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**Title:** Parliamentary Democracy Versus Direct Democracy? : Challenging Liberal, Representative Democracy in the German Bundestag During the Anti-nuclear Demonstrations of 1995–1997

**Year:** 2019

**Version:** Accepted version (Final draft)

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**Please cite the original version:**

Kaarkoski, M. (2019). Parliamentary Democracy Versus Direct Democracy? : Challenging Liberal, Representative Democracy in the German Bundestag During the Anti-nuclear Demonstrations of 1995–1997. In J. Augusteijn, C. Hijzen, & M. L. de Vries (Eds.), *Historical Perspectives on Democracies and their Adversaries* (pp. 189-211). Palgrave Macmillan. Palgrave Studies in Political History. [https://doi.org/10.1007/978-3-030-20123-4\\_8](https://doi.org/10.1007/978-3-030-20123-4_8)

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## **Parliamentary democracy versus direct democracy? Challenging liberal, representative democracy in the German *Bundestag* during the anti-nuclear demonstrations of 1995-1997**

### **Introduction<sup>1</sup>**

In German politics and political theory, concepts of parliamentarism and the relationship between parliamentarism and democracy have evolved since the 19<sup>th</sup> century. Politicians, citizens, and scholars have regularly redefined and challenged conceptions of parliament's task of representation, public debate, and legitimate decision-making in different historical circumstances, especially when territorial borders shift and political regimes changed.<sup>2</sup> The evolution of democratic ideas and institutions may have been most marked during such critical periods in German political history, but there has been also other waves of democratization and de-democratisation during which conceptions of democracy have also been challenged and defended in more stable and more recent times.

One such crucial phase in re-evaluating and redefining conceptions of democracy in Germany was the second half of the 1990s, when a vigorous anti-nuclear movement arose, resisting transports of spent nuclear fuel to the interim storage facility in Gorleben in Lower Saxony.<sup>3</sup> Tens of thousands of demonstrators protested the

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<sup>1</sup> This research was supported by the Academy of Finland, project Supra- and Transnational Foreign Policy versus National Parliamentary Government, 1914–2014. [Decision no.275589].

<sup>2</sup> A. Biefang and A. Schuz, 'From Monarchical Constitutionalism to a Parliamentary Republic: Concepts of Parliamentarism in Germany since 1818' in P. Ihalainen and C. Ilie and K. Palonen (eds), *Parliament and Parliamentarism. A Comparative History of a European Concept* (New York and Oxford 2016), 62-77; D. Jörke and M. Llanque, 'Parliamentarism and Democracy in German Political Theory since 1848', in P. Ihalainen and C. Ilie, and K. Palonen (eds), *Parliament and Parliamentarism: A Comparative History of a European Concept* (New York, 2016) , 274.

<sup>3</sup> Three transports from the German nuclear power plants and from the reprocessing plant at La Hague, France, took place during the period 1995-97. The first transport was in April 1995 from the nuclear power plant at 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 at Neckarwesheim and Grundremmingen and from the reprocessing plant at La Hague. 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

transports of radioactive waste, an event that also reflected people's distrust of and lack of confidence in established political institutions and decision-making processes.<sup>4</sup> In the German federal parliament, the *Bundestag*, these transports and the subsequent confrontations between citizens and the police brought the tradition of liberal, representative democracy into conflict with the demands of more direct citizens' involvement in political decision-making. The Bundestag debates about the transports of radioactive waste to Gorleben and the ensuing demonstrations in 1995-97 illustrate how a social movement sparked significant political struggles over the meaning of German 'democracy' in the parliamentary sphere and how both sides of the conflict used the debate to try and (re)refine the meaning of 'democracy'. The result was that members of the German federal parliament had to justify and explain their understandings of German democracy. This was, therefore, a central period in German history when competing conceptions of democracy came to the surface because of confrontations between different traditions to understand democracy.

Chancellor Helmut Kohl's ruling coalition of Christian Democrats and Liberals advocated a conception of liberal, representative democracy. In the German context, this conception of liberal democracy with its core institutions like universal suffrage, parliamentarism, separation of powers, the rule of law and a social welfare system has its origins in late 19<sup>th</sup> century political thought. The liberal conception, which advocates decision-making through parliamentary, representative institutions, had dominated discussions up to the 1980s, although in the context of the new social movements of the 1960s to 1970s there was harsh criticism of parliamentary democracy.<sup>5</sup> As the following empirical analysis of parliamentary debates illustrates, during the second half of the 1990s notably the Green Party in the federal parliament challenged this particular conception of democracy and stressed the tradition of the 1968 generation and new social movements to criticise the political institutions and the elite.<sup>6</sup> The party based

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demonstrators and thirty thousand police officers and Federal Border Guards were on the spot to keep the peace.

<sup>4</sup> Bettina, Blank, 'Der Protest gegen CASTOR-Transporte und die Rolle der Linksextremisten' *Jahrbuch Extremismus & Demokratie* (1998), 10, 205-206.

<sup>5</sup> Jörke and Llanque, 'Parliamentarism', 266, 274.

<sup>6</sup> P.M.R. Stirk, *Twentieth-century German political thought* (Oxford/New York 2005), 136; I. Gilcher-Holtey, *Die 68er Bewegung: Deutschland - Westeuropa - USA* (München 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), 35-55.

its conceptions of democracy on the tradition of these social movements of past decades, claiming to unmask parliamentarism as merely a token democratic performance to mask the ‘true’ (i.e. economic) power structures.<sup>7</sup> In opposing the transports of radioactive waste, the speakers also challenged implicit and explicit assumptions regarding the meaning of democracy. Both sides of the conflict in the *Bundestag* laid claims to competing forms of the concept ‘democracy’ as their source of legitimacy.

Scholars have extensively debated the motives of the anti-nuclear movement and the criticism it expressed from various viewpoints. They conclude that on the one hand the movement was motivated by concrete issues of safety, but on the other hand it also addressed more fundamental decision-making processes and principles of democracy.<sup>8</sup> The parliamentary aspect of the conflict over nuclear energy has largely been neglected, even though as I have argued elsewhere political parties in the *Bundestag* argued vehemently regarding the further use of nuclear energy at least since the Chernobyl accident in 1986 and this caused a multi-layered conflict concerning perceptions of security and political system in Germany.<sup>9</sup> A chronological analysis of the parliamentary debates, newspapers and party manifestos related to the transports of nuclear waste to Gorleben, illustrates the dynamics of political discussions and conceptualisations of democracy between different political actors in a way that has not yet been fully covered in previous research. Democracy as a concept and set of rules, practices and institutions tend to become fluid when it is confronted with adversaries. This study shows how opposing factions challenged each other not just over policy, but over the underlying democratic legitimacy of this policy in the late 1990s and, consequently, how the debates on the meaning German democracy evolved over time.

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<sup>7</sup>Biefang and Schuz, ‘From Monarchial’, 74.

<sup>8</sup>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), 245-266; A. S. Tompkins, *Better active than radioactive! : anti-nuclear protest in 1970s France and West Germany* (Oxford 2016).

<sup>9</sup>My ‘Conflicting conceptualisations of ‘democracy’ in the German Bundestag during the anti-nuclear demonstrations, 1995-2001’ in *Parliaments, Estates and Representation*, Vol 38, 2018, pp.121-133 has discussed competing conceptualisations of democracy more from the viewpoint of liberal democracy in the Bundestag over a longer period. The Commission of Inquiry ‘Future Nuclear Energy Policy’ (1979) has been studied by Cornelia Altenburg and the parliamentary debates about nuclear energy policy of 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 German Parliamentary Debates of 1991-2001* (Jyväskylä 2016).

The analysis of primary sources has been done by using the methods of conceptual analysis of political language. This type of analysis includes a macro-level semantic (long-term manifestations of conceptions of democracy) and micro-level pragmatic (political speeches by individuals) analysis of political language of the historical sources.<sup>10</sup> The sources were located by using key-word search of digitalized material in order to find documents that included references to ‘democracy’ in the context of nuclear waste transports. Discussions on the meanings of German democracy have long traditions, and the political debates of the period studied has to be considered in this historical context. Simultaneously, pleasing the electorate or promoting certain political aims is characteristic for any political speeches.

The following section explores the theoretical and historical background to the empirical sections. It presents the core questions about democracy, which caused tension in the *Bundestag*, and reflects their background in scholarly discussion. The empirical parts are divided according to the three transports of 1995, 1996 and 1997.

### **Theoretical and historical reflection on German parliamentary democracy**

As the empirical parts will illustrate, the opposing factions in the *Bundestag* presented contrasting viewpoints regarding the legitimacy of the use of violence by the state and by citizens and regarding the principle of majority rule as a legitimate means of representing the will of the people. Fundamentally, these questions concerned disagreement on whether decision-making through parliamentary, representative institutions was sufficient to fulfil the underlying core principles of democracy.

The role of parliament and its representative and democratic functions have been highly contested in German political and theoretical discussions since the 19<sup>th</sup> century, as the historiography shows. Andreas Biefang and Andreas Schulz, who discuss concepts of parliamentarism in Germany since 1818, have pointed out how parliamentary

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<sup>10</sup>P. Ihalainen, *Agents of the People. Democracy and Popular Sovereignty in British and Swedish Parliamentary and Public Debates, 1734-1800* (Leiden & Boston 2010); C. Ilie, ‘Parliamentary Discourse and Deliberative Rhetoric’, in P. Ihalainen and C. Ilie and K. Palonen (eds), *Parliament and Parliamentarism. A Comparative History of a European Concept* (New York & Oxford 2016), 133-145; 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*’.

democracy as an institutional setting was only founded during the Weimar Republic.<sup>11</sup> In terms of theoretical discussion, Dirk Jörke and Marcus Llanque have highlighted how the understanding of parliamentarism and democracy as interconnected concepts in German political or theoretical debates has evolved only gradually since the 19<sup>th</sup> century and how the relationship between these concepts has been problematic. Leftists have traditionally claimed that parliament was not truly the place for open public debate and decision-making, but that the real disputes took place behind closed doors between the party leaders. The German discussion immediately after the Second World War was initially dominated by a liberal advocacy of the concept of representative democracy, but during the highly politicised late 1960s, this leftist criticism of parliamentarism flourished.<sup>12</sup> The 1968 extra-parliamentary opposition movements, claiming to expose parliamentarism as mere superficial democracy, nevertheless ultimately proved unable to challenge the *Bundestag*'s claim to be the authority for the legitimation of political action.<sup>13</sup>

According to its constitution, Germany is representative democracy, where the use of force is the sole prerogative of the state. From this perspective, argumentation in favour of liberal, representative democracy by the ruling coalition of the CDU/CSU and FDP in 1995-1997 had a basis in law, as the parliamentary majority was legally entitled to determine policy. However, 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.<sup>14</sup> As a result, different perceptions of the principle of majority rule in democratic decision-making caused tensions regarding the question whether parliament was a legitimate representation of the will of the people.<sup>15</sup>

The principle of majority rule is fundamental to modern democratic states, since it holds the body politically together, even in cases when individuals do not agree with certain decisions. In parliamentary democracy, the basic idea is that the majority of

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<sup>11</sup> Biefang and Schuz, 'From Monarchial', 73.

<sup>12</sup> Jörke and Llanque, 'Parliamentarism', 262-267.

<sup>13</sup> Biefang and Schuz, 'From Monarchial', 74.

<sup>14</sup> K. Bergmann, 'Zum Verhältnis von Parlamentarismus und Protest', *Aus Politik und Zeitgeschichte: Beilage zur Wochenzeitung Das Parlament* (2012) 25-26, 17.

<sup>15</sup> For more on the contested principle of parliamentary majority, see: Kaarkoski, 'Conflicting conceptualisations', 127-129.

the elected parliament also represents the majority of the citizens.<sup>16</sup> Since the rise of the citizens' movements of the 1960s and 1970s, a growing number of citizens no longer were unequivocally willing to accept the decisions of the parliamentary majority as legitimate. The Green Party in particular advocated grassroots democracy, demanding a wider involvement of ordinary citizens in the political process and denying the right of the parliamentary majority to decision-making purely on its own.<sup>17</sup> For example, Dieter Rucht observed how the use of civil disobedience and resistance affected conceptions of representative democracy. Protest groups considered their actions necessary in order to achieve some greater legally protected rights.<sup>18</sup> Instead of the majority principle, the people involved in the movements highlighted the 'principle of consensus' that would produce a decision with which all those involved could agree.<sup>19</sup>

Confrontations between the political parties in the *Bundestag* during the transports of radioactive waste in many ways continued this tradition to test and challenge principles of parliamentary, representative democracy, as will be shown below.

### **Contested legitimacy of parliamentary representation, 1994-1995**

The first transport to the interim storage facility at Gorleben in April 1995 brought out just a few thousand protesters, whereas the third transport in March 1997 was met by tens of thousands of demonstrators, requiring thirty thousand police officers and Federal Border Guards to maintain order.<sup>20</sup> Confrontations between police officers and demonstrating citizens in the area around Gorleben, also known as Wendland, was not a new phenomenon. The plan for a comprehensive nuclear disposal centre in Gorleben in

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<sup>16</sup> H. J. Varain, 'Die Bedeutung des Mehrheitsprinzips' in Guggenberger and Offe (eds), *An den Grenzen*, 48-53.

<sup>17</sup> H. Abromeit, 'Mehrheitprinzip und Föderalismus', in B. Guggenberg and Claus Offe (eds) *An den Grenzen der Mehrheitsdemokratie. Politik und Soziologie der Mehrheitsregel* (Opladen, 1984), 132; B. Guggenberger, 'An den Grenzen der Mehrheitsdemokratie', in B. Guggenberg and Claus Offe (eds) *An den Grenzen der Mehrheitsdemokratie. Politik und Soziologie der Mehrheitsregel* (Opladen, 1984), 184, 191; D. Rucht, 'Recht auf Widerstand? Aktualität, Legitimität und Grenzen "zivilen Ungehorsams"', in B. Guggenberg and Claus Offe (eds) *An den Grenzen der Mehrheitsdemokratie. Politik und Soziologie der Mehrheitsregel* (Opladen, 1984), 255.

<sup>18</sup> D. Rucht, 'Recht', 261.

<sup>19</sup> W. Sternstein, 'Kein Macht für niemand!', in B. Guggenberg and Claus Offe (eds) *An den Grenzen der Mehrheitsdemokratie. Politik und Soziologie der Mehrheitsregel* (Opladen, 1984), 282.

<sup>20</sup> M. Edler, *Demonstranten als „Staatfeinde“ – „Staat“ als Feinbild? Bürgerinitiative, Medien und Staatsgewalt im Streit um die Castor-Transporte in das Atom-Zwischenlager Gorleben*. (Lüchow 2001), 75, 81, 87.

the late 1970s gave rise to massive protests, and in May 1980 a protest camp called ‘*Republik Freies Wendland*’ was established at Gorleben. Eventually the Prime Minister of Lower Saxony, Ernst Albrecht, concluded that the ‘reprocessing plant in Gorleben is politically impossible to enforce’, but the salt dome at Gorleben remained a prospective final storage facility for highly radioactive waste.<sup>21</sup>

An analysis of *Bundestag* debates and wider public debates shows how both citizens and politicians at the *Länder* level and in the federal parliament started to challenge the nuclear waste policy of the federal government through verbal and physical acts. This brought the question regarding the legitimacy of violence in a democratic state and the state’s monopoly on the use of force to the centre of parliamentary debates. Furthermore, it led parliamentarians to debate who was legally entitled to represent ‘the will of the people’.

The government of the state of Lower Saxony, where the interim storage facility of Gorleben was situated, was ruled by a red-green cabinet under Prime Minister Gerhard Schröder until June 1994. After that he formed a state government solely consisting of Social Democrats. Ministers of Lower Saxony, especially Schröder and the Minister of Environment Monika Griefahn (SPD), had always objected to the planned transports. As early as September 1993, Schröder and Griefahn expressed objections to the upcoming transport to Gorleben at an international event called ‘Permanent Waste Disposal Site Hearings’ (*Endlager-Hearings*). Schröder and Griefahn later objected to the transports by calling them ‘unnecessary’. Eventually, in February 1995, the Federal Minister of Environment, Nature Conservation and Reactor Safety, Angela Merkel, ordered Griefahn to allow the transport from the nuclear power plant at Philippsburg. Schröder’s and Griefahn’s criticism was primarily directed against a policy that included transporting spent fuel elements of nuclear power plants to reprocessing plants and then back to storage facilities, rather than against the democratic institutions that decided this as such.<sup>22</sup> At the 1986 Nuremberg party conference, the SPD had decided to support phasing out nuclear energy within ten years. This decision was less ideologically inspired

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<sup>21</sup> J. Radkau and L. Hahn, *Aufstieg und Fall der deutschen Atomwirtschaft* (München 2013), 304-306, 325; J. Radkau ‘Eine kurze Geschichte der deutschen Antiatomkraftbewegung’ in *Aus Politik und Zeitgeschichte: Beilage zur Wochenzeitung Das Parlament* (2011), 61, 46/47, 11.

<sup>22</sup> SZ 7.9.1993, p.6, Niedersachsen fordert von Bonn: Atommüll soll nicht nach Gorleben.; SZ 14.10.1993, p.9, Internationales Endlagerhearing in Gorleben.Von Bärbel Teubert; SZ 16.2.1995, p.6, Merkel ordnet Lagerung von Castor-Behälter an.



than the Green Party's anti-nuclear position, than by political concerns, in an effort to please the party's electorate. For the Greens, resistance to nuclear energy was a cornerstone that largely determined the party's ideological foundation. Schröder, in particular, traditionally had a close relationship with the domestic economic sector, and he expressed his willingness to reconsider his party's anti-nuclear position if other *Länder* shared the responsibility of storing radioactive waste.<sup>23</sup>

Meanwhile, a public debate about and social action against nuclear power was taking shape. During the summer of 1994, after the Federal Office for Radiation Protection had authorised transports of radioactive waste to Gorleben, anti-nuclear protests started to erupt in Wendland. For example, a protest camp was set up and then taken down dismantled by the police.<sup>24</sup> Newspapers continuously reported about demonstrations and sabotage actions against railway tracks and other transport routes.<sup>25</sup> By April 1995 demonstrations and actions against the transport to Gorleben started to gain strength. There was a bomb threat at a railway station near Gorleben and clashes between citizens and police at different locations. Demonstrators, for example, threw bales of straw at the police.<sup>26</sup> On 20 April 1995, Wolfgang Roth warned in the *Süddeutsche Zeitung* that in the long run the federal government would be unable to execute its atomic policies due to rulings against *Länder*.<sup>27</sup>

The political and societal conflict caused by the upcoming transport to Gorleben was widespread, including both legal and extra-legal acts against the transport, by time the *Bundestag* started to debate the issue. On 26 April 1995, after the first transport had reached Gorleben, MPs argued about the legitimacy of the transports and the legitimacy of the demonstrations. The ruling coalition of CDU/CSU and the FDP constantly reiterated that there was no legal reason to prevent the transport if all the preconditions required for the licence were fulfilled. Minister Merkel emphasised that these transports were completely safe. Because she denied the relevance of any kind of

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<sup>23</sup> Kaarkoski, 'Energimix', 16, 41-42.

<sup>24</sup> FAZ 8.7.1994, Nr. 156, p.3, Schröder warnt Töpfer vor „Provokation“. FAZ 14.7.1994, Nr. 161, p.5, Polizei räumt Hüttendorf bei Gorleben.

<sup>25</sup> FAZ 21.11.1994, Nr. 270, p. 8, Proteste gegen Castor-Transport.; FAZ 27.1.1995, Nr. 23/4, p.1, Castor-Gegner verüben Anschlag auf Bahnstrecke bei Lüneburg; FAZ 6.2.1995, Nr. 31, p.4, Strassenblockade aus Protest gegen geplanten Castor-Transport

<sup>26</sup> SZ 18.4.1995, p.5, Bombendrohung gegen Bahnhof bei Gorleben; FAZ 23.4.1995, Nr.16, p.1, Eisenkugeln gegen Polizisten.

<sup>27</sup> SZ 20.4.1995, p.4, Viel Geschrei um Castor. Von Wolfgang Roth

doubts regarding safety, she also questioned the legitimacy of protesting against transports, both in society at large as well as in the *Bundestag*.<sup>28</sup> Merkel's personal background becomes evident in her speeches about nuclear energy. She was trained as a physicist and, in contrast to many other prominent politicians of the 1990s who were involved in the discussions about nuclear energy, she was from the former German Democratic Republic Germany. Merkel thus did not have the same background as the 'protest generation' of the 1960s and 1970s in the former West Germany.<sup>29</sup> In April 1995 Michael Hustedt (Alliance 90/The Greens) suggested that Merkel actually misunderstood the meaning of the debate. He criticised Merkel's lack of knowledge about the role of the anti-nuclear movement in the history of the Federal Republic of Germany.<sup>30</sup>

In fact, the ruling parties also felt that the debate and conflict concerned German democracy, and in particular the legitimacy of the parliamentary majority to decide on policy through representative institutions. Speakers of the CDU/CSU and FDP connected the debate to the meaning of German democracy by emphasising how the use of violence should be precluded from any democratic political repertoire. Their argumentation about the use of violence by citizens reflected Max Weber's highly influential definition of the modern state. According to Weber, 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 to which the state permits it.<sup>31</sup> The ruling coalition perceived violent actions against material property by anti-nuclear groups as a potential threat to German democracy. Merkel, for example, highlighted how glad she was that she could live in a country with 'freedom of opinion' and the right 'to assemble, to protest and to demonstrate'. However, these democratic rights only applied under the condition of 'non-violence'. According to Merkel, dismissing that, would lead to the end of democracy and to unwanted political rule. She particularly criticised Vice President of the *Bundestag*, Antje Vollmer (Alliance 90/The Greens), who had said that these transports would cause radicalisation among young people. According to her, the role of the state and the police

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<sup>28</sup> Merkel Deutscher Bundestag (DB) 33. sitting 26 April 1995, p. 2518.

<sup>29</sup> Kaarkoski, 'Energimix', 42, 58, 81; Kaarkoski, 'Conflicting conceptualisations', 124.

<sup>30</sup> Hustedt DB 33. sitting 26 April 1995 p. 2526.

<sup>31</sup> M. Weber, 'Politik als Beruf', *Zeno.org*, 505-510.

<http://www.zeno.org/Soziologie/M/Weber,+Max/Schriften+zur+Politik/Politik+als+Beruf>

was to take care of safety in the country, since the monopoly on the use of force belonged to the state.<sup>32</sup>

Merkel introduced such arguments to show that a democratic state could survive only if its citizens respected the principle of the state's monopoly on the use of force and relied on fundamental democratic fundamental. In the *Bundestag*, the MPs commonly highlighted the value of rights such as 'freedom to demonstrate' and 'freedom of speech' as the legitimate way of reacting to unwanted policies instead of resorting to violence. In political theory, these fundamental rights have been considered 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.<sup>33</sup> Along with the CDU/CSU and FDP, the Social Democrats also explicitly condemned the use of violence in any form as a political tool, but the representatives of the party considered other tactics, such as sit-in blockades, legitimate. In fact, the Federal Constitutional Court became involved in this debate and representatives of the SPD referred to its decision that sit-in blockades were indeed a legitimate way of protesting.<sup>34</sup>

Representatives of the The Alliance 90/The Greens saw the situation differently. The party had certain conceptions for democracy and this conception included strong emphasis on direct democracy, since in representative democracy citizens participation on decision-making was considered to be too weak. For example in a party manifesto published in 1993 the party declared that there was "a crisis of democracy", since citizens felt themselves incapable of making their voices heard in politics.<sup>35</sup> In their platform for the the *Bundestag* election in 1994 the Alliance90/The Greens made even clearer arguments of increasing citizens' possibilities to participate and thus the party demanded "a concept of direct participation on political decisions". The party objected monopoly of the political parties in developing political will as well as their monopoly through parliamentary decision-making processes.<sup>36</sup>

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<sup>32</sup> Merkel DB 33. Sitzung 26 April 1995, pp. 2518-2519.

<sup>33</sup> Gusy, 'Das Mehrheitsprinzip', 61-62, 65, 74-76.

<sup>34</sup> Müller (SPD) & Schütz (SPD) DB 33. sitting 26 April 1995, p. 2521, 2546; Kubatschka (SPD) DB 97. sitting 17 April 1996, pp. 8640-8641; Ganseforth (SPD) DB 104. sitting 9 May 1996, p. 9126.

<sup>35</sup> Manifesto of the political principles of the Alliance 90/The Greens 1993, p. 17, 27-29. [https://www.boell.de/sites/default/files/assets/boell.de/images/download\\_de/publikationen/1993\\_002\\_Politische\\_Grundsätze\\_Buendnis90DieGruenen.pdf](https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/publikationen/1993_002_Politische_Grundsätze_Buendnis90DieGruenen.pdf).

<sup>36</sup> The Platform of the Alliance 90/The Greens 1994, p. 44-46.

The Greens in the *Bundestag* formally condemned the use of violence as well. However, for them, the most significant problem was the use of force on the part of the police to back up policies, which they considered running counter to the will of the people as represented by those who were demonstrating. Michael Hustedt (Alliance 90/The Greens) argued that in a democratic state, arguments had to be used to conduct politics and not ‘truncheons and water cannons’.<sup>37</sup> This argument illustrates competing perceptions of what constituted the ‘will of the people’. The ruling coalition of the CDU/CSU and FDP considered the parliamentary majority itself to represent the will of the people sufficiently and it was thus entitled to make decisions against opinion of some segments of society.

The Greens, however, had a tradition of demanding opportunities for citizens to exert influence over policies other than through parliamentary elections, which they considered a precondition for legitimate policy-making. This criticism of using the police to enforce policy decisions was closely related to arguments about the so-called ‘atomic state’ (*Atomstaat*). The conception of a non-democratic, authoritarian ‘atomic state’ formed the basis for the anti-nuclear movement’s case against nuclear energy. The basic idea of this concept was that because of the risks inherent in nuclear technology, the state was forced to exercise extreme power over its own citizens that ran counter to the principles of democracy, in order to manage the risk embedded in the technology.<sup>38</sup>

Therefore the concept of the atomic state connected the use of nuclear power with fundamental questions on the meaning and functioning of German democracy. The concept had already flourished in anti-nuclear discourses during earlier decades and initially referred to the atomic bomb with all the negative connotations and fear that the dawn of the atomic age had brought with it. Robert Jungk’s book, *Der Atomstaat*, published in 1977, speculated on the consequences of large-scale technology being used by the state and made the concept an accepted notion in German society.<sup>39</sup> The party manifesto of the Greens in 1980 included strong warnings against ‘atomic state’. In the manifesto the Greens stressed how the Federal Republic was in a process of

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<sup>37</sup> Hustedt DB 33. sitting 26 April 1995, p. 2526.

<sup>38</sup> Kaarkoski, ‘*Energiemix*’, 176; Kaarkoski, ‘Conflicting conceptualisations’, 126.

<sup>39</sup> M. Jung, *Öffentlichkeit und Sprachwandel. Zur Geschichte des Diskurses über die Atomenergie*, (Opladen 1994), 96, 103-104, 108; Radkau & Hahn, *Aufstieg*, 11. Kaarkoski, ‘*Energiemix*’, 176. R. Jungk, *Der Atomstaat. Vom Fortschritt in die Unmenschlichkeit*, (München 1977).

becoming a ‘atomic state’ in which democratic basic rights and freedoms were no more possible because of the risks included in nuclear technology.<sup>40</sup>

In the Bundestag, the concept of the ‘*Atomstaat*’ had twofold meaning in the 1990s. Firstly, it was used to refer to the foreign states possessing atomic weapons.<sup>41</sup> Secondly, and more interestingly, the Greens now invoked this traditional anti-nuclear concept in the context of the transport of radioactive waste to Gorleben, in order to claim that the state was using non-democratic tactics to pursue its policies. Ursula Schönberger (Alliance 90/The Greens) in particular, advocated the emergence of this dystopian-style atomic state that did not respect democratic principles. On 26 April 1995, Schönberger made the strongest political speech in the federal parliament so far in which she argued “Yesterday the atomic state (*Atomstaat*) foretold by Robert Jungk came true”. According to the Schönberger, when thousands of police officers went against citizens using their right to demonstrate proved that the situation was anti-democratic. More precisely, by using nuclear energy the state was forced to abandon its democratic principles and use force against its own citizens, Schönberger claimed.<sup>42</sup> This speech also illustrates the difficulties in providing any plain and simple answer to the question whether the Alliance 90/The Greens was challenging particular policies concerning the use and disposal of nuclear energy, or if the speakers were also challenging the fundamental institutions of German democracy. The argumentation about the ‘atomic state’ expressed the idea that a state that uses nuclear energy could not practically maintain its democratic nature. In this sense, the party objected to the nuclear energy policy and not just the way the state interpreted democracy in the current situation. At the same time, the arguments against the ‘atomic state’ in the context of the events in Gorleben in the 1990s aimed directly at the cabinet’s and Helmut Kohl’s understanding of liberal, representative democracy. The Greens considered this conception to allow the federal government to restrict the right to demonstrate, to use police force to execute policy decisions, and to act against the will of the people, which they understood the demonstrations to express.

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<sup>40</sup> Manifesto of the Greens 1980, p. 10. [https://www.boell.de/sites/default/files/assets/boell.de/images/download\\_de/publikationen/1980\\_001\\_Grundsatzprogramm\\_Die\\_Gruenen.pdf](https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/publikationen/1980_001_Grundsatzprogramm_Die_Gruenen.pdf).

<sup>41</sup> Volmer (Alliance 90/The Greens) DB 5 sitting 23 November 1994, p. 104; Volmer DB 31 sitting 30 March 1995, p. 2443.

<sup>42</sup> Schönberger DB 33 sitting 26 April 1995, p. 2543.

As the argumentation about ‘atomic state’ revealed, the fundamental reason for the disagreement over the use of nuclear energy were the different perceptions of the risks associated with nuclear technology. Especially for the Greens, these risks were unacceptable, whereas the CDU/CSU, FDP (and some factions of the SPD did not share these doubts about safety. These differences in conceptualization of nuclear safety caused tensions over more abstract questions, such as what it meant for a democratic state to take care of the safety of its citizens. The Green MPs held that the state, by supporting the use of nuclear technology, was not fulfilling its obligation to protect the people and the environment, which rendered (violent) acts legitimate means to object to state policy. As the next section illustrates, the ruling parties, in turn, argued how they, too, were defending stable democratic order. Under pressure, the definitions of democracy were shifting.

### **Principle of non-violence, 1995-1996**

During the first transport to Gorleben around the years 1994/1995, parliamentary debates illustrated how the Greens in particular contested the legitimacy of parliamentary majority to fully represent the will of the people. When the social and political conflict continued and intensified, during the second transport to Gorleben around 1996, the main issue giving rise to competing interpretations was the principle of non-violence.<sup>43</sup> Even though all the political parties (and the majority of citizens’ groups) advocated this principle, which they considered a basic element of a democratic society, they differed as to which acts fulfilled this principle and were therefore legitimate. The political parties thus continued to challenge each other’s conceptions of ‘legal’ and ‘legitimate’ in German democracy.

In the summer of 1995, the public became aware that a transport from the nuclear power plant at Gundremming to Gorleben would follow at some point, and the anti-nuclear groups in society immediately organised small-scale demonstrations against it.<sup>44</sup> In November 1995, protesters called for a dismantling of railway tracks in order to prevent the upcoming transport. A speaker from the citizens’ initiative ‘*Mahnwache*

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<sup>43</sup> More about the use of violence in a democratic state, Kaarkoski, ‘Conflicting conceptualisations’, 124-127.

<sup>44</sup> SZ 3.7.1995, s.33, Gundremminger Atommüll soll nach Gorleben.

*Gundremmingen* emphasised that the planned actions were going to be ‘peaceful’ and ‘non-violent’.<sup>45</sup> This action group, established in 1989, agitated against the nuclear power plant at Gundremmingen and supported the idea of a radical reform of energy production. The group had committed itself to the principle of non-violence, which became a highly controversial concept. For example, in May 1996 the county court of Augsburg convicted two members of ‘*Mahnwache Gundremmingen*’ for incitement to sabotage.<sup>46</sup> In the meantime, the newspaper *Frankfurter Allgemeine Zeitung*, which was more supportive of nuclear energy than the *Süddeutsche Zeitung*, reported that the anti-nuclear activists were becoming more militant and the sabotage actions more serious.<sup>47</sup>

These examples together with the following *Bundestag* speeches about the use of violence in demonstrations, illustrate the ambivalence of the concepts ‘violence’ and ‘non-violence’. Bettina Blank has pointed out how the anti-nuclear movement understood the concept of non-violence in a sense that could include all kinds of actions against material property.<sup>48</sup> This interpretation also found support among the Green and leftist MPs, who emphasised the legitimacy of using ‘civil disobedience’, which could include acts of force, against material property. Civil disobedience belonged to the traditional repertoire of citizens’ movements and the Green Party. However, the Christian Democrats and Liberals were extremely critical of any engagement by MPs in actions which the parties deemed violent and, therefore, illegitimate.

One newspaper article in particular, written by Elisabeth Altmann (Alliance 90/The Greens) and Eva Bulling-Schröter (PDS) and published by the newspaper *Die Tageszeitung*, sparked a debate in the *Bundestag*. In this article, the two MPs urged the ‘non-violent’ dismantling of the tracks around the Gundremmingen nuclear power plant in order to prevent the transport of radioactive waste to Gorleben. On 17 April 1996, the FDP called for a debate, during which Christian Democratic and Liberal MPs raised the question of suitable political language in a democratic parliament. Guido Westerwelle (FDP) questioned the understanding of ‘rule of law’ by those who called for violent acts. He did not consider dismantling the tracks to be a legitimate political means, since the institutions and courts of the ‘constitutional state’ had

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<sup>45</sup> SZ 9.11.1995, p.49, Um Castortransport zu verhindern. Atomgegner wollen Schienen demontieren.

<sup>46</sup> SZ 2.5.1996, p.53, Wegen Sabotage-Aufrufs. Gericht verurteilt zwei Atomgegner.

<sup>47</sup> FAZ 30.4.1996, p.4, Atomkraftgegner immer militanter

<sup>48</sup> Blank, ‘Der Protest’, 199-213.

authorised the transports. Therefore, a change in policy was only possible through ‘democratic institutions in our constitutional state.’ In other words, he emphasised the party’s conception of liberal democracy, according to which the parliamentary majority by definition made only legitimate and legal decisions. Westerwelle argued that people who were using or encouraging the use of violence as a political tool placed themselves outside the ‘democratic basic consensus’.<sup>49</sup>

This referred to the idea that decision-making based on the principle of majority rule was also binding for minorities, who had to respect the decisions or try to change them through democratic institutions. It also referred to the fundamental democratic principle of the state’s monopoly on the use of force, according to which other parts of society could not legitimately use violence against each other. Walter Hirche (FDP) expressed a similar idea by calling the text an ‘infringement of the law’, which led to a ‘breakdown of our modern liberal constitutional state’.<sup>50</sup> Other speakers of the ruling coalition argued that the present violent acts, like those of the 1960s and 1970s, as well as speeches inciting people to perpetrate such acts were illegitimate infringements of the law and undemocratic.<sup>51</sup>

Wolfgang Freiherr von Stetten (CDU/CSU) was more precise, when citing the historical examples of the Red Army Faction and the National Socialists and Communists in the Weimar Republic as examples of what could happen when people started to call for violence against material objects and, eventually, against people.<sup>52</sup> These speakers evidently felt that verbal and physical acts by the anti-nuclear element in society posed an actual threat to German democratic institutions. For the Christian Democrats and Liberals, enforcing the right of the parliamentary majority to take legitimate policy decisions was a practical means of safeguarding democracy by promoting stability and peace. This desire was rooted in the parties’ historically-based fears of a failing or unworkable democracy.<sup>53</sup> For these parties, following the constitutional expression of representative democracy seemed to have been a way to prevent the rise of populism, fascism, and authoritarianism.

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<sup>49</sup> Westerwelle DB 97. sitting 17 April 1996, pp. 8630-8631.

<sup>50</sup> Hirche DB 97. sitting 17 April 1996, p. 8639.

<sup>51</sup> Geis (CDU/CSU), Teiser (CDU/CSU) & Eylmann (CDU/CSU) DB 97. sitting 17 April 1996, pp. 8637, 8640-8642.

<sup>52</sup> von Stetten DB 97. sitting 17 April 1996, p. 8644.

<sup>53</sup> Stirk, *Twentieth-century*, 136, 174-175.



The response by Rezzo Schlauch (Alliance 90/The Greens) to Westerwelle illustrates the different possible understandings of violence in a democratic state. According to Schlauch, the planned actions were ‘self-evidently a form of civil disobedience with a predominant symbolic character’.<sup>54</sup> Eva Bulling-Schröter (PDS) herself justified the call for sabotage by emphasizing how violence could be used as a last resort to safeguard democracy and the rights of the people.<sup>55</sup> It is noteworthy, however, 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 argumentation about nuclear energy issues, in general the Greens remained decidedly critical of the PDS’s Stalinist legacy.<sup>56</sup> The PDS utilized topics of environmental and energy policy as instruments to pursue opposition politics, whereas the Greens had more profound ideological motives based on the party’s background.

In May 1995, before and during the second transport, violent acts continued and became more serious. Protesters, for instance, used stones and flare guns against police officers, organized sit-in blockades and used burning barricades.<sup>57</sup> It is difficult to entirely comprehend the reasons and consequences in complex political processes involving many actors, but the speeches and writing of the Green and leftist politicians may have given them a feeling of political support. At the same time, representatives of these parties may have felt it necessary to express some kind of support for the people who formed the parties’ electorate.

On May 9, 1996, the Green MPs continued to emphasise the legitimacy of civil disobedience and the party’s understanding of the principle of non-violence in the *Bundestag*. For example, Ursula Schönberger, an advocate of the ‘atomic state’ argumentation, drew attention to the state’s use of force in the past few days by saying:

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<sup>54</sup> Schlauch DB 97. sitting 17 April 1996, p. 8633.

<sup>55</sup> Bulling-Schröter DB 97 sitting 17 April 1996, p. 8635.

<sup>56</sup> A. S. Markovits and S. J. Silvia, ‘The Identity Crisis of Alliance ‘90/The Greens: The New Left at a Crossroad’, *New German Critique* (1997), 72, 121.

<sup>57</sup> FAZ 9.5.1996, p.1, Gewalttäter mit Steinen und Signalmunition gegen Polizisten und den Atommüll-Transport.

‘The “atomic state” means that those who favour nuclear energy, due to its potential risks, are forced to push it through with all the power a state can use against its own citizens’.<sup>58</sup>

From this perspective it was the state that was challenging democracy instead of the people who were demonstrating or acting against it. Therefore, the Green Party MPs suggested there were situations in which people could legitimately achieve their objectives by using violence. These speeches cited historical examples of the extra-parliamentary opposition and citizens’ movements of the 1960s and 1970s and their alleged achievements for German democracy. For example, the leader of the Alliance 90/Greens group, Joschka Fischer, made a speech in the *Bundestag* on 9 May 1996, in which he formally defended the constitutional interpretation of democracy, but at the same time validated attempts to use civil disobedience to ensure that such democracy was in fact practised by the government. Fischer pointed out how he spoke “as a person whom you might well have justifiably called a ‘violent criminal’ in the 1970s”. According to him, “abandoning constitutional principles can never be a democratic choice”. At the same time Fischer made clear how without these protests in the previous decades “there would be less democracy” in Germany and “a nuclear capacity twice as large”.<sup>59</sup>

Even though the Alliance 90/Greens formally condemned the use of violence, they nonetheless encouraged people to perpetrate different kinds of acts by emphasising civil disobedience. Many leading figures of the Green Party were themselves former demonstrators. The background of Fischer was among the most radical of the leading politicians. He had been an active participant of the student movement and in the extra-parliamentary opposition in the second half of the 1960s. Until 1975, Fischer had been a member of the leftist radical group *Revolutionärer Kampf*, participated in a number of violent incidents and had been arrested.<sup>60</sup> On the other hand, as a politician, Fischer has been described as a strategist, tactician and a ‘*Realpolitiker*’ par excellence.<sup>61</sup>

Manfred Kanther, the Federal Minister of the Interior, criticised the speech by Fischer, which he deemed inflammatory. According to him, a militant minority

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<sup>58</sup> Schönberger DB 104. sitting 9 May 1996, p. 9123.

<sup>59</sup> Fischer DB 104. sitting 9 May 1996, p. 9132.

<sup>60</sup> Kaarkoski, ‘*Energiemix*’, 42–43.

<sup>61</sup> Markovits and Silvia, ‘The Identity’, 123.

perpetrating violence must not be permitted to change policy agreed and implemented by a majority in accordance with justice and law. Further, people had to be able to trust that ‘the state under the rule of law’ was not surrendering to ‘violent criminals’.<sup>62</sup> Wolfgang Behrendt (SPD) also criticised the Green politicians for suggesting that there could be moral or political justifications for ‘violent criminals’.<sup>63</sup> Altogether, the MPs evidently disagreed who was actually challenging German democracy and which actions by the state or citizens were legitimate.

### **The third transport and the German constitutional state, 1997**

The third transport in March 1997 from the nuclear power plants at Neckarwesheim and Grundremmingen and from the reprocessing plant at La Hague to Gorleben gave rise to the largest demonstrations thus far and caused a massive police operation, with thirty thousand police officers and Federal Border Guards on the spot to maintain order. In the autumn of 1996, when preparations for the third transport had started, demonstrations continued unabated. Anti-nuclear protesters organised further attacks on railway tracks.<sup>64</sup> The police and the Federal Border Guard initiated a massive operation to clear the route for the transport. Demonstrating groups expressed respect for the principle of non-violence, but once again the interpretation of this principle was not unambiguous, as protesters threw stone and raised barricades against the police and the transport.<sup>65</sup>

In the *Bundestag*, the argumentation did not evolve much and all parties rehashed arguments from the earlier debates. One aspect that merits more detailed discussion, though, is how the ruling coalition of CDU/CSU and FDP justified their authority in the situation, when they felt severely challenged by the anti-nuclear movement and its parliamentary body. Weber’s classical definition of the state’s monopoly on the use of force includes the notion that those in a position of power at a

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<sup>62</sup> Kanther DB 104 sitting 9 May 1996, pp. 9133-9134.

<sup>63</sup> Behrendt DB 104. sitting 9 May 1996, p. 9138.

<sup>64</sup> FAZ 12.10.1996, Nr. 238, p.4, Die Vorbereitung für den nächsten Castor-Transport haben begonnen; SZ 24.10.1996, p.6, Täter vermutlich Castor-Gegner; FAZ 30.10.1996, Nr. 253, p.2, Protest gegen Castor-Transport

<sup>65</sup> FAZ 4.3.1997, Nr. 53/10, p.1, Protestaktionen begleiten den Castor-Transport; FAZ 5.3.1997, p.1, Steine und Brandsätze gegen Polizisten Barrikaden und aufgerissene Straßen; SZ 6.3.1997, p.3, Gorleben: Ende der Millimeter-Schlacht um den Castor-Transport. Von Jakob Augstein und Beate Ramm; SZ 7.3.1997, p.5, Bis zu einem Ergebnis der Konsensgespräche; SZ 7.3.1997, p.5, Grünen-Fraktionschef in Hannover fordert Rücktritt des Innenministers.

given time must claim and justify their authority to conduct the state's monopoly on the use of force.<sup>66</sup> 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'. They based their argumentation on the German constitution, which states that the Federal Republic of Germany is a '*Rechtsstaat*' and 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.<sup>67</sup>

The federal ministers and the representatives of the ruling coalition warned against endangering democracy through illegal verbal and physical acts when they saw what was happening. From their perspective, the democratic principle of 'constitutional state' was sufficient to justify legality and legitimacy of the transports, since they were part of the constitutionally and democratically enacted nuclear energy policy and disposal policy. The speech by Manfred Kanther, Federal Minister of the Interior, on 27 February 1997, emphasised strongly the legitimacy and legality of liberal representative democracy in the German democratic state by saying "democracy not only thrives from acting out one's opinion, but at least as much from recognising the legal order of things". According to him, in the current situation many people were breaking the law and democracy was challenged when the legal order was not respected. Kanther highlighted how the federal government followed the constitutional understanding of democracy and how the present situation was endangering democratic order in German society.<sup>68</sup> Also Fischer (Alliance 90/The Greens) explicit said "there is no place for extra-legal violence in a constitutional state", but from his viewpoint this argument had no relevance in the current situation in which protest movements as well as the Green party were committed to the principle of non-violence.<sup>69</sup>

In the same *Bundestag* debate Westerwelle (FDP) brought out how principle of non-violence also required using acceptable political language. According to him, the use of concepts like 'police state' and 'atomic state' by the leading Green politicians created images that were improper in the state under the rule of law and

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<sup>66</sup> Weber, 'Politik', 505-510.

<sup>67</sup> Stirk, *Twentieth-century*, 136, 152; Kaarkoski, 'Conflicting conceptualisations', 129-131.

<sup>68</sup> Kanther DB 160. sitting 27 February 1997, p. 14323.

<sup>69</sup> Fischer DB 160 sitting 27 February 1997, p. 14332-14333.

democracy, and generated more violent sabotage actions.<sup>70</sup> With this argument, Westerwelle essentially stated that a certain kind of political language was undemocratic, since it contained a message that incited to criminal acts. In the *Bundestag*, the ruling coalition of the Christian Democrats and Liberals saw no alternative but to secure the transports by using a massive police force and the Federal Boarder Guard. Further, they sought to justify this by excluding the militant demonstrators from the meaning of democracy: the democratic basic rights did not apply to demonstrators, because some of them had resorted to violent means.

After this third transport, the Federal Minister of the Environment, Angela Merkel, called a halt to further transports in spring 1998 because of the so-called contamination scandal. Politicians in the federal parliament became aware that in recent years several transports of radioactive containers had broken the limits set for radiation. On 26 March 1998, Ursula Schönberger once again utilized the concept of the ‘atomic state’ in the *Bundestag* by saying that this scandal proved risks of a non-democratic ‘atomic state’ as prognosted by Rober Jungk could not be avoided when using atomic technology.<sup>71</sup> In the platform of the Alliance90/The Greens for the *Bundestag* election in 1998 the party called for direct exertion of influence in order to strengthen citizens trust in democracy.<sup>72</sup>

The issue of contamination scandal helped partly the Social Democrats and Greens to win the *Bundestag* elections in autumn 1998 and to form a government. However, the new cabinet under Chancellor Gerhard Schröder was forced to allow further transports from March 2001 onwards, because the French and British governments pressured Germany to transport radioactive waste back from foreign reprocessing plants. The law on the phasing out of nuclear energy, which the *Bundestag* passed in December 2001, prohibited reprocessing after 2005 in an attempt to reduce the number of controversial transports.<sup>73</sup>

## Conclusions

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<sup>70</sup> Westerwelle DB 160 sitting 27 February 1997, p. 14335.

<sup>71</sup> Schönberger DB 224 sitting 26 March 1998, p. 20498.

<sup>72</sup> The Platform of the Alliance 90/The Greens, p. 111. [https://www.boell.de/sites/default/files/assets/boell.de/images/download\\_de/publikationen/1998\\_Wahlprogramm\\_Bundestagswahl.pdf](https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/publikationen/1998_Wahlprogramm_Bundestagswahl.pdf).

<sup>73</sup> Kaarkoski ‘Conflicting conceptualisations’, 131-132.

The *Bundestag* debates were evidently a continuation or resurgence of confrontations in German democratic thought that had started to flourish in the 1960s, when the leftist and green groups in society articulated their criticism of the legitimacy of the parliamentary majority to represent the will of the people. In the context of the controversies around the transports of nuclear waste to interim storage at Gorleben from the 1995 onwards, the green and leftist parties revived their arguments that will of the people should be heard in other ways than through parliamentary elections and that civil disobedience was justified in order to achieve some greater political good. Even though the conception of parliamentary, representative democracy had a legal basis in the German constitution and the notion of ‘the constitutional state’, the ruling coalition of Christian Democrats and Liberals had to find arguments to justify their democratic conceptions and to claim political authority. Confronted with their ‘adversaries’, the antinuclear opposition, they thus had to redefine and renegotiate their understanding of (legitimate) democracy. While debating the issue of Gorleben, MPs implicitly took a stand on the more abstract questions regarding the basis of any democratic state’s self-conception: who legitimately represents the will of the people and from where do policies truly derive their legitimacy? When the political parties in the *Bundestag* debated these questions, they all based their argumentation on the historical fears of situations where the principles of democracy were not respected.

Although this conflict over the two main ways of perceiving democracy in Germany lasted for several decades, the conception of liberal, representative democracy maintained its dominant position as the basic conception for the German constitutional setting. Nevertheless, the conflict over Gorleben, in which opposing groups were forced to explain their ideas of democracy, had other consequences, especially for German nuclear energy policy. In the *Bundestag* election of 1998, the Social Democrats and the Greens achieved a parliamentary majority and were thus able to make policy changes, abandoning their activist or militant (in the eyes of their opponents: antidemocratic) conception of democracy. One of those changes was the law on the phasing out of nuclear energy by the early 2020s and on ending the reprocessing of nuclear waste by 2005, which the *Bundestag* passed in December 2001. Later, after the Fukushima nuclear accident in 2011, Angela Merkel’s cabinet renewed and tightened this legislation. At the conceptual level, one predominating reason for this anti-nuclear legislation was the notion that ever-

wider segments of society had begun to perceive nuclear energy as an antidemocratic form of energy because of the risks it caused to society. This was an evident success of the anti-nuclear argumentation.