing of Hamburg. And I said in class something that in those days you didn't really dare to say to teachers: »Why don't you mention what happened to people in the concentration camps?« He got quite angry and at that point I just walked out of the class. Remember, I don't know how old I must have been, 14 years old or something, maybe 13. And I just walked out and went home. There I told my mother what happened. She, of course, went to the school and complained. That was the only negative thing that I experienced. When my book came out, somebody who had been in the same school, a retired Oberlandesgerichtsrat in Braunschweig, wrote to some of my classmates and asked: »Did you know Buergenthal?« And one of them said: »Yes, I know him well.« »Did you speak with him?« »Oh, no, I couldn't. My father was a big Nazi and I didn't dare to talk to him.« So, that was sort of the atmosphere.

*Stahl: Did you realize it during this time?*

Buergenthal: No, not at all. The advantage I had was that I was very good in sports. And then the kids would often look at me and say: »You don't really look like a Jew.« So, they still had the Nazi Stürmer caricatures of Jews in mind, even the children.

*Stahl: Did you talk with your friends about your experiences?*

Buergenthal: Not really. It's interesting that even when I came to the U. S. nobody asked me about it in those days.

*Stahl: How did they react when you left class? Did they ask you later?*

Buergenthal: They were all scared. Afterwards they said: Yes. But I'm sure this was because they thought it was nice to teach this teacher a lesson, not because of my heroics.

*Stahl: Did you talk with your mother about the situation in Germany?*

Buergenthal: Strangely, and I'm trying to recall, we did not talk so much about what was going on in Germany. Although we talked that some people still hadn't learned. The Denazification wasn't really taking place, and there were complaints. There were still people who had been Nazis and they were back teaching. But my mother and I talked about our experiences because I was separated from her in Auschwitz, which was in 1944, and I didn't meet her again until December of 1946. So, there

was a lot of time in between that she wanted to know what happened and everything else. Of course, it was very hard for her to be in Göttingen. This was her hometown. My grandparent's store and house was on the Gronerstraße, one of the major streets. This was the town, where – when the Nazis came to power – all of her friends from the Lyceum would cross the street in order not to greet her. This is what she came back to. But there were some good people who had helped my grandparents in Göttingen. We lived in the house that belonged to a family named Schügl who had a jewelry shop. He was a very believing Catholic and had never been a Nazi.

*Stahl: Did you meet any people who had resisted actively?*

Buergenthal: No.

*Stahl: Then, at the age of 17, you moved to the United States. What were your plans for the future at that time?*

Buergenthal: I actually thought I would come back to Germany within a year. I was just curious about America, like most of my fellow students in Göttingen in those days. By that time, America was a place of big cars, chewing gum, movies. I really thought I would go back to Germany, and probably go on to Israel. But once I came to the United States I wasn't going to leave.

*Stahl: What did you think you might do in Israel? What ideas did you have about it?*

Buergenthal: Earlier somebody who had come to Göttingen told me that I could go to a diplomatic academy there. The idea about the diplomatic service sounded interesting. Once I came to America, I went for a year and a half to high school because I hadn't finished school in Germany. The difference was just striking. Everything was voted on. In Göttingen the teachers would tell you what to do. Here, everything was voted on. That was democracy. And the freedom appealed to me. You could laugh at your teachers. And there were open discussions. I was very active also in sports at the time. I liked the high school very much. Rather than give me a placement exam, they had me meet with the heads of the different departments; the school language department, English department, math department. I would meet with them for about half an hour or an hour and they would talk to me and ask me questions. On the basis of these conversations, they decided that I needed only a year and a half in high

school. The kids in school never asked me: »What happened to you during the war?« Nothing. It was a period in America when nobody was interested in it. Not even Jews. Everybody wanted to forget the past.

*Stahl: Did you have a desire to speak about it?*

Buergenthal: Only when I finally got to college did I write an article about the Auschwitz death march. And nobody thought that it was real because it was a literary magazine. They thought it was an imaginary trip out of Auschwitz. I had some very good teachers, we had conversations but there was really no interest at that time, in the past.

*Stahl: What were your own interests during this time?*

Buergenthal: I was always interested in politics and in writing. I even at one point thought that journalism would be something I would be interested in. But then I came to the conclusion, erroneously, I think, that an immigrant could not become a good English-language journalist, which I've since realized is not the case. This was a very anti-communist period in the United States, especially once I got there. Senator McCarthy was there. What also struck me was the racism that was still very strong in the U. S. I went then to a small college in West Virginia, Bethany College. There were no black students in the college, it was total discrimination. Back then, the college had sort of a speaker service. Some social organizations like the Kiwanis Clubs, for example, in small towns that were interested and asked the university to send them somebody who could give a talk about foreign countries. At Bethany we had students of different nationalities, including a Korean student. He and I would sometimes be invited. He would speak about Korea and I would speak about Germany or Europe. In one place I was asked about the anti-communist policies of the U. S. That was the time when a delegation from the U. S. Congress was sent to all of the U. S. government libraries in Europe to remove communist books and I said, it reminded me of the Nazi book burning. That started a veritable uprising in the hall with some in the audience supporting the congress and others who opposed what was being done. I used to get paid about ten dollars for my speeches. But this time I collected 25 dollars. Obviously there were people who agreed with me.

Having been liberated by Soviet troops, it took me a long time to believe that communism was a real threat to democracy.

*Stahl: What were the issues on which you spoke?*

Buergenthal: Usually I would be asked to describe what was happening in Germany at the time – by which time, of course, I was a great expert. They were interested in the political parties in Germany, whether there was a danger that a Nazi party would arise again. And of course everybody was terribly afraid of communism. That was the period of the Cold War.

*Stahl: What would you tell them?*

Buergenthal: First of all, that there was no danger. At least for the time being, there wasn't any danger of Nazis coming back. Having been liberated by Soviet troops, it took me a long time to believe that communism was a real threat to democracy. That came later, when I began to see communism and the real threat.

*Kreß: Was the Israeli-Arab conflict an issue for you at that time? Did you follow the developments closely, or have a particular interest?*

Buergenthal: No, I think this was just the beginning. All of us, I think, were very pleased and proud of the fact that there was a Jewish state. But I had no desire at that point anymore to go to Israel.

*Stahl: Were there teachers who made a difference for you?*

Buergenthal: Yes, there were about three teachers. One younger teacher who had lost a leg in the landing at Normandy, a political scientist. He was very good. And the head of the department was a professor of Classics, specializing really on Greek and Roman history; and my German and French teacher. Those three were people with whom I talked a lot, and from whom I learned a lot.

*Stahl: How did they influence your thinking?*

Buergenthal: At that point, I became very interested in American politics and international politics.

*Stahl: Which years?*



Buergenthal: This is from 1953 to 1957, when I graduated, a four-year period. That was a very interesting period in the politics in the United States with the Korean War and the McCarthy period.

*Stahl: What did your teachers think?*

Buergenthal: Well, these teachers were actually quite opposed to McCarthy and some were afraid that they might lose their jobs. I remember, when I was in Washington on a semester program, I sent a postcard to one of my professors who was quite leftist and said: Senator McCarthy has been asking for you. And he suggested that I not do that in the future!

*Stahl: And your own political convictions?*

Buergenthal: At that point I knew already enough about communism, but this was not something I was interested in. I couldn't vote yet, I don't think. Adlai Stevenson was running for president and he lost twice against Eisenhower. He was a liberal governor of Illinois, a very interesting man. He reflected my political orientation.

*Stahl: When did you start seeing communism as a danger or at least as something you weren't interested in?*

Buergenthal: By 1956, of course, you had Hungary already.<sup>5</sup> And that was a telling political event. But before that one got a lot of information about what was going on, about Stalin and the Gulag, and what was happening to people who had been courageous during the war. All that had an impact on me.

*Stahl: Did you follow the discussion about the Jews in the Soviet Union?*

Buergenthal: Only to the extent, if I remember, that in 1953 there were killings of quite a number of Jewish doctors by, Stalin, I think. For a while, of course, a number of Jewish communists were very high up in the Soviet regime. But they disappeared. I think 30 or so Jewish medical doctors were executed in the Soviet Union around that period. But it was not something that I was very much interested in.

*Stahl: Did you, besides that, have some contact to the Jewish community in the U. S.?*

5 Soviet troops intervened to suppress what is called the Hungarian people's uprising of 1956.

Buergenthal: Well, first of all, I think, just to fit in. I mentioned to you that I spent a semester in Washington while I was in Bethany. Here, you had to write a major seminar paper. And I decided to write about the Jewish lobby in the United States at the time. It shows you my political interest. I wanted to see how lobbying evolved. And that was something that interested me.

*Stahl: Did you experience any kind of anti-Semitism?*

Buergenthal: Not at all. I was very much accepted by my fellow students. The only experience I had where that issue even came up was in my second or third year. I became a proctor for the dorm where the first year students lived. Bethany was a religious college, the Disciples of Christ, which is a very liberal American religious denomination, a Protestant one. But drinking was strictly prohibited and if you were caught drinking, you would immediately be thrown out of college. Three miles down the road was sort of a bar where you could go and drink. But as proctor, my responsibility was to keep the place quiet. And I remember one student coming in totally drunk and I tried to get him to bed because I was afraid that he was going to be thrown out. Sometimes the dean of students would make tours. And as I was pushing the student in, he said: »You dirty Jew, what the hell are you doing ...« He was totally drunk. So, it came out. But that was the only time I ever had even a sense that it made a difference.

*Stahl: When did you decide to study law?*

Buergenthal: Already in college. I was drawn to law because my father had studied law. My father studied in Krakow, and then he went to Berlin. I don't think he ever finished his legal studies. In Berlin he worked for a private Jewish bank before Hitler. But at home the notion always was that if you study law you can do anything you want to do – which isn't true in America. So, I had no doubt by the time I was in my first or second year in college that I wanted to study law and that I wanted to do something in the international law field. And that was driven in part by the fact because of my languages. In those days, still in this country, much less so today, hardly anybody spoke any other language, at least not the college people. The immigrants did, of course, but all of the immigrants' kids wanted it not to be known that they spoke the language. I believed in those days that international law was the thing where I could do something important. And I still believed that international law could

prevent wars and human rights violations. I was very idealistic at the time but I still believe it's true, in a more limited way.

*Stahl: Did you realize while in college that the environment in the United States was not as friendly to international law as it had been during the forties?*

Buergenthal: Not really. You know, there was the McCarthyism, of course.

*Stahl: Bricker Amendments?*<sup>6</sup>

Buergenthal: The Bricker Amendments. But the people I knew, with whom I was together, that was not the real America. Bricker came from Ohio. But mainly, the right-wing in the U. S. at the time, the anti-Communist movement was in the South. The anti-black movement was also in the South and to some extent in the Midwest. That was the sort of right-wing, anti-foreigner, anti-internationalist period. But no, that didn't have any sort of effect on me. The only thing that affected me was when I was in law school and at one point thought I should apply for the diplomatic service, and then I found out that you had to take the diplomatic exam for the admission, but that you had to be under 30 and be a citizen for ten years already. And I couldn't qualify. I was stupid because I should have challenged it in the Supreme Court. A few years later somebody challenged it and it was ruled unconstitutional.

*Stahl: When you got to law school, did you occupy yourself with international law from the start?*

Buergenthal: Yes, except that in those days law schools were not the law schools that we have today. At the time, almost all law school courses were required courses which mean that you couldn't even take a course in international law until your third year. So, in many ways that's why I decided to go to Harvard, because I wanted to specialize in the field.

*Stahl: When did you go to Harvard?*

6 Named for its sponsor, Senator John W. Bricker of Ohio, a conservative Republican, the proposed Bricker Amendment to the United States constitution was initiated in the Congress in several versions during the 1950s. It would have placed restrictions on the scope and ratification of international treaties and executive agreements entered into by the United States government.

Buergenthal: I went to Harvard in 1960, immediately after I graduated from NYU. When I was graduating from Bethany College, they recommended me for the Rhodes Scholarship. And I won the Rhodes competition for West Virginia. Now, the interesting thing was that I wasn't even a citizen yet when I was being recommended. And the person in West Virginia, who was in charge of that committee, was a lawyer and I think a former FBI agent, who said: »Don't worry about it. We'll get you citizenship in two weeks.« And so that's what happened. The country was divided into four or five regions where you were selected. I think one or two persons from each region. The chairman of my selection committee happened to be the brother of President Eisenhower, Milton Eisenhower. It was quite clear that I had no chance of winning when I walked in, the first question basically was: »Why do you want to go to England? You just came to the United States.« And I had no answer to it. As I walked out, one of the members of the panel handed me a piece of paper and said: »If you're interested, there is a very good scholarship at NYU and I'd be glad to recommend you.« It was the Root-Tilden Scholarship. Everything was paid for, including 70 dollars spending money. So, even though I got into Yale and Chicago, I went to NYU. I didn't apply to Harvard yet, because the admission deadline was later and I didn't have 45 dollars for it.

*Kreß: Who was the international lawyer at NYU?*

Buergenthal: It's somebody you probably never heard of. Professor Cecil Olmstead.<sup>7</sup> Tom Franck<sup>8</sup> was coming but not there yet when I was there. Olmstead was basically a practitioner, who represented various oil companies while teaching.

*Kreß: So, that was not yet the beginning of your career as international lawyer.*

Buergenthal: No. At one point I thought possibly of practicing. It never really interested me, but I had some friends in different big law firms in New York who would say: »Come and interview at least.« The advisors would say: »Don't tell them that you're interested in international law

7 Cecil Olmstead (1920-2013) was a professor of international law at New York University School of Law and served the oil company Texaco (now part of Chevron) as counsel and executive from 1961 to 1980.

8 Thomas Franck (1931-2009) was professor of international law at NYU School of Law starting in 1962 (see also n. 52).

because they'll think you like to travel.« So, that was the advice you got from our own law school.

*Stahl: When did you first come in touch with international human rights law?*

Buerghenthal: Well, actually at Harvard, with Professor Louis B. Sohn and Professor Richard Baxter, who later served as judge at the International Court of Justice. Harvard had a great faculty in international law at the time. Basically, I took some courses with professor Sohn. Then I got my LL.M. degree. By then I had already received a job as an assistant professor at the State University of New York in Buffalo. Every summer I would go back to Harvard, because Buffalo had no international law library. In 1965, I went back to Harvard to do my doctorate.

*Stahl: International law or human rights law?*

Buerghenthal: Well, both.

*Kreß: Who was your international law teacher there? Was there a moment, a time when you can say in retrospect influenced your later approach to international law?*

Buerghenthal: There were two persons. One was Louis Sohn<sup>9</sup> who was a wonderful, charismatic teacher. He taught some seminars that nobody else at no university in the U. S. would ever teach. Four of us were in a course on international administration. It was about how international organizations operate. On his first day in class he said, »I expect a paper and I want an outline on this day and then the paper is due.« There were only four students in the whole class. On the day when the outline was due, he said: »Who brought his outline?« I was the only one to raise his hand. He took one look at my outline, put away all of his books, and started tearing it apart. He destroyed me totally. I went home and told my wife: »That son of a bitch, I'm never going to go back.« After a few days, I realized that he was right. I wrote the paper without first submitting a second outline to him. When I received the paper back, Professor Sohn noted on it: »You should publish this.« My paper was about the European Court of Justice and the appeal for annulment. In those days, cases were beginning to come that interested me. And I actually

9 Louis Sohn (1914-2006) was a professor of international law at Harvard Law School from 1961 to 1981. In 1945 he participated in the drafting of the United Nations Charter.

published two articles based on that paper in the *American Journal of Comparative Law*.<sup>10</sup>

Richard Baxter was an expert on international aviation law among others. And he taught public international law as well. And there was also Professor Milton Katz, who is not very well known today. He used to head the International Law Department, and he had been a legal advisor for the Marshall Plan. Those were basically the people I worked with. I wrote my doctoral dissertation on law making in the International Civil Aviation Organization. Why would I write about this organization if I was interested in something else? Because Louis Sohn told me: »I don't want you to write anything about human rights and I don't want you to write anything about any organization you know something about. I want you to write about one international governmental organization you know nothing about at this point.« So, I thought for a minute and I said: »I don't know anything about the International Civil Aviation Organization.« This dissertation became a book, *Lawmaking in the International Civil Aviation Organization*, Syracuse University Press, 1969. But I never touched the subject again. It didn't interest me. But I learned a lot about the internal practices of international organizations that proved very useful to me in my teaching and judicial practice.

I thought the Universal Declaration was a nice statement but it was not having the effect of a treaty and was not very important.

*Stahl: Can you recall the first time when you became more involved in human rights law, when it wasn't just one issue among others, but something you especially focused on?*

Buergenthal: I am trying to think whether I had a course from Louis Sohn specifically in human rights or whether that came later. I think, I had the course from him on United Nations law, which of course in those days also was something very new. In one of those courses that Louis Sohn taught, there was a lot of emphasis on human rights. And

<sup>10</sup> Thomas Buergenthal: Appeals for Annulment by Enterprises in the European Coal and Steel Community, in: *The American Journal of Comparative Law* 10:3 (1961), 227-252; Thomas Buergenthal: The Private Appeal against Illegal State Activities in the European Coal and Steel Community, in: *The American Journal of Comparative Law* 11:3 (1962), 325-347.