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Conflicting conceptualisations of ‘democracy’ in the German Bundestag during the anti-nuclear demonstrations, 1995–2001

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SUMMARY

A vigorous anti-nuclear movement emerged in Germany in the mid 1990s, when spent nuclear fuel elements began to be transported to the interim storage facility in Gorleben, Lower Saxony. Resistance to nuclear transportation continued to grow in strength throughout the 1990s. The protests expressed people’s distrust and lack of confidence in political institutions and decision-making processes. In the German Bundestag, these events relating to Gorleben caused significant political struggles over the principles and meanings of German democracy. Parliamentarians voiced competing counterarguments about the legitimacy of these demonstrations, on the one hand, and the legitimacy of the nuclear energy policy of the federal government, on the other. Ideas about liberal democracy and the tradition of the 1968 generation and new social movements clashed in the Bundestag. By applying methods of conceptual analysis to parliamentary research, this article discusses conflicting conceptualisations of democracy in the German parliament. Analysis of political language enables discussions on competing ideas, attitudes and conceptions in policy-making. The Bundestag argued about democratic beliefs and values, which legitimated parliamentary policy-making. In particular, interpretations of violence in a democratic state, the principle of majority rule and the legitimacy of decision-making were explicitly debated in the German parliament.

KEYWORDS

German democracy;
Bundestag; parliamentary
debates; anti-nuclear
movement; radioactive waste

Introduction

A vigorous anti-nuclear movement arose in Germany in the mid 1990s to resist the transportation of spent nuclear fuel elements to the interim storage facility in Gorleben, Lower Saxony. Three transports from the German nuclear power plants and from the reprocessing plant at La Hague, France, took place during the period 1995–97. After a three-year

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ban on transports, two transports took place in 2001.¹ The first transport to Gorleben was met with demonstrations of just a few thousand people, whereas the third transport in March 1997 attracted tens of thousands of demonstrators and thirty thousand police officers and Federal Border Guards were in place to keep the peace.² The protests were directed at the transports of radioactive waste, but they also expressed people's distrust and lack of confidence in political institutions and decision-making processes. For left-wing militants in particular, this direct resistance to the transportation was a way to fight against the state, since they considered that nuclear energy policy was perpetuating a system in which the interests of the nuclear industry were promoted at the expense of the well-being of the planet and the general population.³

The confrontations around the transports of radioactive waste from 1995 onwards culminating in the vicinity of Gorleben, also called Wendland, have a special symbolic significance for the German anti-nuclear movement. Since the late 1970s there had been massive demonstrations and a protest camp against a planned nuclear waste disposal site.⁴ From a wider perspective, the events in the 1990s continued in many ways the traditions of the extra-parliamentary opposition (Außerparlamentarische Opposition, APO), the student movement, and the so-called new social movements of the 1960s and 1970s to criticize alleged structural deficiencies in the parliamentary system and an authoritarian-style state. Alongside promoting new ways of life and values, the movements considered themselves to be expressions of a certain conception of democracy that emphasized more opportunities for citizens to participate in decision-making. In Germany the powerful anti-nuclear movement, especially from the second half of the 1970s onwards, was a manifestation of the clash between the citizens participating in the movements and the state. The Green Party, established in 1980, considered itself at the time to be the parliamentary extension of these extra-parliamentary movements.⁵

The history of the German anti-nuclear movement has been a fairly widely discussed topic among scholars who have already successfully studied the motives of the movement and the criticism it has expressed from various viewpoints: the movement has been motivated by safety issues, but it has also made obvious demands concerning decision-making processes and the principles of democracy.⁶ However, the parliamentary aspect of the conflict over nuclear energy has mainly been neglected,⁷ despite the fact that since the

¹The first transport was driven in April 1995 from the nuclear power plant Philippsburg, the second transport in May 1996 from the reprocessing plant at La Hague, France, and the third in March 1997 from the nuclear power plants Neckarweheim and Grundremmingen and from the reprocessing plant La Hague. The fourth was driven in March 2001 and the fifth in November 2001. Both were from La Hague.

²M. Edler, *Demonstranten als 'Staatsfeinde' – 'Staat' als Feinbild? Bürgerinitiative, Medien und Staatsgewalt im Streit um die Castor-Transporte in das Atom-Zwischenlager Gorleben* (Lüchow, 2001), pp. 75, 81, 87.

³B. Blank, 'Der Protest gegen CASTOR-Transporte und die Rolle der Linksextremisten', *Jahrbuch Extremismus & Demokratie* 10, (1998), pp. 205–6.

⁴J. Radkau and L. Hahn, *Aufstieg und Fall der deutschen Atomwirtschaft* (Munich, 2013), pp. 304–6, 325; J. Radkau, 'Eine kurze Geschichte der deutschen Antiatomkraftbewegung', *Aus Politik und Zeitgeschichte: Beilage zur Wochenzeitung Das Parlament* 61, (2011), p. 11.

⁵K.-W. Brand, D. Büsser and D. Rucht, *Aufbruch in eine andere Gesellschaft. Neue soziale Bewegungen in der Bundesrepublik* (Frankfurt, 1983), pp. 63, 86, 93, 99, 104.

⁶For example, J. Radkau, *Aufstieg und Krise der deutschen Atomwirtschaft 1945–1975. Verdrängte Alternativen in der Kerntechnik und der Ursprung der nuklearen Kontroverse* (Hamburg, 1983); D. Rucht, 'Anti-Atomkraftbewegung', in R. Roland and R. Dieter (eds), *Die sozialen Bewegungen in Deutschland seit 1945: ein Handbuch* (Frankfurt am Main, 2008), pp. 245–66; A.S. Tompkins, *Better Active than Radioactive! Anti-nuclear Protest in 1970s France and West Germany* (Oxford, 2016).

⁷The Commission of Inquiry 'Future Nuclear Energy Policy' (1979) has been studied by Cornelia Altenburg and the parliamentary debates about nuclear energy policy in 1991–2001 by Miina Kaarkoski. C. Altenburg, *Kernenergie und Politikberatung. Die Vermessung einer Kontroverse* (Wiesbaden, 2010); M. Kaarkoski, *'Energimix' versus 'Energiewende': Competing Conceptualisations of Nuclear Energy Policy in the German Parliamentary Debates of 1991–2001* (Jyväskylä, 2016).

Chernobyl accident (1986), the political parties in the Bundestag have argued vehemently on the question of the further use of nuclear energy.⁸

By studying the debates of the German federal parliament, the Bundestag, on the transportation of radioactive waste to Gorleben and the ensuing demonstrations in 1995–2001, this article illustrates how these events caused significant political struggles over the meaning of German democracy in the parliamentary sphere. This was because two traditions of German democratic thought collided in the situation: the tradition based on constitutional emphasis of liberal democracy in the sense of parliamentary representation and the rule of law, and the tradition of the 1968 generation and new social movements challenging the political institutions and the elite.⁹ Dirk Jörke and Marcus Llanque conclude that at least up to the end of the 1980s, the liberal conception of parliamentarism dominated German discussion, although in the context of the new social movements there was harsh criticism of parliamentary democracy.¹⁰ As shall be seen in the following empirical sections, the tradition of parliamentary, representative democracy, supported by the Christian Democrats, the Liberals and the majority of the Social Democrats, was challenged by the Green MPs (*Abgeordnete*), who promoted the values and ideas of the protest generation. This generation, as Andreas Biefang and Andreas Schulz point out, had the tradition of claiming to unmask parliamentarism as a mere superficial democratic performance to mask the ‘true’ (i.e. economic) power structures.¹¹

The analysis applies methods of conceptual analysis to parliamentary research, presenting a macro-level semantic and micro-level pragmatic analysis of political language.¹² In this historical case study, both macro-level long-term manifestations of conceptions of democracy and micro-level speech acts by individual MPs were considered. Discussions on the meanings of German democracy and parliamentarism have long traditions,¹³ and the parliamentary debates of the period studied drew on past political experiences. Debates were based on longstanding traditions in German democratic and parliamentary thought and speeches by MPs served to reveal the competing beliefs and values of the political parties. Simultaneously, speeches about German democracy obviously also fulfilled a pragmatic function in promoting certain political aims or pleasing the electorate.

In the following empirical sections, I shall first discuss how democracy was viewed in the context of the events of 1995–97. I then present a discussion on how the debates about German democracy evolved, when the question of transports of radioactive waste became a matter of foreign relations in 1998–2001.

⁸Kaarkoski, *‘Energiemix’*, pp. 16–17.

⁹P.M.R. Stirk, *Twentieth-century German Political Thought* (Oxford, 2005), p. 136; I. Gilcher-Holtey, *Die 68er Bewegung: Deutschland - Westeuropa - USA* (Munich, 2001); P.A. Richter, ‘Die Ausserparlamentarische Opposition in der Bundesrepublik Deutschland 1966 bis 1968’, in I. Gilcher-Holtey (ed.), *1968 - vom Ereignis zum Gegenstand der Geschichtswissenschaft* (Göttingen, 1998), pp. 35–55.

¹⁰D. Jörke and M. Llanque, ‘Parliamentarism and Democracy in German Political Theory since 1848’, in P. Ihalainen, C. Ilie and K. Palonen (eds), *Parliament and Parliamentarism: A Comparative History of a European Concept* (New York, 2016), p. 274.

¹¹A. Biefang and A. Schulz, ‘From Monarchical Constitutionalism to a Parliamentary Republic: Concepts of Parliamentarism in Germany since 1818’, in Ihalainen et al. (eds), *Parliament*, p. 74.

¹²P. Ihalainen, *Agents of the People. Democracy and Popular Sovereignty in British and Swedish Parliamentary and Public Debates, 1734–1800* (Leiden, 2010); C. Ilie, ‘Parliamentary Discourse and Deliberative Rhetoric’, in Ihalainen et al. (eds), *Parliament*, pp. 133–45; T. Häkkinen, *The Royal Prerogative Redefined. Parliamentary Debate on the Role of the British Parliament in Large-scale Military Deployments, 1982–2003* (Jyväskylä, 2014); Kaarkoski, *‘Energiemix’*; K. Palonen, ‘Speaking pro et contra: The Rhetorical Intelligibility of Parliamentary Politics and the Political Intelligibility of Parliamentary Rhetoric’, in S. Soironen and T. Turkkka (eds), *The Parliamentary Style of Politics* (Helsinki, 2008), pp. 82–105.

¹³Biefang and Schulz, ‘From Monarchical Constitutionalism’, pp. 62–80; Jörke and Llanque, ‘Parliamentarism’, pp. 262–76.

The use of violence in a democratic state

In the federal parliament, the main issue giving rise to tensions was the use of violence by the state and also by its citizens. According to Max Weber's highly influential definition, the modern state can be defined in terms of the specific means peculiar to it: a state is a human community that claims the monopoly of the legitimate use of physical force within a given territory. The right to use physical force is ascribed to other institutions or to individuals only to the extent which the state permits it.¹⁴ Even though this state monopoly on the use of force and, hence, the very existence of the state, were not as such contested in the Bundestag, the political parties disagreed on how to protect the democratic state in the prevailing situation, where use of force by the police and people competed with each other.

For the Christian Democrats and Liberals in particular, safeguarding the democratic state meant respecting policy legitimized via representative institutions and deploring physical or verbal violence of any kind. In the period 1995–98 the ruling coalition composed of the CDU/CSU (Christlich Demokratische Union Deutschlands/Christlich-Soziale Union in Bayern) and FDP (Freie Demokratische Partei) and the federal ministers constantly highlighted how nuclear energy policy and radioactive waste disposal policy had been agreed on by a parliamentary majority and legislated via representative institutions. The federal government, therefore, saw no legal reasons for preventing the transportation when all the preconditions required for allowing them were met. The Federal Minister of the Environment, Nature Conservation and Reactor Safety, Angela Merkel, in particular argued constantly for the safety of these transports and questioned the justification for protesting against transports in society or in the Bundestag.¹⁵

Merkel's personal background becomes evident in her speeches about nuclear energy. She was educated as a physicist and, in contrast to many other prominent politicians of the 1990s who were involved in the discussions about nuclear energy (such as Gerhard Schröder, Joseph 'Joschka' Fischer and Jürgen Trittin), she was from the former East Germany. She therefore did not have the same background as the 'protest generation' of the 1960s and 1970s in the former West Germany.¹⁶ In April 1995 Michaela Hüstedt (Alliance 90/The Greens) suggested that Merkel was actually missing the meaning of the debate by criticizing Merkel's lack of knowledge about the role of the anti-nuclear movement in the history of the Federal Republic of Germany.¹⁷

The question of the legitimacy of the protest movements around the transports to Gorleben divided opinion in the Bundestag. MPs of all parties voiced arguments on how respecting the fundamental rights of 'freedom to demonstrate' and 'freedom of speech' were a core feature of German democracy. In political theory, these fundamental rights have been considered as the key means to safeguard the rights of minorities to express opinions or criticism in a parliamentary system based on the principle of majority rule.¹⁸ In the Bundestag, it even appeared to be some kind of ritual in parliamentary speeches to acknowledge respect for these democratic principles even though the speaker's

¹⁴M. Weber, 'Politik als Beruf', *Zeno.org*, pp. 505–10, <http://www.zeno.org/Soziologie/M/Weber,+Max/Schriften+zur+Politik/Politik+als+Beruf>.

¹⁵Merkel Deutscher Bundestag (DB) 33. sitting 26 April 1995, p. 2518.

¹⁶Kaarkoski, 'Energimix', pp. 42, 58, 81.

¹⁷Hüstedt DB 33. sitting 26 April 1995, p. 2526.

¹⁸C. Gusy, 'Das Mehrheitsprinzip im demokratischen Staat', in B. Guggenberg and C. Offe (eds), *An den Grenzen der Mehrheitsdemokratie. Politik und Soziologie der Mehrheitsregel* (Opladen, 1984), pp. 61–2, 65, 74–6.

argument might thereafter condemn the present form of demonstrations. For example, in a speech in April 1995, Merkel praised Germany for respecting these principles allowing people ‘to assemble, to protest and to demonstrate’. However, she then argued how these rights only applied under a premise of non-violence, since otherwise ‘democracy will soon come to an end’.¹⁹

The Bundestag speeches about the people’s willingness to engage in violence in demonstrations illustrated the ambiguity surrounding the concepts of ‘violence’ and ‘non-violence’. Bettina Blank has pointed out how the concept of non-violence was understood differently in the movement opposed to the transportation: this principle of non-violence was widely shared in society, but it might include all kinds of actions, at least against material property.²⁰ In the Bundestag the use of violence by citizens was universally condemned, yet the MPs disagreed as to what actually constituted non-violence. The CDU/CSU and FDP had the strictest attitude against any kind of physical acts. The representatives of these ruling parties clearly emphasized the viewpoint according to which violent acts by protestors against material property totally precluded the legitimacy of the demonstrations. From this perspective, the monopoly on the use of force belonged unequivocally to the state, and when using police force to secure the transportation the state was fulfilling its democratic obligation to ensure safety and peace in society. Speakers of the CDU/CSU and FDP rejected the representative aspect of these demonstrations as a form of expressing the will of the majority of the people, as the opposition parties claimed.²¹ These examples above already illustrate and the following sections continue to discuss how the principle of the rule of the majority was likewise a contested issue in parliament. For the Christian Democrats and Liberals, respecting the right of the parliamentary majority to legitimate policy decisions was a practical means of safeguarding democracy by promoting stability and peace in society against the parties’ historically based fears of failing or unworkable democracy.²² For the parties, following the constitutional expression of representative democracy seemed to have been a way to prevent the rise of populism, fascism and authoritarianism.

The Social Democrats clearly condemned the use of violence in any form as a political tool, but the party representatives considered sit-in blocks, for example, to be legitimate. In fact, the Federal Constitutional Court was involved in this debate, and representatives of the SPD (Sozialdemokratische Partei Deutschlands) referred to its ruling according to which sit-in blocks were a legitimate way of protesting. However, it is noteworthy that the political aim of the Social Democrats in the Bundestag was first and foremost to challenge the content of nuclear energy policy and spent fuel disposal policy drawn up by the cabinet of Helmut Kohl instead of questioning the functions of German liberal representative democracy as such.²³ At its 1986 party conference in Nuremberg, the SPD had taken a decision to support the phasing out of nuclear energy within 10 years. However, this decision was less ideological than the Green Party’s anti-nuclear position.²⁴

¹⁹Merkel DB 33. sitting 26 April 1995, pp. 2518–19.

²⁰Blank, ‘Der Protest’, pp. 199–213.

²¹Teiser (CDU/CSU), Lippold (CDU/CSU) and Rexrodt (FDP) DB 33. sitting 26 April 1995, pp. 2522, 2534, 2561.

²²Stirk, *Twentieth-century German Political Thought*, pp. 136, 174–5.

²³Müller (SPD) and Schütz (SPD) DB 33. sitting 26 April 1995, pp. 2521, 2546; Kubatschka (SPD) DB 97. sitting 17 April 1996, pp. 8640–8641; Ganseforth (SPD) DB 104. sitting 9 May 1996, p. 9126.

²⁴Kaarkoski, ‘*Energymix*’, p. 16.

The Greens' attitude towards civil disobedience and the state's use of force against its citizens was based on the tradition of the social movements of the past decades vis-à-vis democracy. The party has traditionally understood itself as the parliamentary extension of the extra-parliamentary movements, and it aims to promote a more open democracy by emphasizing grassroots democracy and civil disobedience as supplementary to the parliamentary system.²⁵ The representatives of the Green Party also formally condemned the use of violence, but their argumentation about the topic was significantly more controversial. From their perspective, the (violent) demonstrators were not the real problem. What was problematic was rather the situation in which the state, which claimed to be democratic, was actually using police force to back up policy decisions against the will of the people expressed in the demonstrations. For example, Michael Hustedt argued in April 1995, 'In this country it is impossible to reach acceptance of atomic power with such extensive police action.'²⁶

This criticism of the use of police force in implementing policy decisions was closely related to the argumentation about the so-called 'atomic state' (*Atomstaat*), which articulated the fundamental reason why the German anti-nuclear movement had been fighting against nuclear energy continuously and enthusiastically. The anti-nuclear movement feared that because of the risks of nuclear technology, the state was forced to use extreme power over its own citizens and to compromise on the principles of democracy in order to manage the risk inherent in the technology.²⁷ Therefore the concept of the atomic state connected the use of nuclear power with questions about the meaning and realization of German democracy. The concept referred to the original form of nuclear technology – the atomic bomb – with all its negative connotations and fears.²⁸ Robert Jungk's book *Der Atomstaat*, published in 1977, speculated about the consequences of large-scale technology being used by the state and the book sealed the success of the concept.²⁹

In the Bundestag Ursula Schönberger (Alliance 90/The Greens) was a special advocate of the emergence of this dystopian-style atomic state that did not respect democratic principles. On 26 April 1995, Schönberger drew a parallel with Jungk's work and the first transport to Gorleben:

Yesterday the atomic state foretold by Robert Jungk came true: 6500 police officers accompanied one transport, private land was occupied by the police, some random arrests were made. The right to demonstrate was withheld for days. Water cannons used against non-violent demonstrators are the face of this atomic state. You have brought the first castor transport to the interim storage facility, but at what price? Using the largest police escort ever used in the FRG at a cost of 55 million DM per castor, and going at a walking pace.³⁰

²⁵W. Ismayr, 'Die GRÜNEN im Bundestag: Parlamentarisierung und Basisanbindung', *Zeitschrift für Parlamentsfragen* 16, (1985), p. 300; H. Fogt, 'Basisdemokratie oder Herrschaft der Aktivisten? Zum Politikverständnis der Grünen', *Politische Vierteljahresschrift* 25, (1984), pp. 97–114.

²⁶Hustedt DB 33. sitting 26 April 1995, p. 2526.

²⁷Kaarkoski, 'Energimix', p. 176.

²⁸M. Jung, *Öffentlichkeit und Sprachwandel. Zur Geschichte des Diskurses über die Atomenergie* (Opladen, 1994), pp. 96, 103–8; Radkau and Hahn, *Aufstieg*, p. 11.

²⁹R. Jungk, *Der Atomstaat. Vom Fortschritt in die Unmenschlichkeit* (Munich, 1977).

³⁰Schönberger DB 33. sitting 26 April 1995, p. 2543.

A year later, on 9 May 1996, Schönberger drew attention to the state's use of force in the past few days by saying: "The atomic state means that those who favour nuclear energy are forced, due to its potential risks, to push it through with all the power a state can use against its own citizens."³¹ From the viewpoint of the Green MPs, events around Gorleben represented the impossibility of continuing to use nuclear energy and execute the waste disposal policy without changing the role of the state into something quite undemocratic.

The contested principle of parliamentary majority

In the parliamentary debates of the case under discussion, another pivotal issue causing tensions was the different perceptions of the principle of majority rule in democratic decision-making processes. Political theory has noted how the principle of majority rule is fundamental to modern democratic states, since it holds the political entity together, also in the cases when individuals do not agree with the decisions. In parliamentary democracy, the basic idea is that the majority of the elected parliament also represents the majority of the citizens.³² Further, majority democracy requires certain consensus about the acceptance of the political majority (also by the minority) and the rights and limits of concrete decisions made by the majority.³³ The principle of majority rule derives its legitimacy, for example, from the existence and control of political opposition.³⁴

However, since the citizens' movements of the 1960s and 1970s, a growing number of citizens no longer appeared to be unequivocally willing to consider the decisions of the parliamentary majority as legitimate. The Green Party in particular advocated grassroots democracy in order to deny the right of the parliamentary majority for decision-making purely on its own and to demand wider involvement of the citizens in the decision-making processes.³⁵ For example, Dieter Rucht observed how the use of civil disobedience and resistance affected conceptions of representative democracy; protesting groups considered their actions necessary in order to achieve some greater legally protected rights.³⁶ Instead of the majority principle, the people involved in the movements then highlighted the 'principle of consensus' that would produce a decision that all those involved could agree with.³⁷

There were many speeches by the Green MPs in which they described situations when people could legitimately use civil disobedience to object to decisions made according to the principle of parliamentary majority rule. The Greens considered that the prevailing situation was such as to legitimize civil disobedience, since the democratic role of the state was endangered by the state's own actions as discussed above. These speeches utilized historical examples of the extra-parliamentary opposition and citizens' movements in the 1960s and 1970s, and their alleged achievements for German democracy. The most

³¹Schönberger DB 104. sitting 9 May 1996, p. 9123.

³²H.J. Varain, 'Die Bedeutung des Mehrheitsprinzips', in Guggenberger and Offe (eds), *An den Grenzen*, pp. 48–53.

³³B. Guggenberger and C. Offe, 'Politik aus der Basis - Herausforderung der parlamentarischen Mehrheitsdemokratie', in Guggenberger and Offe (eds), *An den Grenzen*, pp. 9–10.

³⁴Gusy, 'Das Mehrheitsprinzip', pp. 61–2, 65, 74–6.

³⁵H. Abromeit, 'Mehrheitprinzip und Föderalismus', in Guggenberger and Offe (eds), *An den Grenzen*, p. 132; B. Guggenberger, 'An den Grenzen der Mehrheitsdemokratie', in Guggenberger and Offe (eds), *An den Grenzen*, pp. 184, 191; D. Rucht, 'Recht auf Widerstand? Aktualität, Legitimität und Grenzen "zivilen Ungehorsams"', in Guggenberger and Offe (eds), *An den Grenzen*, 255.

³⁶Rucht, 'Recht', p. 261.

³⁷W. Sternstein, 'Keine Macht für niemand!' In Guggenberger and Offe (eds), *An den Grenzen*, p. 282.

illuminating example was that by the leader of the Alliance 90/Greens group, Joschka Fischer, on 9 May 1996 in the Bundestag, in which he formally defended the constitutional interpretation of democracy, but at the same time validated attempts to invoke civil disobedience to ensure that democracy prevailed.

For our party non-violence is a basic principle. Therefore we object to violence. ... I speak as a person whom you might well have justifiably called a 'violent criminal' in the 1970s. So I know too well that violence is not an option and that abandoning constitutional principles can never be a democratic choice. ... On the other hand, if we had not had these protests then the country would have a nuclear capacity twice as large, and there would be less democracy.³⁸

As a parliamentary group leader, Fischer implicitly emphasized civil disobedience as an appropriate means to achieve political aims and to safeguard democracy. Among several other figures in the Greens, Fischer himself had been involved in the militant protest actions of past decades. His background was among the most radical of the leading politicians, since he had been a student and APO activist in the second half of the 1960s. Until 1975 Fischer had been a member of the leftist radical group *Revolutionärer Kampf*, he had participated in a number of violent incidents and had been arrested.³⁹ On the other hand, as a politician Fischer has been described as a strategist, a tactician and a *Realpolitiker* par excellence.⁴⁰

Manfred Kanther, Federal Minister of the Interior, criticized this speech by Fischer, which he deemed to be inflammatory. According to Kanther, a militant minority perpetrating violence could not be allowed to change policy agreed and executed by parliamentary majority according to the law. Furthermore, people had to be able to trust that 'the state under the rule of law' would not surrender to 'violent criminals', as the Minister called the militants.⁴¹

The use of violence was presented overall by the Green MPs as the last resort of citizens' action to safeguard the functions of democratic procedures and institutions when the parliamentary majority was unable to produce sufficient decisions. Knut Bergmann, who discusses the relationship between German parliamentarism and protest movements, has observed how significant sections of the population did not consider 'legal' and 'legitimate' to be synonymous and how they did not consider parliamentary procedures as sufficient to legitimize decisions.⁴² This was evidently also true in the context of the case at hand, since even though constitutionally nuclear energy policy was legal according to the principle of parliamentary majority, anti-nuclear speakers in the Bundestag thus argued against its legitimacy. For them, legitimacy entailed paying heed to the voice of the citizens in other ways than through representative institutions and emphasized more grassroots decision-making. Those who spoke clearly in favour of the principle of parliamentary majority, in their turn, argued that decisions made by the democratic parliament were

³⁸Fischer DB 104. sitting 9 May 1996, p. 9132.

³⁹Kaarkoski, *Energiemix*, pp. 42–3.

⁴⁰A.S. Markovits and S.J. Silvia, 'The Identity Crisis of Alliance '90/The Greens: The New Left at a Crossroad', *New German Critique* 72, (1997), p. 123.

⁴¹Kanther DB 104. sitting 9 May 1996, pp. 9133–4.

⁴²K. Bergmann, 'Zum Verhältnis von Parlamentarismus und Protest', *Aus Politik und Zeitgeschichte: Beilage zur Wochenzeitung Das Parlament* 25–6, (2012), p. 17.

both legal and legitimate and that changing them would entail achieving parliamentary majority within the democratic institutions.

The German constitutional state, *Rechtsstaat*

The classical definition of the state's monopoly on the use of force by Weber includes the notion that those in the power position at a given time must claim and justify their authority to conduct the state's monopoly on the use of force.⁴³ In 1995–98, the representatives of the ruling coalition of Christian Democrats and Liberals argued for the legitimacy of their authority by invoking the concept of *Rechtsstaat*, i.e. 'the state under the rule of law' or 'constitutional state'. The German constitution has committed the Federal Republic to being a *Rechtsstaat*, which safeguards relations between individuals and the state through a set of formal procedures including the division of power, an independent judiciary, and security of life, liberty and property.⁴⁴ For the CDU/CSU and FDP, the transportation of radioactive waste was legal and legitimate since the constitution called the German political system a representative democracy. The speech by Manfred Kanther on 27 February 1997 illustrates this particular definition of liberal representative democracy, deriving from democratic representation via parliamentary institutions and the rule of law.

Democracy thrives on the open expression of political disagreements, which can sometimes be hard since it may often be polemical. Therefore, in this free country anyone who wants to can oppose the use of nuclear energy, and speak, write, correspond and demonstrate against it. ... But this debate about castor transports is not just about that. The point here is more about how democracy not only thrives on acting on one's opinion, but at least as much on recognizing the legal order of things. Breaking the law, ... especially those that have been politically established, challenges democracy and the state protecting it. This legal order includes all its elements: compliance with international treaties, respecting the current energy law, and complying with laws that ensure security and protection from criminality. ... When the legal order is opposed with violence, then this challenges democracy.⁴⁵

Guido Westerwelle (FDP) also argued that if the state under the rule of law was not respected, then the door would be open to developments of a kind that Germany should never again allow.⁴⁶

As a part of the *Rechtsstaat* argumentation, Christian Democrat and Liberal MPs raised the question of suitable political language in the representative parliament. This concerned especially the speeches and writing of several Green and leftist MPs who had incited people to sabotage. For example, in April 1996, just before the second transport, Guido Westerwelle harshly criticized an article written by Elisabeth Altmann (Alliance 90/The Greens) and Eva Bulling-Schröter (Partei des Demokratischen Sozialismus, PDS), and published by *Die Tageszeitung*, in which these two parliamentarians called for the 'non-violent' dismantling of the railway tracks around the Gundremmingen nuclear power plant in order to prevent the transportation of radioactive waste to Gorleben. Westerwelle questioned the understanding of 'rule of law' among those calling for acts of violence.

⁴³Weber, 'Politik', pp. 505–10.

⁴⁴Stirk, *Twentieth-century German Political Thought*, pp. 136, 152.

⁴⁵Kanther DB 160. sitting 27 February 1997, p. 14323.

⁴⁶Westerwelle DB 160. sitting 27 February 1997, p. 14334.

According to Westerwelle, dismantling the tracks was not a legitimate political means, since the transports were allowed by institutions and courts of the *Rechtsstaat*; any change in policy should be done in keeping with the ‘democratic institutions in our state under the rule of law’.⁴⁷ Walter Hirche (FDP) called the article an ‘infringement of the law’, which led to the ‘breakdown of our modern liberal constitutional state’.⁴⁸ Other speakers of the ruling coalition likewise highlighted how both current violent acts and speeches inciting people to perpetrate them were illegitimate infringements of the law and also undemocratic.⁴⁹ Wolfgang Freiherr von Stetten (CDU/CSU) cited historical examples of the Red Army Faction and National Socialists and communists in the Weimar Republic as examples of what could happen when people started to call for violence against things and eventually people.⁵⁰

The response by Rezzo Schlauch (Alliance 90/The Greens) to Westerwelle illustrated further the different understanding of violence, since, according to Schlauch, the planned actions were ‘self-evidently a form of civil disobedience of a predominantly symbolic nature’.⁵¹ Eva Bulling-Schröter herself justified the call for sabotage with the argumentation about how violence could be used as a last resort to safeguard democracy and the rights of the people. She referred to the tradition of civil disobedience in the former East Germany, where it had been used, according to her, against immoral actions by the authorities; now people in Gundremmingen felt that the state did not consider the basis of their livelihood.⁵² It is noteworthy that the Alliance 90/The Greens and the PDS represented different traditions and voices of the German political left based on historical and ideological differences. Despite some similarities in the arguments about nuclear energy issues, in general the Greens remained decidedly critical of the PDS’s Stalinist legacy.⁵³ Therefore, the PDS utilized topics of environmental and energy policy rather as instruments to pursue demonstrative opposition politics, whereas the Greens had more profound ideological motives based on the party’s background.

Even though the Social Democrats in the federal parliament mostly avoided such strong arguments as those evinced by the Greens and PDS, in this debate Arne Fuhrmann (SPD) also criticized Westerwelle’s understanding of ‘the state under the rule of law’. Fuhrmann presented a historical example of the persecution of Jews opposed by none until it was too late.⁵⁴ In the other words, by making this extreme comparison, Fuhrmann considered the use of violence justified in some cases.

Further, many Christian Democrat and Liberal MPs argued against conceptual choices, especially those of the Greens. Michael Teiser (CDU/CSU) even accused the media in April 1995 of reporting the events in a way that encouraged demonstrators to adopt stronger means, which led to a situation resembling ‘civil war’.⁵⁵ According to Guido Westerwelle, conceptual choices by Green politicians about the ‘police state’ and the ‘atomic state’ created images that were inappropriate in the state under the rule of law or democracy, but

⁴⁷Westerwelle DB 97. sitting 17 April 1996, pp. 8630–8631.

⁴⁸Hirche DB 97. sitting 17 April 1996, p. 8639.

⁴⁹Geis (CDU/CSU), Teiser (CDU/CSU) and Eylmann (CDU/CSU) DB 97. sitting 17 April 1996, pp. 8637, 8640–8632.

⁵⁰Stetten DB 97. sitting 17 April 1996, p. 8644.

⁵¹Schlauch DB 97. sitting 17 April 1996, p. 8633.

⁵²Bulling-Schröter DB 97. sitting 17 April 1996, p. 8635.

⁵³Markovits and Silvia, ‘Identity Crisis’, p.121.

⁵⁴Fuhrmann DB 97. sitting 17 April 1996, p. 8643.

⁵⁵Teiser DB 33. sitting 26 April 1995, p. 2561.

they were conducive to more violent sabotage. Westerwelle thus suggested that certain kinds of political language were undemocratic, since they constituted an incitement to criminal acts.⁵⁶

Foreign relations in German democracy

In 1995–97 the parliamentary debates about the transportation of radioactive waste and related events concerned mainly domestic issues, even though the transports to Gorleben and demonstrations were actually very much transnationally linked. The transportation took place partly between Germany and France, where spent nuclear fuel from German nuclear power plants was reprocessed at La Hague. Further, demonstrations took place on both sides of the Franco-German border. The situation and debates around transporting nuclear waste changed somewhat dramatically in spring 1998. During the spring months, it had become public knowledge both in France and Germany that the transported containers of radioactive waste had on several occasions exceeded the limits set for radiation. In the Bundestag, this so-called ‘Castor Scandal’ gave rise to debates about confidence in the nuclear power industry and various authorities and ministers at the *Länder* level and also in the federal parliament. The Federal Minister of the Environment, Nature Conservation and Reactor Safety, Angela Merkel, took the view that the main problem was lack of trust among citizens regarding safety issues. She called a halt to all transports inside Germany or between Germany and other countries during the upcoming investigations.⁵⁷

This was an understandable political solution, but at the same time it contradicted the contracts and principles prohibiting the storing of radioactive waste abroad and requiring Germany to retrieve its radioactive waste from foreign reprocessing plants. Before spring 1998, the Christian Democrats and Liberals had also noted the agreements according to which Germany was obligated under international law to repatriate the waste from foreign reprocessing plants,⁵⁸ but this argumentation had still only a minor role during the years 1995–98.

The first red–green federal government (1998–2002) led by Chancellor Gerhard Schröder prepared significant changes for the nuclear energy policy including among others a ban on reprocessing spent nuclear fuel from the end of June 2005 onwards.⁵⁹ In general, the red–green government has been said to have expressed greater enthusiasm towards domestic policy issues such as the employment situation than towards foreign policy issues, even though Germany’s efforts to promote, for example the Common Foreign and Security Policy of the EU, should not be disregarded.⁶⁰ However, the ban on transportation ordered by Merkel eventually led the Bundestag to reformulate some of the earlier arguments about German democracy in the context of foreign relations. The Green Party, which was in the federal government for the first time, lacked experience in taking responsibility for foreign relations.

⁵⁶Westerwelle DB 160. sitting 27 February 1997, p. 14335.

⁵⁷Merkel DB 224. sitting 26 March 1998, p. 21776.

⁵⁸Seiters (CDU/CSU), Westerwelle (FDP) and Merkel DB 104. sitting 9 May 1996, pp. 9124–9.

⁵⁹Kaarkoski, ‘Energjemix’, pp. 12–13, 159.

⁶⁰A. Pradetto, ‘From ‘Tamed’ to ‘Normal’ Power: A New Paradigm in German Foreign and Security Policy?’ In W. Reutter (ed.), *Germany on the Road to ‘Normalcy’. Policies and Politics of the Red-Green Federal Government (1998–2002)* (New York, 2004), p. 229; W. Reutter, ‘The Red-Green Government, the Third Way, and the Alliance for Jobs, Training and Competitiveness’, in Reutter (ed.), *Germany*, p. 91.

In 2000 France declared that it would no longer accept any German nuclear waste for reprocessing before the transports from La Hague to Germany continued, as noted in November 2000 in the Bundestag by Birgit Homburger (FDP). She pointed out that there was a valid contract between Cogeman and the nuclear energy operators and that there had been an exchange of notes between Germany and France on the issue. Further, according to a press report, the French Prime Minister Lionel Jospin required written assurance from Chancellor Schröder that the transports would continue, which Homburger interpreted as a lack of confidence between German and French leaders. She urged the federal government to fulfil all national and international contracts in order to preserve Germany's reliability in foreign affairs.⁶¹ Further, the speakers of the CDU/CSU and FDP cited historical references to prove how important it was to maintain good relations between Germany and France. The situation was referred to as the 'illegal interim storing' of radioactive waste in France, since French legislation prohibited the permanent storage of foreign radioactive waste in the reprocessing plant. Now the French government had become involved in the situation and demanded that Germany repatriate the waste.⁶²

It was also clear to the red-green coalition that further transportation must follow. For example, the Green Federal Minister of the Environment, Jürgen Trittin, proclaimed the necessity of allowing further transports because Germany was forced to do so according to international law.⁶³ Collectively, when faced with governmental responsibilities, even the Green politicians who while in opposition had previously advocated the principles of grassroots democracy and local decision-making in nuclear energy issues, were compelled to modify their conceptions of democracy in the face of the necessity to acknowledge the importance of foreign affairs. They were forced to justify through political rhetoric why, in German democracy, decisions could not be taken solely on the basis of national interests.⁶⁴ The Greens were in the federal government for the first time, and as a novice party they had to be ready to make compromises and at least in part to give up their radical stance.

Collectively, continuity was evidently understood as an elementary part of democracy; even though changes in nuclear energy policy had been required and attempts had been made to push these through, speakers of the red-green coalition acknowledged that certain demands, such as agreements with foreign countries, had to be fulfilled, which in practice limited the possibilities to bring about radical political changes in parliamentary democracy. This was, of course, also practical political rhetoric, but it nevertheless caused the majority of MPs to concede that there were indeed limitations to how radically the previous policy could be changed.

Conclusion

The parliamentary debates from 1995 onwards brought together the decades-long conflict over the essence of the German democratic state; the struggle between competing democratic values and ideas originating from the emergence of protest groups and movements

⁶¹Homburger DB 132. sitting 15 November 2000, pp. 12728–9.

⁶²Grill (CDU/CSU) DB 132. sitting 15 November 2000, pp. 12730–12731.

⁶³Trittin DB 132. sitting 15 November 2000, p. 12732.

⁶⁴Hustedt (Alliance 90/The Greens) DB 132. sitting 15 November 2000, p. 12736; Hustedt DB 161. sitting 29 March 2001, p. 15718.

in German society in previous decades. Ideas of liberal representative democracy supported by conservative parties and the Social Democrats clashed with those of the Greens and leftists, who expressed criticism of the principles and fulfilment of representative democracy purely through parliamentary institutions. All the participants wanted to ensure a democratic state, but the case examined in this article revealed conflicts in their understandings of the meaning of democracy.

All the parties in the Bundestag aimed at safeguarding the democratic state against historically based fears of a totalitarian state in which democracy was neither respected nor adequately fulfilled. These fears obviously originated from the political experiences of the twentieth century: the Weimar Republic, Nazi Germany and the German Democratic Republic, which governed the parties' traditions in democratic thought. On the one hand, for the conservatives and largely for the Social Democrats, defending a democratic state also meant respecting the principle of parliamentary majority, representative democracy and the state's monopoly on the use of force, which they evidently considered a means of preventing the rise of populism and to promote stable conditions in society. On the other hand, for the Greens, fighting for a democratic state meant ensuring the people's right to participate, complementing parliamentary democracy via grassroots democracy and wide fulfilment of fundamental rights in order to prevent the state from becoming authoritarian.

The tensions in the Bundestag can be explained to some extent through an elementary feature of representative democracy: it requires a workable opposition (minority) that criticizes the decisions and policy of the government (majority). Even from this perspective, the situation around the transportation of radioactive waste had indubitably higher importance in the history of the Federal Republic of Germany. In the federal parliament, it was used as an opportunity to test and (re)define the meaning, boundaries and core essence of the German democracy in a conflict situation, when there were confrontations between citizens and the state monopoly on the use of force. Therefore, this case for its part illuminates why Germany has committed itself to a decidedly unique decision to prematurely shut down its nuclear power plants; because of the political argumentation of the extensive citizens' movements and their parliamentary representation, the use of nuclear energy has become the question to concern perceptions of German democracy.

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