I. Outline of the problem

1. The universal concept of the rule of law
   • a western-rooted but universal fundamental idea: to overcome arbitrariness by moderating public power and reliably adjusting it to legal rules
   • different but converging manifestations of the same fundamental idea: ("Rechtsstaat", "État de droit", "rule of law", "general principles of law"); numerous well-established sub-principles

2. The rise of this concept in the last 30 years
   • triumph in Europe after the end of totalitarianism and in the process of European integration
   • growing interest in the concept in the newly industrialised countries
   • a fundamental principle in ASEAN (art. 1 no. 7, 2(2) lit. h ASEAN Charter) and Indonesia (art. 1(3) Const. 1945)
   • the reason: the rule of law as a prerequisite to sustainable development

3. Globalisation as a factor supporting - and sometimes challenging - the rule of law
   • a key factor for the development of the newly industrialised countries
   • presupposes predictability, planning security and legal certainty; this requires sophisticated and effectively implemented law
   • supports - and demands - in particular multilateralism and strong international institutions
   • can also endanger the rule of law (see the attempts to replace the judicial power on a large scale by arbitration panels for the binding settlement of investor-state disputes)

4. Globalisation as a catalyst for populism
   • a two-sided medal: winners and losers in all countries
     - the neglected impact on low-qualified people in highly developed countries
     - the neglected impact on people working in less efficient or obsolete economic sectors
     - the neglected impact on local cultures, law and traditions
   • typical human: the prevalent one-sided view of globalisation everywhere in the world
     - taking the benefits for granted but refusing to accept any disadvantages in return
     - ignoring the dimension of the national macroeconomic benefits
     - the widespread perception that one's own country is unfairly fleeced by the other parts of the world - similar reasoning in Indonesia, Europe and the U.S.
   • a perfect breeding ground for populism
     - the globalisation debate has shifted from (constructive) scientific to (destructive) populist criticism
     - politicians are tempted to blame globalisation for real or alleged problems of the country
     - individuals are tempted to blame globalisation for their personal problems or dissatisfaction
     - a rise of conspiracy theories and fake news and a decline of rational debates
   • the reason: globalisation means change
     - the deepening socio-cultural conflict between dynamic cosmopolitan elites and conservative, locally rooted traditionalists in many countries

II. Populism as a threat to the rule of law

1. On the domestic level
   a) Populist attempts to convert the free and democratic system into an authoritarian system
     • western examples: Hungary, Poland, Turkey - U.S.?
   b) Strategies employed by populists to fight freedom, democracy and the rule of law
     • the neutralisation of the constitutional court
     • the gaining of control over the judiciary
     • the manipulation of the media
       - conversion of public television and radio into instruments of government propaganda
       - denial of access of private media to government information
       - restriction of the freedom of the press for private media
       - undermining of the citizen's trust in the media by constant lying (→ "alternative facts")
     • the restriction of democratic freedoms, in particular of the freedom to assembly and of the rights of NGOs
     • the restriction of the freedom of science and academic teaching
       - update 25/10/2018 latest attack: the ban of gender study courses in Hungary (see → report)
2. On the international level
   a) Populist aversions against limitations of national sovereignty by international standards
      • the euro-scepticism of the governments of some EU member states
      • the U.S. President’s scepticism against restrictive international standards
   b) Strategies employed by populists to undermine the international legal order
      • sanctions against foreign enterprises not supporting a unilateral boycott against a third country
      • constant open violation of EU refugee law or international humanitarian law
      • the abuse of Interpol for the political persecution of government critics
      • threats against the International Criminal Court and its judges
   c) In particular: the systematic fight against multilateralism
      • the refusal to ratify important multilateral treaties
      • the launching or threat of trade wars in violation of WTO law
      • the withdrawal from international institutions
      • the sabotage of international institutions
      • the attempt to replace elaborated multilateral free trade systems by imposed bilateral agreements
        - "divide et impera" - an old strategy already employed by the Roman emperor Caesar
        - an open step towards a fundamental change from globalisation to imperialism

III. Conclusions on the rule of law in times of globalisation and populism

1. The need of a world-wide fight to preserve and strengthen the role of the rule of law
   • in particular mutual support against attacks from in- and outside

2. Necessary steps and precautions
   • to secure effectively the power and independence of the national constitutional courts
   • to ensure the integrity and well-functioning of and, thus, the trust in the constitutional courts
   • to secure effectively the independence of the judiciary
   • to reform and strengthen international institutions
   • to institutionalise international forums and procedures allowing to discuss and eliminate present flaws and
     injustices in world trade and other international matters by a fair development of the legal framework
   • to jointly protect and enforce multilateralism against the resistance of powerful players with a hegemonistic
     bilateral approach
   • to insist on a mandatory link between economic cooperation and essential other intern. cooperation
     - the proposal of the French President to make the ratification of the Paris Agreement on climate change a
       condition for the conclusion of free trade agreements