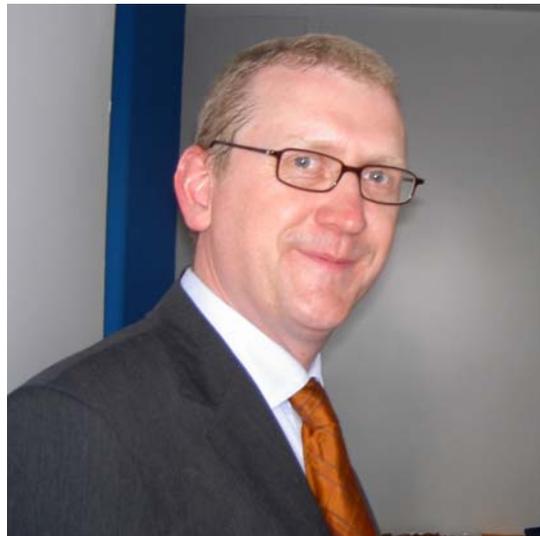


The GLJ Editorial Board Recognizes Co-Editor Peer Zumbansen's Recent "Habilitation" (Johann Wolfgang Goethe University, Frankfurt am Main) and His Receipt of a Canada Research Chair at Osgoode Hall Law School of York University, Toronto, Canada

Reflections



Peer C. Zumbansen

The Frankfurt Years, or: Why We Are Glad to See Him Go

Helmut Kohl

Professor of Civil Law at Johann Wolfgang Goethe-University, Frankfurt a. M.

Yes, we are glad to see him leave. A young academic who spent most of his grade school and high school life close to Frankfurt, studied at the Johann Wolfgang Goethe-University in Frankfurt, took both of the tedious state exams in Frankfurt, earned his doctor iuris in Frankfurt and in June 2004 received his "habilitation," the

German license to enlighten or bore students as an academic teacher at the very same University of Frankfurt – should he not finally leave the home place and see the world to get a wider perspective at age 37?

I.

Even though all of the above statements are true, that certainly is *not* the reason why we are glad. Peer Zumbansen never was a parochial mind while he was in Frankfurt. Some people can stay more or less in one place all their lives and still be geniuses, even become immortals. Immanuel Kant, e.g., the name patron of his German high school, is a marvellous example. Kant stayed in his hometown Königsberg all his life and nonetheless his thinking transcended the borders of that city, of Prussia, of Europe. Not in Königsberg, but in Frankfurt, Peer Zumbansen showed excellence right from the beginning by finding and utilizing the local resources where they were best. When he began studying law, a year after he started his philosophy studies with Habermas, Apel and Schmidt, in 1988, he pursued his theoretical interests on what the law is, should be and how it works and should work. Young as he was, he chose the right law professors, those with a wide theoretical perspective (i.a. Wiethölter, Günther, Kübler, Hassemer - why not me? I do *not* invite any suggestions from the readers!). Right here in Frankfurt, he found access to the world through our best Frankfurt Professors. In his very first semester, they recognized this young man as being special, which under German university conditions is most unusual. In Germany, first and second year students come in droves to mass lectures; professors usually do not know them personally. Peer, however, was present. He was attentive. He was critical and willing to – unpretentiously / politely - offer valid criticism. As Rudolf Wiethölter, one of the greatest legal thinkers of the continent and many years later his thesis adviser, said: “I did not pick Peer; Peer promoted himself by the way he contributed and critically cooperated. There just wasn’t anyone who had impressed more.” So more or less automatically he became a student tutor and later an assistant at the Frankfurt Law School.

II.

But unlike Immanuel Kant, Peer Zumbansen was not willing to let himself be limited to listening to and discussing with the local prophets. He ventured out into the world. After a stint as a high school student in the US, his second big foreign adventure led him to France. He interrupted his Frankfurt law studies in order to receive his license on droit in Paris “mention assez bien.” This is certainly quite remarkable, but has been done before by other exceptional students; however, it is most unusual that he attended the postgraduate classes offered by Jacques Derrida at the Collège de France. In 1996 he fled Frankfurt for Florence and the European

University Institute. The next year he spent at Harvard, where he received his LL.M.. Back in Frankfurt he finished his doctoral thesis on structural patterns of modern welfare states, in which he tried to understand and explain the systematic relationships between state, society and contract. This thesis received the top grade of "summa cum laude" and was furthermore awarded with the prestigious prize for the best dissertation of the year. I will not comment on his "habilitation," since more qualified readers than I will report on it. Let me just say, that a thesis which was highly praised by both reporters, but was somewhat criticized by the one (Teubner) because it does not stick to the "Systemtheorie" and by the other one (Kübler) that it does not contain enough economic theory, might just hit the target.

III.

After passing his state exams, Peer became an assistant. He not only fulfilled that role¹ but, once again, transcended it. He carefully delivered the support duties for his professor. He conscientiously prepared extensive and excellent course materials, developed exam problems, taught tutorials, researched, photocopied, and helped in many other ways. Most assistants do that more or less properly, but he was courageous enough to go far beyond the usual. His forced labor project,² which he pursued together with Prof. Adler from Boston, is a good example of such endeavours. It was his idea and his own initiative – not that of some superior – to take up this pressing legal issue. He did not hesitate to apply for funding for this project. 99 % of all German assistants would not have dared to apply for such grants on their own. He did and he succeeded. And he dared to found, fund and publish an electronic Law Journal that in English successfully reports to the world on German legal developments and discussions. At the same time, this assistant with his strong emphasis on theory and methodology never lost touch with the practical needs of the justice system. His work for one of the poorest nations of the European continent – Moldavia – documents clearly this aspect of his Frankfurt years.

IV.

Why would anyone want to see such a brilliant, inventive and dynamic (and at the same time modest) young colleague leave? Why should we be happy that a young

¹ For readers not familiar with the German university system, it might be helpful to point out that an assistant plays a tricky and difficult role in a quasi-feudal hierarchy. He or she is honoured by the appointment, since we only take the very best; but once they are appointed, they are totally dependent on their professor. They are expected to support their professor in all academic duties and this very professor is the one who will have a decisive vote on the assistant's doctoral or "habilitation" success. A wonderful system in some cases, a terrible one in others.

² Discussed in detail somewhere else in this issue.

colleague who is always ready to lend a helping hand and to cooperate³ goes to another law school?

The answer is simple and is based on a peculiarity of the German university system. We believe – justly or not – that a young academic cannot and should not be hired by the university where he or she received the “habilitation.” We are afraid of academic inbreeding. Consequently, Frankfurt cannot offer Peer Zumbansen a professorial appointment before some other university has offered him such position. Only if we let him go, do we have the chance to possibly get him back sometime in the future. That is why we are happy to say, “Good bye Peer.”

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“Peer”-Review: Some (after)Thoughts From Afar

Florian Hoffmann

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The veritable, if so very German tradition of the *Festschrift* – literally a “celebratory discourse” the true nature of which is, however, better conveyed by its Latin equivalent used in other, mostly European academies, notably the *liber amicorum*, a book or discourse by friends – is always an ambiguous affair. For, by its very nature, it is bound to emphasise the past works of the person it is dedicated to, posing (almost) as a point of closure beyond which not much more is to be expected for the future. Fortunately, this celebration of our friend and colleague Peer Zumbansen does nothing of the sort. Indeed, the occasion which has given rise to its elaboration is in itself atypical. It is not Peer’s formal passage into what would be considered an advanced age – even if his unruly *German Law Journal* editors and contributors may have caused him a good number of grey hairs. He is not handing over the baton by entering well-deserved retirement – as much as he may, on occasion, long for that moment. Happily, it is not his funeral – leaving St. Peter with a, hopefully, much extended deadline to hand in his *GLJ* review of Joe Weiler’s *Ein Christliches Europa*, commissioned, of course, by Peer himself. Rather, the occasion at hand is quite ambiguous, for it marks both Peer’s (formal) ingress into the innermost *sanctum* of a venerable old-world *universitas*, and, at the same time, his (at least temporary) turn-

³ As his neighbour on the 3rd floor of the Frankfurt Law School building for 10 years, I can personally testify to these qualities.

ing away from that old world, and his departure to a new one which promises to recognise and accommodate his manifold qualities in the way he deserves.

Yet, perhaps despite and, indeed, because this occasion denotes a mixture of success and disappointment, of enthusiasm and a (certain) melancholy, of exuberance and quiet reflection, it is most fitting to commemorate not merely the past, but also the present and the future of this quite extraordinary scholar, colleague, friend, companion, and father. For whoever has been drawn into Peer's many circles is usually taken by precisely this mixture: on one hand, a highly professional, pragmatic and no-nonsense attitude to life and work, yet, on the other hand, an often surprising adventurousness, a truly entrepreneurial spirit with regard to new thoughts, new people, and new projects. He ingenuously combines within himself the stern aura of a German *Herr Professor Doktor* – not least through his trade-mark 1950s-style glasses, said to be made just for this purpose –, with the creative impulses of a “self-made man” like Joschka Fischer, currently Germany's Foreign Minister, and, like Peer, once a taxi driver in Frankfurt.

In his scholarship, too, Peer has situated himself in a field commonly considered to be rather technical and unimaginative, namely economic- and company law, and, yet, his treatment of it has frequently sounded as if he was writing straight legal theory or sociology. His many interests, wide reading, and systematising impulses have enabled him to cover a very wide range of topics, and to treat them with a depth of analysis rare in the age of self-reproducing citation circles. Yet, he nonetheless continuously resists being classified and put into labelled drawers, and he, thus, manages to largely escape from the unidimensionality of the prevalent expertocracy. To an extent, Peer's entire professional trajectory is marked by this double-sidedness, the impressive jumping from mountain-top to mountain-top, but also the toiling in the shadowy valleys in between. It is, perhaps, this intriguing mesclage which has given Peer the gift to understand others sometimes better than they understand themselves, and to tickle out talents and skills of which they had often not themselves been aware. Again, he is at once a very fine scholar and a wonderful teacher, a creator, but also a compiler of ideas and of people.

In keeping with this double logic, we should celebrate Peer for what he has done so far, for his books and many articles, for his teaching and supervising, for his inter-linking and network creation, and, last, but by no means least, for co-running, with his friend and long-time “brother-in-arms” Russell Miller, this splendid idea-turned-reality, the *German Law Journal*. But let us also celebrate the Peer to come, the Peer who is not limited by his past, the unpredictable Peer who may, again and again, surprise us.

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Lost, and Found, at Harvard**Rajan Subberwal**

Sullivan & Cromwell LLP, London

Peer's LLM delayed the completion of his doctorate, separated him for a year from his partner, and almost resulted in his missing the birth of his first child. No doubt that year has much to answer for. In any case, Peer is about to return to North America, ready, as before, to engage with its preconceptions and make it engage with those same preconceptions. Peer's appetite during that LLM year for a range of learning (corporate finance, legal theory, torts, administrative law) was exhausting to behold - reading materials were devoured, articles down-loaded, bibliographies expanded. (I don't think he slept.) It would be nice to think that almost everything he studied during his LLM he has engaged with since then, whether in his PhD, his work on forced labourers, his habilitation or his other publications. Whether this is true or wishful thinking is perhaps not so important. What it suggests is Peer's ability to transmogrify, re-evaluate, re-cast, re-orientate, re-define ...(choose your own verb) ...issues, doctrines, theories ... (choose your abstract noun or noun-phrase), and say something new, interesting and eloquent. Unsurprisingly, given such ability, Peer was elected by his (predominantly-overseas) LLM classmates to speak on their behalf at graduation. No doubt he will continue to give voice to the "foreign" in his new academic environment.

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Don Quixote and a World to Conquer**Russell Miller**

Co-Editor-in-Chief, German Law Journal

-- "His imagination was full of all that he read in his books ..."

A traditional reading of Cervantes' masterpiece and his (anti)hero is that Quixote is the protagonist fool, driving a comic masterpiece, clumsily endearing but tragically bound up in his delusions. I would think that the Lit-Crit movement might have since intervened to rediscover, reclaim, and rehabilitate the old man of la Mancha. Certainly the possibilities are there. In fact, one view on the character suggests that he should be celebrated as much more. Having had the great pleasure to serve alongside Peer Zumbansen as the Co-Editor-in-Chief of the *German Law Journal* for

nearly five years, not to mention other collaborations, I find “Quixotic” elements of his character that also make Peer Zumbansen an inspiring scholarly colleague and the most enriching of friends. On the occasion of the completion of his “Habilitation” and his acceptance of a Canada Research Chair at Osgoode Hall Law School, York University (Toronto, Canada) I would like to consider the admirable similarities between Peer Zumbansen and Don Quixote de la Mancha.

Peer, like Quixote with his chivalrous romances, and like far too few academics, truly loves the scholarly literature with which he is engaged in the project of reading, writing and teaching. For Peer, these texts really *are* the thing. He is a ravenous interdisciplinary reader for whom diverse schools and fields serve as enticing beacons, not barriers to entry. His thinking literally crackles with all that he has encountered in the treatises, monographs and articles. More significant than the mere(!) substantive exposure to all that the literature contains, Peer knows the living possibilities of the works he engages. For him, as for Quixote, the reader is as much a part of the text as the author and the text’s characters (in the scholarly genre with which Peer works, these are primarily ideas). So viewed, Quixote seems far more aware than the “sane” souls that otherwise populate his adventures because it is only he that understands that our lives are stories being told by ourselves, read by all we encounter. Peer is driven to the literature by a similar understanding of what scholarship could be: a genuine discourse with jurists and philosophers, both the living and the dead. Having gathered up some rusty armor of his own, it is a call to arms that Peer simply thrills to accept.

Thus, we come to find Peer tilting at his respective intellectual windmills cum dragons with the same passionate purity of purpose as Quixote. And the dragons he aims to slay! Now corporate governance, now state theory, now sociological jurisprudence, now public international law, now globalization ... And no less than Quixote, Peer weds his abiding commitment to his campaign with a boundless, improbable energy and resourcefulness. He has served as a *Wissenschaftlicher Assistent* while writing his Dissertation and Habilitation. He has organized seminars and symposia. He founded and continues to lead two major publishing projects in the *German Law Journal* and the *Annual of German & European Law*, the editorial boards of which have blossomed into dynamic international networks of young scholars. And, in keeping with the chivalrous code, Peer is a courteous, caring, critical and committed companion.

It will long remain my greatest honor to have trailed along in his wake. A shambling Sancho Panza to Peer Zumbansen’s grand Quixote.