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CHAPTER 4

The Government of Germany

Donald P. Kommers



A. Political Development

On 3 October 1990, after 45 years of painful separation, Germany was once again a united nation. After midnight on that day, East Germany ceased to exist. The territory formerly governed by the German Democratic Republic (GDR) and its hardline Communist leaders was now an integral part of the Federal Republic of Germany (FRG). *Accession* was the magical term used. Under Article 23 of West Germany's constitution, "other parts of Germany" outside the territory governed by the FRG could join or "accede to" the FRG. Accession meant that these "other parts" of Germany joining the FRG would henceforth be subject to its constitution, better known as the *Basic Law* or *Grundgesetz*. In this instance, accession took place under the terms of the German Unity Treaty signed by the FRG and the GDR.¹ In signing the treaty the GDR agreed to dissolve itself, to embrace the Basic Law, and to bring its entire social, political, and economic system into conformity with FRG law.

Unification did not restore to Germany all the territory lost as a result of World War II. In 1945 the Soviet Union annexed northern East Prussia, including Königsberg, while all German territory east of the Oder and Neisse Rivers (East Prussia, Silesia, and part of Pomerania and Brandenburg) was placed

under Polish administration. The Allies divided the rest of Germany and Berlin into four zones of occupation: a Soviet zone in the east and three zones in the west occupied by France, Britain, and the United States, respectively. The western zones, united in 1949 to form the Federal Republic of Germany, constituted only 60 percent of the territory of the German nation that existed between 1871 and 1937. The Saarland, which France annexed after World War II, was returned to the FRG in 1957 after its residents voted in favor of union with the FRG. It too entered the Federal Republic by accession under Article 23, becoming the smallest of West Germany's territorial states. With the GDR's accession, Germany has finally managed to recover three-fourths of the territory it had contained within its 1937 borders.

The division of Germany after World War II recalls the tragic course of German history down through the centuries. This history has been marred not only by territorial dismemberment but also by political discontinuity, which has manifested itself in recurrent patterns of revolution and reaction, leaving the German nation with a diverse and fragmented political legacy of democratic, authoritarian, and even totalitarian systems of government.

HISTORICAL BACKGROUND: MOLDING THE GERMAN NATION

The First Reich (800–1806)

Centuries after Britain and France had been unified under strong national monarchs, Germany was still a dizzying patchwork of sovereign powers—over 300 feudal states and some 1300 smaller estates—each with its own political institutions, laws, and customs. No imperial institution was prestigious enough to unify these diversities, and no emperor was strong enough to merge them into a single national state. The shape of the Holy Roman Empire of the German Nation (the predominantly German parts of the Empire founded by Charlemagne and restored by Otto I—and which has rightly been described as “neither holy, nor Roman, nor an empire”) itself changed repeatedly over its thousand-year history, stretching in and out like an accordion—a process facilitated by the absence of natural frontiers on the northern plains of Europe—depending on the fortunes of war or the outcome of princely rivalries.

Religious and political division matched the severity of Germany's territorial fragmentation. The Reformation (1517–1555) polarized Germans religiously, creating a legacy of intolerance and hatred that lasted well into the nineteenth century. The Thirty Years War (1618–1648) was equally devastating in long-range political impact. The most destructive war in the first millennium of German history, it decimated the population, wrecked agriculture and industry, and destroyed an emergent middle class that might have formed the nucleus of a nationalizing and moderating force in German politics. It restored power to the princes, reinvigorated feudalism, and set the stage for the nineteenth-century struggle between feudal and proletarian forces. Moreover, Protestant religious teaching and princely absolutism combined to emphasize the duty of obedience to the State, thus inhibiting popular participation in politics.²

Napoleon to Bismarck (1806–1871)

An invader laid the basis of German unity. Occupying Germany in 1806, Napoleon banished the ghost of the old Reich and forced hundreds of principalities into a confederation of some 30 states governed by a unified code of civil law. Like so much else in German history, this experience led to contradictory results. On the one hand, French rule stimulated the development of a liberal movement focused mainly in southwestern Germany and rooted in the eighteenth-century revival of classical humanism. On the other hand, it triggered an outburst of German nationalism built almost exclusively on antipathy toward the liberal reforms of the French Revolution—a reaction paralleled in the cultural domain by a literary backlash that glorified tradition over reason, heroism over compassion, and the folk community over cosmopolitanism.

France's defeat in 1815 led to the Congress of Vienna and the establishment of a new confederacy of 41 states that largely retained Napoleon's extensive remodeling of Germany. In its effort to strengthen Germany vis-à-vis France, the Congress ceded large possessions in the Rhineland and Westphalia to Prussia, a German state that had by then grown into a formidable power in central Europe. The Prussian-led conservative Hohenzollern monarchy and militaristic Junker caste were destined to finish, through “blood and iron,” the work of national unification started by Napoleon. Economically, the Prussian-sponsored customs union (*Zollverein*), which resulted in the removal of most trade barriers among the German states, was an important tool of national integration.

A watershed year in this period was 1848, when revolutions against monarchical regimes broke out all over Europe. German liberals had gathered enough strength to persuade several princes to go along with the election of a National Assembly, which convened in Frankfurt am Main in May and proceeded to

create a united Germany under a new federal constitution containing an impressive bill of rights, an independent judiciary, and parliamentary institutions. However, by the following spring this "revolution" had been put down as Germany reverted to its traditional pattern of authoritarian governance, increasingly under Prussian domination. In 1866, under the leadership of Otto von Bismarck, Prussia defeated Austria, its closest rival for hegemony in Germany. Austria's defeat led to the creation of the North German Confederation in 1867, also under Prussian domination. Five years later, after conquering France, Prussia proceeded to establish a truly national state in the form of a constitutional monarchy.

The Second Reich (1871–1918)

The constitutional order installed by Bismarck in 1871 was a semi-authoritarian system that (1) limited the franchise to the wealthier classes; (2) subordinated the popularly elected house of parliament (*Reichstag*) to the executive; (3) established a Prussian-dominated and non-elected upper parliamentary chamber (*Bundesrat*) composed largely of landed proprietors and members of reigning families; (4) divided executive authority between a chancellor and the emperor (*Kaiser*), with effective political power lodged in the latter; and (5) empowered the emperor (preeminently the king of Prussia) to appoint and dismiss the chancellor, dissolve the *Reichstag*, declare martial law, and serve as supreme commander of the armed forces. In the socioeconomic sphere, the imperial era was marked by (1) an economic revolution that transformed a backward and predominantly agrarian society into a powerful urban, industrialized nation; (2) the establishment of an alliance between agrarian and industrial interests in foreign policy; (3) the colonization of overseas territories; (4) the adoption of a comprehensive program of state social legislation designed to purchase the loyalty and support of the working masses; and (5) an arms race with Britain and France,

triggered in part by an increasingly chauvinistic nationalism as many Germans, including intellectuals, dreamed of a larger and even more powerful global order under German hegemony.

Ralf Dahrendorf has characterized imperial Germany as an "industrial feudal society,"³ meaning that industrialism failed to produce a modern polity in Germany as it did in Britain and France. Whereas modernization brought about liberal traditions of civic equality and political participation in Britain and France, Germany remained a preindustrial class society based on rank and status. The state bureaucracy, professional army, landed aristocracy, and patriarchal family remained the central pillars of the social structure. Human rights or other fundamental guarantees were conspicuously absent in the imperial constitution. Social conflict was put down either by repression or state paternalism, thus encouraging the political passivity of the German people, inducing them to seek the satisfactions of life by turning inward, toward themselves (internal freedom) and to the fostering of private values associated with friendship and family, rather than by turning outward toward the cultivation of public virtues.

The Weimar Republic (1919–1933)

Germany's defeat in World War I and the abdication of the monarch led to the establishment at Weimar of its first constitutional democracy since the short-lived National Assembly of 1848. The Constitution of 1919 continued a long tradition of German federalism by requiring every state to establish a republican form of government. Provisions for popular referenda as well as the direct popular election of the national president reflected Weimar's commitment to the principle of popular sovereignty. The constitution, however, contained a number of structural deficiencies that undermined political stability and endangered civil liberties. First, the chancellor was subservient to parliament and subject to dismissal by a popularly

elected president. In addition, the constitution authorized the president to dissolve the Reichstag (the powerful new lower chamber), control the armed forces, suspend constitutional rights, and exercise broad emergency powers. Second, whereas the constitution guaranteed various rights and liberties, it failed to provide for their judicial protection. Third, the system of proportional representation splintered the electorate, leading to a succession of weak coalition governments. Fourth, political parties lacked prestige and even legitimacy in the eyes of most Germans. Finally, the ease with which the constitution could be amended or vital parts of it suspended paved the way to its ultimate debasement.

It is doubtful whether any constitution, however artfully drawn, could have contained the social and political volatility unleashed in postwar Germany. To begin with, the harsh terms of the Treaty of Versailles—for example, the internationalization of Germany's main inland waterways, the cession of territory to six bordering countries, enforced reparations, and the allied occupation of the Rhineland—compounded by the 1923 invasion of the Ruhr by France and Belgium, generated an outburst of frenzied nationalism that found its most virulent expression in the views and personality of Adolf Hitler.

Additionally, Germany's largely unchanged social structure constituted a fragile foundation on which to build a democratic republic. Republican institutions—whose legitimacy was questioned by a large segment of the country's elite—were simply incapable of serving as effective instruments of social control when economic conditions, which had declined dramatically in 1922–23 and had improved only after most people's life savings had been wiped out, worsened again at the end of the 1920s. Violence erupted in the streets as right-wing extremists, often fighting left-wing extremists, gathered strength and influence. The political unrest led to Hitler's installation as chancellor on 30 January 1933; Nazi success in the election of 5 March 1933, following

the February burning of the Reichstag, anchored his hold on power. The passage of the Enabling Act shortly thereafter, granting the government dictatorial powers, ended the life of the Weimar Republic.

The Third Reich (1933–1945)

With Hitler's rise to power, constitutional government succumbed to National Socialist totalitarianism. Popular assemblies of the various states were abolished; political parties banned; autonomous groups and associations suppressed; dissent crushed; anti-Nazi political figures imprisoned, tortured, or murdered; and ordinary citizens deprived of liberty and property without due process of law. Having consolidated his power, Hitler proceeded, in violation of the Treaty of Versailles, to remilitarize the Rhineland and to build a war machine that by 1941 would sweep across Europe, threatening the security of the entire world.

Although the German dictatorship met with the brave resistance of various religious and political groups—including several attempts on Hitler's life—it took the almost total destruction of Germany from the outside to topple the Nazis from power. World War II (1939–1945) resulted in yet another enforced dismemberment and foreign occupation of the German nation, plus the elimination of Prussia as a separate territorial unit. Hitler had inadvertently facilitated the long trek back to political democracy. In a twelve-year orgy of repression and violence, the Nazis succeeded in destroying the old order, including many traditional institutions and values. Thus, Hitler's "social revolution," combined with Germany's physical destruction, cleared the way for the rebuilding of a new society.

TOWARD A NEW FRAMEWORK OF GOVERNMENT

The Occupation (1945–1949)

In 1945, Germany lay smoldering in ruins. Its once powerful military machine was shattered,

its industrial establishment incapacitated, its urban centers demolished, its transportation and communication networks disrupted, its government at all levels in a state of total collapse, and its people demoralized and starving. Politically, Germany's future seemed bleak. At the Yalta and Potsdam conferences the victorious powers had agreed (1) to eliminate every trace of Nazism and militarism in Germany, (2) to disarm the nation completely, (3) to punish those responsible for war crimes, (4) to force the payment of reparations to nations hurt by German aggression, and (5) to prevent the reemergence of industries capable of military production.

In each of their zones of occupation, the Allies embarked upon programs of *denazification* and *democratization* as the first steps toward the reconstruction of a new political order. By 1947–48, however, cooperation among the Allies had ceased. For France, Britain, and the United States, democratization meant parliamentary democracy, competitive elections, civil liberties, and a free enterprise economy; for the Soviet Union, it meant Communist party rule and state ownership of the means of production. Furthermore, the Soviet Union had embarked upon a policy of conquest and one-party rule in Eastern Europe, creating satellite states organized in accordance with Marxist-Leninist principles out of the countries it had liberated from the Nazis. The Cold War was gathering force with a vengeance, and Germany was its flash point.

Unable to reach an agreement with the Soviet Union over the future of Germany, the three western powers decided to combine their zones of occupation into a single economic unit. The Soviet Union responded with the Berlin blockade, but the famous airlift of 1948–49 foiled the Soviet attempt to drive the western powers out of Berlin.

Economic union in the western half of Germany was soon followed by political union. With the reestablishment of state and local governments and the licensing of political parties committed to democratic constitutional-

ism, the allied military governors laid the groundwork for a new all-West German political system. A constituent assembly dominated by Christian and Social Democrats, elected in turn by the state legislatures, convened with Allied approval to write a new constitution. They chose to call it the Basic Law (*Grundgesetz*) rather than the Constitution (*Verfassung*) in order to underscore the provisional character of the new polity pending national reunification. This Basic Law, which created the Federal Republic of Germany, entered into force on 23 May 1949, after its ratification by the legislatures of more than two-thirds of the participating states (*Länder*). The Soviet Union responded by founding the German Democratic Republic, whose constitution entered into force on 7 October 1949.

Two States—One Nation (1949–1990)

The constitutions of both East and West Germany looked toward eventual reunification. This goal remained the lodestar of the Basic Law, but in the course of time it vanished from the East German Constitution when the GDR locked itself into a Soviet-style system of political rule. In 1974, dropping all references to reunification, an amended version of the constitution described the GDR as a "socialist state of the German nation," the equivalent of a declaration of independence. Although some relaxation had taken place in the relations between the two German states in the aftermath of *Ostpolitik*,⁴ they still viewed each other with mistrust and hostility. The Berlin Wall stood out as the chief symbol of their mutual antagonism. Like the armed fortifications along the 529-mile border separating the two Germans, the Wall was designed to keep GDR residents disillusioned with Communist rule from joining the nearly four million of their fellow citizens who had left for or fled to West Germany since 1949.

The earth-shaking events leading to German unity in 1990 will be recounted in Section C, but for now it suffices to remark that with

all escape routes to the West blocked, East Germans settled down to make the best of what their formidable skills and social discipline could produce. By the late 1990s, the GDR had developed the strongest economy in the Soviet bloc and had one of the world's most productive economies. Even though the GDR's standard of living remained substantially below that of the FRG, East Germans could count on cradle-to-grave security, including free medical care, low rents, generous maternal leave and child care policies, and a uniform system of polytechnical education geared to the needs of the economy. However, the cost in personal freedom was high. By 1973, the economy had been thoroughly collectivized while the state's secret police (*Stasi*) kept East Germans in line politically.

East Germans might have been fenced off from their cousins in West Germany, but they could look at them through the eye of television. What they saw was a land of comfort and freedom. When West Germany arose from the ashes of World War II, few would have predicted that in the span of one generation its citizens would be able to boast of having created the world's fourth largest industrial power, a standard of living matched only by a handful of nations, and a highly stable political democracy. By any measure of social and economic development, the FRG would stand out as one of the world's most modernized states.

The growth of the FRG's economy and the stability of its political system doubtless had much to do with the nature of its constitution. The Allied military government insisted that any future government of Germany must be federal, democratic, and constitutional. West Germans went a step further, making absolute the principles of democracy and federalism in their new constitution. Article 79, paragraph 3, of the Basic Law—the so-called eternity clause—declares inadmissible any amendment that would erode democracy or effect the division of the federation into states.

In addition, the Basic Law guarantees personal rights and liberties, including occupational rights, and establishes a constitutional court to enforce these rights against the state. The founding fathers sought to stabilize the new polity by establishing a party democracy and combining it with a constitutional ban on parties that "seek to impair or abolish the free democratic basic order" (Article 21). In contrast to the Weimar Constitution, the Basic Law strengthens the hand of the chancellor even while making him responsible to parliament and bars parliament from voting him out of office without simultaneously electing his successor. The FRG's founders were clearly distrustful of reintroducing the mechanisms of direct democracy. They reaffirmed the principle of popular sovereignty, but it would now take the form of representative rather than plebiscitary institutions, including the indirect election of the federal president.⁵

SOCIETY AND THE ECONOMY

An understanding of contemporary German politics requires some attention to the profound social and economic changes that have occurred, first in the FRG since 1945 and then in the *Länder* that acceded to the FRG upon the dissolution of the GDR. While these five reconstituted *Länder* come with a vastly different political and socioeconomic formation from that of the western *Länder*, both societies are committed to the process of raising the standards of living and of production in the eastern area to parity with those enjoyed in the western area. The overwhelming majority of Germans nationwide have indicated through the ballot box that they are determined to erase all vestiges of the former GDR's command economy and to replace it with the mixed economy of the *advanced social welfare state*—an ideal that the national governments have pursued, more often than not, since the days of Bismarck.

Despite this note of historical continuity, it is difficult to determine whether, in a general

western "postindustrial" setting, it is the economy that is driven by the polity or the polity by the economy, or both (to some degree) by the given social organization. Two things are clear: First, in a modern industrial democracy like the FRG, the political system and the social market economy are inextricably interwoven. Second, both the political system and the social market economy are more dependent than ever before for their strength and, indeed, legitimacy, on international associations. The roots of the industrial democracies are as diverse as the nations themselves, yet their future is increasingly defined in common.

Territory and Population

On the night of 2–3 October 1990, when East and West Germans came together on the great lawn before the Reichstag, the *Platz der Republik*, to celebrate their reunification, many of them flew the black-red-gold flag of the FRG, which had been the tricolor of the two previous German democracies as well (1848 and 1918). Germany was felt to be reclaiming the best elements of its common past. At the same time, a good number of European Community flags were also in evidence, with the circle of 12 gold stars on a field of blue, seeming to reflect the oft-stated aim of the two societies to work together henceforth, not for a "German Europe," but for a "European Germany."

In territorial size, reunited Germany is the fifth largest nation in Europe, up from tenth place. Although now geographically the third largest nation in the EEC, behind France and Spain, Germany is still significantly smaller, as Table 4.1 shows, than most of the countries covered in this volume. Moreover, even if the Germany of today had the desire or the ability to return to its 1937 borders, it would nonetheless remain a medium-sized state on the global scale—although as an industrial power the FRG ranks fourth in the world.

Table 4.1 TERRITORY AND POPULATION:
GERMANY'S RANKING AMONG
SELECTED NATIONS, 1989

Nation	Territory (sq. mi.)	Nation	Population (in millions)
USSR	8,650,000	China	1,160.0
China	3,692,900	India	797.0
USA	3,615,122	USSR	281.7
India	1,269,419	USA	226.5
Mexico	756,066	Japan	121.9
Nigeria	356,669	Nigeria	105.5
France	212,742	Mexico	82.7
Spain	194,900	Germany	78.7
Japan	145,856	FRG	62.0
Germany	137,787	GDR	16.7
FRG	96,019	UK	57.1
GDR	41,768	France	55.9
UK	94,512	Spain	39.1

Source: *The New Encyclopedia Britannica*, 15th ed. (Chicago: Encyclopedia Britannica, 1988), compiled from each national entry, and *Whittaker's Almanack 1991*, 123 rev. ed. (London: J. Whitaker & Sons Ltd., 1990), pp. 620–3.

The more important figures for contemporary Germany, both in Europe and the world, are those concerning its population. Even before reunification, the FRG was the most populous state in western Europe and second on the continent only to the Soviet Union. The acquisition of some 16 million East Germans does not dramatically change this picture, although it augurs well for Germany's future economic potential. Along with expanding its borders and its population, the FRG has gained a new neighbor, Poland, and a new set of demographics. The overall population is now marginally younger, somewhat more East European in origin, and proportionately more Protestant.

The population figures in Table 4.1 contain a fascinating tale of human migration and dislocation. Between 1949 and 1989 the FRG's population increased by 13 million, while the GDR lost over 2 million of its inhabitants. These statistics were not substantially affected by the birthrate in the indigenous popula-

tion. In fact, West Germany had experienced a measurable decline in its native population since 1970. The rapid increase in population recorded after 1949 resulted mainly from the influx of nearly 10 million German refugees from Poland, the Soviet Union, East Germany, and other eastern countries and from the arrival of 2.5 million foreign workers who migrated to Germany in the 1960s.

By 1989, there were 4.8 million foreign residents in the FRG, 70 percent of whom had been there for 10 years or more. With the addition of the GDR's 120,000 foreigners—mostly Polish—these residents made up 6.5 percent of the population.⁶ Then, in two and a half years, 2.5 million immigrants poured into western Germany. Just over 1 million were *Übersiedler*, that is, East Germans who moved west before reunification; slightly less than 1 million were *Aussiedler*, that is, ethnic Germans drawn mostly from Poland and Russia; this leaves about a half a million immigrants as true “foreigners.”

What is impressive about these figures is that they represent a rate of entry relative to the national population that is not only twice the rate of mass immigration to the United States in the 1920s but, apart from Israel, several times more than that of any EC or OECD country today. By 1991, however, several hundred thousand asylum seekers from Turkey, Romania, Yugoslavia, and the Middle East were pushing these figures slightly upward, intensifying right-wing opposition to the foreign presence in Germany, all of which was taking place amidst predictions that by the mid-1990s as many as 2 million ethnic Germans from the Soviet Union, Poland, and Romania would resettle in Germany.

From Bonn to Berlin and in Between

Germany at last has a hub like London, Paris, or Rome and one around which the economic, cultural, and political life of the country is likely to swirl. Berlin is that hub, the new capi-



Breaching the Berlin Wall.

tal of united Germany. With a population of 3.4 million, it is Germany's largest city. (Hamburg and Munich follow, with 1.6 and 1.2 million, respectively.) A sprawling urban landscape still blighted at the very center (i.e., where the Wall stood) by 40 years of division and in the former eastern half by both the scars left from the war and a legacy of Soviet Socialist architecture that was characteristically oppressive in style and shoddy in execution, Berlin nonetheless promises to become in time the trading gateway between East and West if not “the *de facto* metropolis of the new free Central Europe.”⁷

Despite a bruising parliamentary battle, the decision to move the capital from Bonn to Berlin seemed inevitable and was strongly supported by the Federal Chancellor and President. Bonn, the sleepy provincial town beside

the Rhine, was bound to give way to the cosmopolitanism of Berlin and the electrifying beat of its international life.

Apart from Berlin, the economic and political life of the country is centered in a number of conurbations in the Rhine-Ruhr (Essen, Dortmund, Cologne, and Düsseldorf), Rhine-Main (Frankfurt), and Rhine-Neckar (Mannheim); in the business-industrial concentrations around the cities of Stuttgart, Hamburg, Hanover, and Munich; and now in the east around Dresden, Leipzig, and Chemnitz. Fourteen cities boast populations of more than 500,000. The eastern *Länder*, however, are less urbanized than those in the west. Thirty-five percent of the former FRG's population live in cities with more than 100,000 inhabitants, but only 10.2 percent of former GDR residents live in such areas. Similarly, only 6.1 percent of western Germans live in areas with fewer than 2000 inhabitants; the figure for eastern Germans is 23 percent.

The FRG Economy

At the behest of the western occupying powers (the United States, Great Britain, and France), Ludwig Erhard, Director of the Economic Administration for the three western zones, initiated a currency reform in June 1948. This created a solidly based and freely convertible *deutsche mark* (DM), the financial and economic prerequisite to the construction of a modern industrial society. Erhard also became known as the father of the *social market economy* (*Sozialmarktwirtschaft*), a system of free enterprise guided and supported by the strong hand of government and undergirded by a comprehensive scheme of social welfare (see Feature 4.1). In this way, Germany managed to avoid the extremes of a pure *laissez-faire* economy and centralized state control.

The social market economy was established at the insistence of the Christian Democrats who, along with their sister party in Bavaria, the Christian Social Union, would head every Bonn government (though some-

times in coalition with the Free Democrats) from 1949 through 1969. Konrad Adenauer, Germany's strongest and most popular chancellor since Bismarck, chose Erhard to head the economic and finance ministries. From these positions of power and influence, backed by a coordinated economic strategy supported by labor and industry, they planted the seed of the social market economy, and it took firm root in German soil. The Christian Democratic monopoly in the early years was made possible in part by the adherence of the opposition Social Democrats to the classic Marxist socioeconomic doctrine until 1959. The electorate consistently rejected Social Democratic appeals to "class warfare" in favor of the Erhard-Adenauer call to construct a social market economy.

German federalism made its own distinctive contribution to the growth of the social market economy. As Christopher Allen notes, *Land* governments encouraged banks to adjust "their investment and loan policies to improve the competitive position of key industries in various regions" and to "invest heavily in vocational education to provide the skills so necessary for high quality manufacturing goods" capable of competing in world markets.⁵ *Land* (i.e., state) governments also worked closely with business and organized labor, not only to encourage the development of a modern, competitive economy, but also to shape the framework of cooperation between trade unions, corporations, banks, and educational institutions, a process of coordination matched at the national level by such initiatives as the Economic Stability Act of 1967 and the Codetermination Act of 1975.

By 1965, the success of the original Erhard-Adenauer prescription was apparent. The FRG had become a *Wirtschaftswunder*, or *economic miracle*. The combination of a solid currency, a market economy, and a democratic and social federal state had not only fostered the reconstruction of western Germany but also the creation and distribution of wealth on an unprecedented scale. The FRG had become at once the wealthiest and stablest econ-

Feature 4.1 Social Market Economy

An outgrowth of German neoliberal and Catholic social thought, the social market economy is predicated on the belief that a free market is compatible with a socially conscious state. It seeks to combine the principles of personal freedom and social responsibility in a unified political economy. The production of goods and services, according to the theory, is to be left to free choice in an open market, but the marketplace is to function within a social framework created by law. This framework includes general public policies designed to enhance competition, ensure honest trade practices, and protect consumers. It is also government's duty in neoliberal economic theory to stabilize the economy as a whole and to care for the needs of persons not served by the market.

omy in the European Community. Within two more decades, this *Wirtschaftswunder* would carry West Germany to fourth place among all the nations of the world in terms of its gross national product (GNP) (see Table 4.2), as well as fourth among the Group of Seven (G-7) western industrial democracies (behind

the United States, Canada, and Japan). This accomplishment is all the more interesting given the ranking of the FRG in territory and population seen in Table 4.1 and the *zero base*—the total destruction of World War II—from which it emerged.

Table 4.2 GROSS NATIONAL PRODUCT:
GERMANY'S RANKING AMONG
SELECTED NATIONS, 1986

Nation	GNP ^a	Nation	GNP per capita ^b
USA	\$4,235,000	USA	\$17,600
USSR	2,356,700	Japan	12,850
Japan	1,559,720	FRG	12,080
FRG	735,940	GDR	11,180
France	595,180	France	10,740
UK	504,850	UK	8,920
China	314,800	USSR	8,410
India	213,440	Spain	4,840
Spain	188,030	Mexico	1,850
GDR	185,751	Nigeria	640
Mexico	149,110	China	300
Nigeria	66,210	India	270

^aIn billions of U.S. dollars (thus, the GNP of the USA reads four trillion, two hundred thirty-five billion).

^bIn hundreds of U.S. dollars (thus, the GNP per capita of the USA reads seventeen thousand, six hundred).

Source: D. Daume (ed.), 1989 *Britannica Book of the Year* (Chicago: Encyclopaedia Britannica, Inc., 1989), *in passim*.

The GDR Economy

At about the same time as the FRG's *Wirtschaftswunder*, the limits of progress in the GDR were becoming apparent. The future was written in the past. Between 1945 and 1949 the Soviet occupiers closed all private banks; ordered the surrender of all currency, bullion, and deeds; confiscated all estates of more than 250 acres; and began a process of systematized looting by shipping transferable property—from machinery to trains and the very tracks they ran on—to the Soviet Union in the form of "reparations." The brutal implementation of Stalinist economics in the GDR did finally yield impressive results in areas such as heavy industry and chemical engineering yet availed little in other areas, such as technological innovation and worker productivity. For one thing, these areas were not as susceptible to Stalinist methods of "persuasion"; for another, these methods themselves were now increasingly abandoned. Yet nothing could be found to replace them in the

command economy. The GDR seemed to have reached an impassible plateau.

The construction of the Berlin Wall in 1961 was a confession of economic—and political—failure. By 1961, some 3 million people, including many of East Germany's best technicians, had fled to West Germany in search of a better life and more challenging opportunities. The erection of the Wall stopped the hemorrhage, but at the cost of advertising to all the world the fundamental illegitimacy of the East German regime and economy in the eyes of its own "citizens."

No longer able to flee, the remaining workers soon made the GDR into the most economically advanced and prosperous state in the Soviet bloc. According to its own figures, the GDR came to rank eleventh among the world's industrial economies—and there it came to rest. Neither its ranking nor its productivity would advance further. Claims about overtaking the FRG were dropped by the GDR government. National pride was to be rechanneled into a new field: international sports competition. Industrial and technological comparisons, however, to say nothing of comparing standards of living, were henceforth *verboten*.

Unfortunately for the GDR, most East Germans could receive West German television broadcasts (as well as an annual visit from western cousins) and therefore draw their own conclusions. If the East Germans could be proud of their accomplishments vis-à-vis the East, they could only be mortified by what they were missing in the West. One measure of the distance between the GDR and the FRG was the rate of automobile and telephone ownership. By 1988, 97 percent of all FRG families owned an automobile; 98 percent had a telephone. The corresponding GDR figures were 52 percent and 7 percent. East Germans were also disillusioned by the quality of their consumer goods. The qualitative distance between the Trabant and the Volkswagen, not to mention the Mercedes, was one measure of how far the GDR had yet to go to close the gap between itself and the FRG. To its own poli-

tical illegitimacy, the GDR now added economic resentment.

By the late 1980s, as West Germany pushed toward the creation of the world's largest and wealthiest free-trade zone, East Germany found that even its economic bedrock, its major heavy industries, were becoming increasingly outmoded and noncompetitive in the new, "postindustrial" global market. Worse, rumors were rife that the state itself was on the verge of bankruptcy—rumors fed by the patent "massaging" of the official economic and financial figures. The reconstruction of the city center of East Berlin as the showcase of State Socialist success—which had become a virtual obsession with Erich Honecker, the Kremlin's chosen successor to Walter Ulbricht—was particularly resented by workers outside the capital, with their deplorable housing and even more deplorable automobiles.

Yet it was not until the annus mirabilis, the year of wonders, between the collapse of Honecker's dictatorship in October 1989 and the democratic accession of the (subsequently reconstituted) East German *Länder* into the FRG in October 1990, that it began to dawn on the East Germans (and on western economists) just how far their economic, industrial, and environmental situation had deteriorated. Indeed, by the time of reunification it was obvious that the East was destitute: Not only could it bring very little to the merger, but it could not survive without a tremendous transfer of resources and expertise from the West. A new *Wirtschaftswunder* was the order of the day.

The Cost of Unity

Before the two Germanys united, it was generally agreed by eastern and western economists that it would take years for the new eastern *Länder* to catch up to the standards of productivity and living prevalent in the West. The Christian Democratic-Free Democratic coalition campaigned just after reunification (in the first free all-German elections since the Nazi

era began) on a platform predicting a low-cost and quick turnaround in the eastern economy (e.g., 1994 was often cited as the year in which East-West parity would begin to emerge). By mid-1991, however, it was apparent that the length of time and the cost of reconstruction in the eastern *Länder* would be much greater than Bonn had anticipated.

The GDR's industrial areas turned out to be one massive rustbelt and among the most polluted areas in Europe. Whole sectors of the economy were collapsing, while the cost entailed in rescuing—to say nothing of rebuilding—they escalated in the west. Factories, roads, railroads, airports, sea and inland ports, canals and waterways as well as schools and public housing were in need of reconstruction, in many instances from the ground up. Add to this the cost of cleaning up the environment, paying the GDR's debts, and overhauling and upgrading the civil service, the universities, the judicial system, the national health system, and the telephone system, and the price of German unity begins to hit home.

Just prior to reunification, the FRG's Federal Bank (the *Bundesbank*) predicted that it would cost up to \$126 billion just to remodel eastern German roads and railways. Modernizing the telephone system would cost \$34.7 billion, while the cost of social security payments and unemployment benefits in 1990 alone was expected to reach \$27.7 billion. The ultimate cost of reunification, some were predicting, would be more than a trillion dollars over the next decade.

It soon began to sink in that if the Bonn government were to absorb these costs to bail out eastern Germany, the standard of living would go down in the West. By 1990, after eight years of conscientious government restraint, the public sector share of the GNP was already reduced to 45 percent. With the first costs of reunification at the end of the year, the public sector share had shot up to around 52 percent while the overall deficit reached DM 1330 billion, up substantially from the post-war record high of DM 300 billion that Helmut

Kohl inherited when he became Chancellor in October 1982. In July 1991, finally, unemployment in the former FRG rose to 5.7 percent and, even more alarming to most Germans, national inflation rose to 4.5 percent.

The Kohl government was thus forced to break its 1990 campaign pledge by raising taxes, notwithstanding an economy clipping along at full capacity (the GNP increased by 4 percent in 1989). These increases in inflation, unemployment, taxes, and deficit spending meant that Bonn would have a proportionately decreasing amount of funds with which to sustain and rebuild the east. At the same time, however, the figures emerging from the new *Länder* were worsening: For instance, unemployment rose from 9.5 percent in June to 12.1 percent in July 1991. In a population totaling less than 17 million, 8.5 million of them workers, one million were out of work, and the flow-through effects of a decrease in consumer spending and in savings were apparent. Equally ominous were the layoffs impending in the major industries of chemicals, textiles, steel, and shipyards.

The *Treuhandanstalt*

Bonn's solution to this problem was the creation of the *Treuhandanstalt* (Trust Fund), a super agency authorized to take over all state-owned enterprises, to modernize them, to restructure their work forces, to convert them into corporations under West German law, and then to sell them to private investors as soon as possible or, if necessary, to shut them down. With its huge staff of financial advisors, tax lawyers, management consultants, land surveyors, engineers, and other specialists—about 3800 employees—*Treuhand* was and is the key instrument for converting the former state-owned economy into a social market economy. Its mandate is not to sell to the highest bidder, but to ensure that investors have the wherewithal and competence to preserve and create jobs and to ensure the future contribution of the enterprise to the area's of industrial prosperity.

As the experience with the ship construction industry shows, Treuhand's decisions often caused human suffering as well as political opposition. Treuhand merged 24 shipbuilding firms in the ex-GDR into one company and brought in a western manager to run it. To build a competitive industry he closed 2 shipyards and 9 suppliers, at the cost of 40,000 jobs. Opposition was fierce; in fact, it created a crossfire. Western German shipbuilders objected to the massive subsidization of a new competitor, and the state parliament of Mecklenburg-West Pomerania objected to the massive reduction of its main industry. Treuhand went through four plans. The state parliament vetoed every shipyard closure it proposed. Union protests became rife in the yards. Worst of all, not a single western firm could be interested in buying the overmanned yards with their outdated equipment.

On the plus side of the equation, *Treuhand* looks to be discharging its mandate despite such formidable obstacles. The succeeding director, Detlev Rohwedder (assassinated by Red Army Faction terrorists in March 1991), had called for it "to privatize fast, to modernize resolutely, and to close down carefully." In less than 21 months, *Treuhand* sold 5500 of the 10,000 companies under its aegis, grossing DM 11.6 billion, getting pledges of investments with an additional DM 90 billion, and securing 1,000,000 jobs. Privatization was proceeding at a pace of 20 firms per day. (Meanwhile, some 600 plants had been forced to close down.) In addition, *Treuhand* had sold over 29,000 small businesses under its control, mainly to eastern Germans. By 1992, with well over 300,000 new business start-ups in the former GDR, notes of optimism were beginning to appear in an otherwise gloomy score.

The Social Welfare (and Planning) State

In 1986 the FRG spent almost 32 percent of its GNP on social services—among the highest in Western Europe. Drawing upon a long

tradition of state-supported social insurance, the FRG's system includes generous programs of health and disability insurance, retirement pensions, industrial accident insurance, and unemployment compensation covering almost 95 percent of the population. Old-age pensions, the largest of these programs, are related to earnings and financed by contributions from the insured and their employers. Social security payments, adjusted to inflation and other economic indicators, have increased nearly every year since 1957. (In January 1987 the average monthly pension was \$770.) The system of benefits also includes relief payments for the needy, child benefit allowances, rent subsidies for old-age pensioners and retired civil servants, vocational rehabilitation services, and special reparations for former prisoners of war, refugees from East Germany, and persons who suffered losses under Nazism because of their race, religion, or political beliefs. (On GDR social policy see "Security and Equality.")

Taken as a whole, the FRG's social economy is notably less centralized than that of the French or the British and notably more sensitive socially than the American. Government ownership of industry and intervention in the market determination of goods and services are still other features of the social market economy. State ownership and control have been retained in areas such as transportation and postal facilities, where the market is unable to produce efficient service at prices the public can afford. In addition, the government controls more than 25 percent of the stock in nearly 500 companies, although in recent years some of these firms have been denationalized. On the other hand, several state governments have subsidized certain industries either for the purpose of reviving them or to keep them from moving their plants to other states or countries.

German economic policy until the mid-1960s contained a strong antiplanning bias. With the adoption of the Economic Stabilization Act of 1967, however, long-term fiscal

planning became a vital element of the FRG's economy. Influenced in part by Keynesian economic theory, the act authorized the federal government (1) to coordinate the budgetary policies of state and national governments, (2) to change temporarily rates of taxation on personal and corporate incomes without prior parliamentary approval, (3) to stimulate the economy during periods of recession by public expenditures up to specified amounts, and (4) to harmonize general fiscal policy with monetary policy.

Economic and Social Stratification

Germany's occupational structure shows a nation gradually transforming itself from an industrial into a post industrial society. As Table 4.3 indicates, the services and trades sector of the economy in the old FRG has grown the fastest, overtaking industry by far. Most jobs created in the 1980s were connected with banking, insurance, education, the health professions, and the civil service. The social transformation suggested by the tabular data has given way to a rising middle class composed of salaried employees associated with the worlds of finance, commerce, and innumerable trades. No longer is the holding of property the decisive factor in class distinc-

tion, but rather the nature of a person's job and the prestige and income that go with it. The traditional crafts are another declining sector of an increasingly technological society. Tailors, shoemakers, painters, typesetters, and carpenters have seen their numbers dwindle in the face of a far greater demand for the services of building cleaners, automobile mechanics, TV technicians, electricians, and hairdressers—underscoring the widespread availability of discretionary income among most occupational groups, including common laborers. Still, the craft trades employ 15 percent of the work force, train 37 percent of apprentices, and account for 9 percent of the FRG's economic output.

Table 4.3 also underscores the sharp differences between the economies of the old FRG and the ex-GDR. The dominance of manufacturing industries in the eastern *Länder*; combined with central planning and the lack of competition, inhibited the emergence of a modern diversified economy as well as the development of new technologies. In addition, 94.7 percent of all persons employed in the GDR in 1988 worked for state-owned enterprises. In industry, the figure was 99.9 percent; in construction 92.3 percent; and in agriculture and forestry 98.5 percent. Only the traditional crafts (excluding construction) re-

Table 4.3 WORKING POPULATION BY ENTERPRISE

Enterprise	Former FRG				ex-GDR
	1960	1970	1980	1989	1990
Agriculture	13.7%	8.5%	5.2%	3.7%	11.0%
Industry	40.0	40.2	36.0	33.2	41.0
Construction	8.2	8.7	7.9	6.6	7.0
Transportation & Communication	5.6	5.3	5.6	5.6	7.0
Services & Trades	32.8	37.6	45.7	51.1	10.0
Other	3.0	2.4	3.4	4.4	24.0

Sources: *Statistisches Jahrbuch für das vereinte Deutschland*, 1991 and *German Unification: Economic Issues* (Washington, D.C.: International Monetary Fund, December 1990).

mained largely privatized. Since reunification, however, all crafts, trades, and professions have been privatized. More importantly, they have seen their numbers increase dramatically. In the professions, for example, there were four times as many doctors and dentists by 1992 than before unity. The number of private lawyers has doubled and tax advisors have shot up from 350 to 2800, whereas veterinarians and engineers in private practice have gone from zero to 1520 and 3000 respectively. These numbers, together with the proliferation of the service trades, may help to lift the eastern *Länder* into the postindustrial age within two decades or so.

The major sign of postindustrialism in the old FRG is the emergence of a large technocratic and managerial elite. Jobs in highly skilled professional and technical areas are increasing at a much faster rate than unskilled or semiskilled jobs. In the 1970s the number of engineers, computer technicians, economists, teachers, accountants, lawyers, and social workers in the FRG almost doubled, while university admissions in the natural and social sciences nearly tripled. By 1985 the professional-technical-managerial class contained 6.2 million persons, representing 23.4 percent of the total work force.

The socioeconomic changes described here have affected the nature of political cleavage in the FRG. While the society may reveal residues of a traditional class structure, FRG politics in recent decades have not been determined by old class divisions. The ascendancy of a new professional-technical-managerial class, supported by a vast army of white-collar employees performing highly specified roles in the social economy, has blunted the class feeling of earlier generations. The old class structure has entirely disappeared in the eastern *Länder*; and the political pressure from this part of Germany is likely to be in the direction of greater egalitarianism.

Issues based on old economic divisions, while still important, are often lower on the political agenda than *quality-of-life* issues

such as energy conservation, environmental protection, educational opportunity, life-style freedom, social equality, and women's rights. Here we find a large measure of convergence between the eastern and western *Länder*; for these quality-of-life issues are also high on the agenda of the eastern states.

Security and Equality

The portrait of German society sketched up to now is one of general affluence and economic opportunity. If industrial wages, home ownership, and possession of consumer goods are considered, then income and property are certainly widely distributed in the western *Länder*. Yet, as is true of any system based on private enterprise, the social *market* economy tolerates large disparities in income and economic power among certain classes of persons. As Table 4.4 indicates, a large gap separated the lowest and highest-paid persons in 1985. Yet the *social* market economy has resulted in a remarkable leveling of society. Sociologists no longer depict the social structure as a pyramid, with the elite at the top, broadening into the masses at the bottom. Instead, they invoke the image of an onion to describe the social strata, with the broad middle classes dominating the center, narrowing at the ends to the extremes of rich and poor.

High unemployment rates in the 1980s, however—reaching a postwar high of 10.2 percent (2,487,100) of the work force in 1983—tarnished this image of a well-run social market economy. Even in 1990, with the economy running at full capacity, unemployment persisted at around 6 percent of the work force. The hardcore of the unemployed among persons living in the old FRG includes: (1) persons without any vocational or technical training, (2) workers 55 years of age and older, (3) those limited in their capacities by bad health, and (4) those employed on a part-time basis. (In Germany, unlike the United States, part-time employees are counted among the unemployed.) Collectively, these groups

Table 4.4 ANNUAL INCOME DISTRIBUTION BY HOUSEHOLD, 1985

Income Class	Self-Employed (1.9 million)	Employees (13.2 million)	Pensioners (10.2 million)
Over \$48,780	36.9	0.6	—
29,268–48,780	35.2	9.2	4.5
19,512–29,268	13.5	23.9	11.2
14,634–19,512	6.9	26.8	17.5
9756–14,634	6.3	29.0	24.9
4878–9756	1.1	9.6	38.0
Under 4878	0.1	0.9	3.9

Source: *Facts About Germany* (Gütersloh: Lexikon-Institut Bertelsmann, 1987), p. 247. The original data are in DM, which have been converted into dollars at the 1985 average exchange rate of 2.4613 per dollar. *International Financial Statistics* (March, 1991), p. 242.

account for approximately 2.5 percent of the working population.

The ex-GDR, on the other hand, emphasizing equality over liberty, had constructed a socialist state in which the right to work was guaranteed and welfare and care were assured in the event of an illness or emergency. In addition, there was little disparity in income among persons employed in various sectors of the economy, although the salaries earned bought less than 50 percent of an equivalent salary in the western *Länder*. The average monthly wage in the GDR in 1988 amounted to only a third of the average FRG wage when controlled at parity.⁹

Social welfare was universal in the GDR, but the system lacked the efficiency and quality, especially in the area of medical care, of social welfare planning in the FRG. Social insurance in the GDR was organized on a monolithic basis: One institution administered the pension scheme, health care, family-related benefits, and poverty assistance. (In the FRG, these programs are carried out by different institutions and largely on the basis of employee-employer contributions keyed to the cost of living.) In 1988, pensions and medical care accounted, respectively, for 47.4 and 43.6 percent of the system's social expenditures. The average old age pension in the GDR

covered about 45 percent of net wages as opposed to about 50 percent in the FRG,¹⁰ but again the latter was of far greater value. The child care system and leave policy for child-bearing women, however, were more generous in the GDR.

This picture changed drastically when the two Germany's united under the social and economic system of the western *Länder*. For the first time in many memories, thousands of eastern German workers found themselves without jobs and subject to the welfare policies of the FRG. The GDR's lack of competition, free enterprise, and (for many) occupational choice, had taken its toll. The productivity of labor in the east was about 30 percent of the level in western Germany.¹¹ It would take years before wages in eastern Germany's structurally weak economy would even begin to approach western German levels, and this meant substantial unemployment, certainly over the short term. In the meantime, the FRG's social welfare system would be burdened with relieving the agony of those eastern German workers out of work—a full quarter of the labor force in 1991.

The FRG's social security system remains one of the most generous in the world. (In 1987 approximately 14 million persons were drawing benefits from it.) Yet, based as it is

on an income strategy tied to lifetime earnings, its redistributive effect is limited. Elderly persons, especially widows on pensions, are the hardest hit, in part because of a discriminatory policy that allows such persons only 60 percent of the pension to which a living husband would have been entitled. Table 4.4 shows that in terms of income pensioners are the least well off. In the mid-1970s approximately 35 percent of pensioners over 65 lived on or below the poverty line and in grossly inadequate housing.¹² Although Germany may not have as large an underclass of destitute persons as some other western nations, the pockets of poverty that do exist are a continuing challenge to the nation's social conscience.

Women and Minorities

The West German constitution guarantees equal rights to men and women. In reality, women have not shared equally in the opportunities offered by the social economy. Germany's legacy of male supremacy has been extremely difficult to overcome (even in the reputedly more egalitarian eastern *Länder*), especially in the domain of family affairs, where tradition and law have for generations confined women to hearth, children, and the guardianship of their husbands. Although the tradition persists, the legal structure of gender discrimination has been gradually torn down by numerous decisions of the Federal Constitutional Court, by the 1958 Law on the Equality of Men and Women (*Gleichberechtigungsgesetz*), and by a new family code enacted in 1977. The latter provides for no-fault divorce, spousal support arrangements keyed to economic status rather than gender, and an equal division of property.

Opportunities for women outside the home can be measured by comparing their participation rates in the work force, their earnings, and the kinds of jobs they perform to those of men. In 1989 women in the FRG constituted 38.9 percent of the work force, whereas in the GDR it was about 50 percent.

(Ninety percent of east German adult women were employed in 1989.) In the GDR system of state-mandated liberation, however, women were expected to lead a dual life of homemaker and working person; as in the west, they still did most of the household work. As some of the figures in Table 4.5 might suggest, social policy in the GDR was designed to make a dual career possible. Child care facilities, for example, were everywhere and free of charge, just as maternity leave with pay (up to 50 to 90 percent of wages) was available for up to 26 weeks.¹³ These generous benefits are not available in the FRG and, as a result, many eastern German women accustomed to working may now be forced to withdraw from the labor market. The impact on single mothers is likely to be particularly devastating. On the other hand, precisely because the right and duty to work was state-decreed, "many [east German women] appear to link self-realization to a life in which homemaking is a preferred

TABLE 4.5 FEMALE OCCUPATIONAL REPRESENTATION

Selected Occupations	FRG		GDR
	1981	1989	1989
Engineers	2.3	4.7	—
Architects	3.4	8.5	—
Scientists	5.7	12.7	—
Lawyers	8.2	—	39.7
Judges	13.6	17.6	50.0
Public prosecutors	11.8	17.6	28.3
University professors	—	5.2	—
Public school teachers	48.8	48.3	78.7
Civil servants	17.6	21.1	—
Physicians	30.8	27.8	53.4
Social welfare workers	79.1	80.0	91.6
Health care workers	86.3	85.4	83.0
Top managers	17.0	16.7	—
Office workers	70.8	68.0	—
Sales clerks	61.4	62.0	—

Source: *Statistisches Jahrbuch für die BRD 1981*; *Statistisches Jahrbuch für das Vereinigte Deutschland*; and *Statistisches Jahrbuch der deutschen Demokratischen Republik 1990* (Berlin: Rudolf Haufe Verlag, 1990).

option, and employment limited or not necessary at all."¹⁴

Average female earnings in the FRG in the mid-1980s were about 75 percent of average male earnings, owing both to wage-rate discrimination and to the lack of promotional opportunities associated with less stable and less skilled jobs.¹⁵ And, as Table 4.5 makes clear, men and women tend to have different occupations. Women are concentrated in clerical and service jobs, although highly skilled jobs in the service area were dominated by men. Even in the GDR women were heavily concentrated in occupations related to social work, health services, and child care. Segregation in the FRG job market is in large part attributable to employee recruitment mechanisms that, although not always overtly discriminatory, tend to channel women into traditional female roles.

In 1980 the West German Parliament sought to remedy these inequalities by imposing affirmative-action duties upon employers. The Equal Rights Act, passed by an overwhelming legislative majority, requires equal pay for equal work; bars gender discrimination in hiring, promotion, and dismissal; eliminates job descriptions based on sex; shifts the burden of proving nondiscrimination to the employer; and requires the latter to display prominently copies of equal rights legislation in the workplace. Additionally, there have been recent commitments in the FRG to greater and wider vocational training for women.

While grievances based on sex have been the object of the law's special solicitude, those based on ethnicity have been allowed to fester. Large-scale immigration in the postwar era has transformed the FRG's racially homogeneous society into a nation of ethnic minorities. Most of the older immigrants—that is, the postwar expellees (mainly ethnic Germans)—have been almost wholly integrated into the dominant culture. The newer immigrants consist mainly of foreign workers recruited by industry on a massive scale during the 1960s. These workers and their

families—mainly Turks, Yugoslavs, Greeks, and Italians—number 5,037,072 or 6.4 percent of reunited Germany's total population. (They make up 7.7 percent of the population in the western *Länder*.) Despite governmental incentives that encouraged nearly a million of these *guestworkers* (*Gastarbeiter*), as they are called, to return to their homelands during the mid-1970s recession, higher wages and the promise of a better life prompted most of them to remain in the FRG.

For these guestworkers and their families, the FRG has been anything but a "melting pot." Their experience is not unlike that of black or Hispanic Americans in the United States. Occupying low-status jobs that Germans do not want, they live in culturally isolated urban ghettos marked by substandard housing.¹⁶ In recent years, hundreds of thousands of persons seeking asylum in the FRG have been added to this mix, triggering not only acts of violence and terrorism against these "foreign elements" but also an explosive national debate over what to do about the increasing numbers of persons seeking freedom and opportunity in Germany. By 1992, after extreme right-wing parties entered two state parliaments on their anti-foreigner platforms, pressure was building to limit the right of asylum and to adopt a U.S.-style system of quotas on immigration to Germany.

CULTURE: SOCIAL AND CIVIC

Education and Media

Reunited Germany boasts high levels of literacy, cultural and educational diversity, and opportunities for personal development and leisure. As in Berlin, parks, sport clubs, museums, public libraries, theaters, choral societies, opera houses, and multimillion member bookclubs abound in the country at large. There is a high consumption rate of media output; book and magazine readership is one of the highest worldwide.

The wealth of cultural opportunities in the western *Länder* builds on their efficient and diverse educational system. A common four-year primary system splits at the secondary level into three tracks: the five-year continuation of primary school (*Hauptschule*), the six-year intermediate school (*Realschule*), and the nine-year senior grammar school (*Gymnasium*); the former two emphasize preparation for later vocational and technical skills respectively; the latter, university preparation. Originally based in the classics, the *Gymnasium* offers a tough modern curriculum of arts, languages, mathematics, and science, leading to the famous school-leaving certificate, the *Abitur*. This tripartite system of secondary education has been sharply criticized in recent years as tending to reinforce social inequalities in the pupils' class and social backgrounds (see Section C).

The GDR had long dispensed with the tripartite system, replacing it with a unitary system of ten-year polytechnical schools. These were highly centralized and heavily oriented toward Marxist-Leninist indoctrination and preparation for work in a state socialist economy. In 1988, their nearly 800,000 pupils participated in work-experience schemes in over 5000 industrial, construction, and agricultural firms. Leisure time was similarly regimented. From 1955 on, a youth confirmation ceremony (*Jugendweihe*) was mandated for the eighth grade: a "political-ideological formation" in pseudo-religious form, with the emphasis placed on allegiance to the GDR, friendship with the Soviet Union, and diligence in socialism and scholarship. Failure to acquiesce in this or to join the socialist youth movement (Free German Youth) meant encountering severe discrimination, often including denial of university admission.

With the accession of the eastern *Länder* into the FRG, communist ideological control has ended in the schools and universities (as have the jobs of the ideologues in law, the humanities, and social sciences) and the *Länder* themselves, as in the west, have taken charge.

Religious instruction is being reintroduced, western language education expanded, and the humanities and social sciences reconstituted on their own basis. Independent schools are reopening and the *Abitur* restored to its pride of place. Yet the eastern *Länder* wish to retain a more egalitarian organization and orientation than that of the western *Länder*; they are looking toward more social-democratic models.

Overall, in the academic year 1990-91 reunified Germany counted 97 universities, 7 general academies, 17 teachers colleges, 16 theological schools, 43 academies of art, 98 technical colleges, and 24 other professional schools. The western university system alone had seen a fourfold increase in students between 1960 and 1980 and, prompted by student protests at overcrowding, had embarked upon a large building program. Between 1950 and 1980, the percentage of western university students from blue-collar homes grew from 4 to 25 percent. By 1990-91, eastern Germans represented 116,297 of the 1.1 million university students nationwide, easily the largest and most diversified group in the postwar period. These were impressive gains; yet Germany still has one of the lower rates of youth matriculating into the university.

Religion and the Churches

The relatively equal numbers of Catholics and Protestants in the old FRG has been tilted in favor of the Evangelical Lutheran Church with the accession of the five new *Länder*. Thus, on the eve of reunification, the old FRG counted official religious affiliation among its permanent residents (German and foreign) as roughly 26 million Roman Catholics, 25.75 million Protestants (both Evangelical Lutheran and "Free Church"), 32,000 Jews, 1.5 million Muslims, 1 million members of other religions, and 4 million with no religious affiliation. Figures from the ex-GDR are more difficult to present, both because of the reluctance of the communist regime to admit any significant religious

aspiration in a would-be atheist state and the concomitant reluctance of its citizens to make a declaration of official affiliation that would automatically reduce them to second-class status at work and in school and bar them from the upper reaches of all professions. Nonetheless, it is clear that what religious activity there was between 1945 and 1989 remained overwhelmingly Protestant. Catholic figures, which remained free of direct government intervention, showed the six bishoprics within the five eastern *Länder* as ministering to only 5 percent of the local population, approximately 800,000 out of 16,000,000 people.

The denominational strife that once buffeted Germany has virtually disappeared as new forms of political and social cooperation evolved out of the common struggle of the major churches against the Nazi regime. Even in the purely religious sphere the major denominations have been trying to reconcile their differences. An ecumenical high point was the November 1980 meeting of Pope John Paul II with German Protestant leaders in Osnabrück, the site of the signing of the Peace of Westphalia in 1648, which confirmed the sectarian division of the Germans lands.

It is difficult to assess the role of religion in contemporary Germany. Figures in the old FRG showed a long-term decline in official affiliation. Thus, between 1950 and 1989, the proportion of Catholics decreased slightly from 44.3 to 42.9 percent, while that of Protestants dropped from 51.5 to 42.2 percent. An Allensbach Opinion Research Institute poll conducted in the west on the eve of reunification suggested that this secularization affected not only practice but basic belief.

However, the rates of basic religious identification do remain high, both in paying the church tax and in choosing a marital partner from one's own confession. The 1989 figures for marrying within one's faith in the old FRG showed 68.7 percent for Catholics, 63 percent for Protestants, and 32.5 percent for Jews. The social impact of the churches likewise remains high. They operate and maintain hos-

pitals, facilities for the handicapped, nursing homes, schools, and large charitable organizations such as the Protestant Diaconal Works and the Catholic Caritas Association, as well as immense overseas programs—all made possible by the church tax.

Organized as corporate bodies under public law—a constitutional status carried over from the Weimar period—the organized churches are entitled to state financial support. All wage earners are subject to a church tax equal to about 10 percent of their net tax. An employee must formally resign from church membership—236,763 (147,753 Protestants and 93,010 Catholics) did so in 1985—or be subject to the tax. Collected by state revenue officers, these taxes amount to several billion dollars a year and are distributed to the major denominations in amounts proportionate to their total membership, to be divided between ecclesiastical salaries, construction and maintenance costs, and social functions on the one hand and social work at home and abroad on the other.

This *modus vivendi* between church and state is not without its critics, both secular and religious, each side feeling that the influence of the other (whether the State on the Church or religion on the public life of the nation) is excessive. Nonetheless, the biennial Catholic and Protestant national "Church Day" conferences remain well attended and the influence of each denomination within its own worldwide communion remains strong.

At the end of the Weimar Republic, there were an estimated 590,000 Jews in Germany, of which 160,000 lived in Berlin. This latter community had grown from less than 1000 in 1700 and could boast some of the showpieces of the capital's architecture (e.g., the New Synagogue on Oranienburger Strasse). By 1945, no more than 40,000 had survived the Nazi exterminations, with perhaps 6000 of these hidden in Berlin. This remnant was then subjected to the same divisions of the capital and country as other Germans, plus a special persecution in the east of all things the com-

munist government deemed "Zionist." Only in 1988 did Honecker, in an attempt to curry favor with Washington, begin to relent. Israeli policy was no longer equated with Nazi policy and east Berlin was permitted its first rabbi in over two decades. Today, personal indemnification and property restoration proceed apace in the ex-GDR; the Jewish community in the east is reunited with the one in the west, and the two great synagogues are completing renovations.¹⁷

Political Attitudes and Participation

West Germans were characterized in the first 20 years of the FRG as voting in high numbers but with little feeling. Opinion polls showed that the older age groups retained some sympathy for monarchy or dictatorship and that most voters were prouder of their economic system than of its political corollary. By the 1980s, this had changed. The FRG was a proven success and an increasing percentage of the electorate had grown up in it and come to identify with its procedures and institutions. On the other hand, national pride remained well below the average for European Community member states. Reunification in 1990 thus posed two issues: Would the East Germans follow the pattern of quick adaption to democratic practices and slow internalization of democratic feelings? In the meantime, if unforeseen economic difficulties arose, would West German civic culture now prove to be well enough rooted to weather the storm?

One measure of political democracy is the level of participation in elections. The turn-out rate for federal elections in the FRG began at 78.5 percent in 1949, exceeded 90 percent by the 1970s, and fell to a record low of 77.8 percent in the first all-German election of 2 December 1990. This is a respectable rate for an industrial democracy—and consistently higher than for U.S. presidential elections. As Section B shows, the results of these elections have given the FRG a highly competitive and relatively stable multi-party system, another sign of political maturity.

The measure of the health of a civic culture, however, extends beyond formal electoral and institutional arrangements. Since the late 1960s, the FRG has witnessed massive demonstrations against the war in Vietnam, degradation of the environment, low figures for university entrance and accommodation, stationing of missiles on German soil, and so forth. These *Bürgerinitiativen* (citizens' initiatives) have also championed forms of direct democracy (e.g., referenda). Some commentators have asked whether this species of "politics of protest" bespeaks a widening gap between formal democratic institutions and actual grass-roots democratic sentiments. Some would respond that these protests represent a vital outlet for minority sentiments that is politically acceptable; others, that they represent an internalization and therefore a triumph of democratic values; and still others would note that both the CDU and the SPD have successfully remodeled their local party electoral activities on these same *Bürgerinitiativen*.

The participatory character of the FRG's civic culture seems reasonably related to changes that have taken place in family, school, and society under the impact of advanced industrialization and its accompanying patterns of social stratification. The entrance of housewives into the labor market, the separation of family and workplace, increased social mobility and income, and the enormous expansion of communications have loosened up old authoritarian structures such as the male-dominated family and the traditional school curriculum. As agents of political socialization, family and school appear increasingly to promote values more consistent than in the past with the regime's formal values of human dignity, mutual respect and cooperation, and the pragmatic adjustment of social conflict. Generational change has also been an important source of political socialization. By the 1980 election the postwar generation constituted 48.8 percent of the population and 25.5 percent of adult voters. Levels of political interest and participation have been found to increase

significantly with the length of residence and accumulated experience under the democracy of the FRG. Whether reunification will hasten or deepen this process remains to be seen.

Portions of the university population and radical left still reject the "bourgeois state" and all its works; but their election appeal peaked in the mid-1980s and then fell below 5 percent in December 1990. Although a minuscule left-terrorist element still operates occasionally (e.g., assassinating the head of *Treuhandanstalt* in 1991), the more disruptive elements of the public peace and the democratic consensus has shifted to the radical right, especially in its racist attacks on non-Germans. But they are likely to fare no better in garnering general public support than the far left.

Politics and Literature: A Footnote

When unified in 1871, Germany had a humanist tradition characterized by the genius of Goethe and Schiller; renaissance men of letters and civic leadership. Yet the predominant cultural expression of the Wilhelmine and Weimar years was one of flight from political affairs into an "inner freedom" or strictly private culture. Figures already in authority were left to conduct public affairs, to define the aims and bounds of state power, and to suggest, albeit broadly, the proper form and content of culture.

The works of Hermann Hesse (1877–1962), such as the novel *Siddhartha* (1922; still a U.S. collegiate favorite), continued the age-old inquiry into the Germanic conflict between Nature and Spirit but did so in the relatively new form of stressing the need for personal, rather than communal or authoritarian, responsibility in selecting values. Thomas Mann (1875–1955) cast this need against the backdrop of the violent currents sweeping Germanic society: the degeneration of the great nineteenth-century mercantile order in *Buddenbrooks* (1901), the quest for regeneration and personal understanding through flight from society and its conventions in *The Magic*

Mountain (1924), and the descent of artistic creativity itself into the demonic in *Doctor Faustus* (1947). More than anyone else, Mann gave expression to the struggle between the power and the subtle pessimism of *Germanism*.

During the life of the FRG, the works of Günter Grass (e.g., *The Tin Drum*) were especially noteworthy for their inquiry into how German culture had fallen into National Socialism and what should be retrieved and replanted from the ashes it left in 1945. Grass opposed German reunification until the very end, claiming that Germany lacked a sense of responsibility before history and could have served as a beacon for spiritual renewal and the deflation of purely national aspirations.¹⁹ Equally popular with Grass is the work of Heinrich Böll (1917–85), such as, *The Clown* (1963), with its sense of the intrinsic worth and redemptive possibilities in life.

Thus, where humanism temporarily failed, history may have retrieved the situation. In the wake of two world wars, Germans have abandoned the turn to "inner freedom" and its concomitant neglect of public cultural and civic responsibilities. They have taken Hesse's point that responsibility is personal and that it becomes communal in its effect. The Germans continue to question their values and to extend the breadth and depth of their pluralist democracy.

CONCLUSION

This chapter section has traced Germany's development from a feudal society into a modernized postindustrial state and the merger by accession of the eastern sector into the western FRG. The FRG's economy, even before the merger, was among the richest in the world, and its social system, notwithstanding pockets of poverty, measurable and increasing discrimination against ethnic minorities and, most daunting of all, the massive reconstruction and clean up of the east, is marked by extremely high levels of economic security and

welfare benefits. The political system created under the 1949 Basic Law, together with its liberal values, is of course a congenial framework for the development of a social market economy; both its endurance in the west and its acceptance in the east augur well for the future.

Religious divisions are no longer readily apparent in either sector of the reunited country; traditional class and economic divisions also have given way to the rise in the west of an overwhelmingly predominant new middle class of white-collar employees and professionals generated by ever-expanding service industries and technological enterprises; western business managers, industrial trainers, and university professors hope to replicate their success in the east. Although youth and intellectuals reproach the society for sinking into materialism, there is no evidence to suggest that western Germans are willing to forego what the economy has wrought; on the contrary, their challenge will be to redistribute their wealth so as to rescue and then revive the east. Germany has put its political and religious divisions behind it; now it resolves to do the same socially and economically.

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B. Political Processes and Institutions

POLITICAL PARTIES

The FRG is often described as having a two and one-half party system. Social and political circumstances have combined to produce a competitive party system in the FRG that is marked by persisting political loyalties. In the first national election, held in 1949, the three most popular parties—the Christian Democratic Union (CDU) and its Bavarian affiliate, the Christian Social Union (CSU); the Social Democratic party (SPD); and the Free Democratic party (FDP)—captured 72.1 percent of the total votes. By the 1970s these same parties commanded the support of virtually the entire West German electorate. But this result was not wholly fortuitous. To avoid fragmentation of the electorate, the dominant party elites early on enacted a law denying parliamentary representation to parties failing to win 5 percent of the votes cast in a national election or at least three seats in single-member constituencies. In addition, the Basic Law provides for the banning of certain “undemocratic” parties. This handiwork seemed to show that given the right set of circumstances constitutional structure could effectively channel political activity in predetermined directions.

Christian Democrats

History The CDU (*Christlich Demokratische Union*) was founded in 1945 by Catholics who had been members of the Center Party in the Weimar period, together with liberal and conservative Protestants who had been members of other pre-1933 political parties. Apart from a general commitment to reconstruct the political order on Christian social principles, the new party seemed more concerned with presenting a united front against the left than with advancing a coherent political program—a formula hardly calculated to maintain unity over the long haul. At length, however, and to the surprise of many, the CDU evolved into a broadly based “catch-all” party (*Volkspartei*) more pragmatic than Christian and commanding the support of nearly half the German electorate. As early as 1953 the party could legitimately claim to represent nearly every major occupational and class grouping in the country, including a substantial sector of the laboring masses. The CDU-CSU domination of West German politics during the FRG’s first two decades was so complete that the new nation was coming to be known in some quarters as a CDU state (Table 4.6).

The wealth of cultural opportunities in the western *Länder* builds on their efficient and diverse educational system. A common four-year primary system splits at the secondary level into three tracks: the five-year continuation of primary school (*Hauptschule*), the six-year intermediate school (*Realschule*), and the nine-year senior grammar school (*Gymnasium*); the former two emphasize preparation for later vocational and technical skills respectively; the latter, university preparation. Originally based in the classics, the *Gymnasium* offers a tough modern curriculum of arts, languages, mathematics, and science, leading to the famous school-leaving certificate, the *Abitur*. This tripartite system of secondary education has been sharply criticized in recent years as tending to reinforce social inequalities in the pupils' class and social backgrounds (see Section C).

The GDR had long dispensed with the tripartite system, replacing it with a unitary system of ten-year polytechnical schools. These were highly centralized and heavily oriented toward Marxist-Leninist indoctrination and preparation for work in a state socialist economy. In 1988, their nearly 800,000 pupils participated in work-experience schemes in over 5000 industrial, construction, and agricultural firms. Leisure time was similarly regimented. From 1955 on, a youth confirmation ceremony (*Jugendweihe*) was mandated for the eighth grade: a "political-ideological formation" in pseudo-religious form, with the emphasis placed on allegiance to the GDR, friendship with the Soviet Union, and diligence in socialism and scholarship. Failure to acquiesce in this or to join the socialist youth movement (Free German Youth) meant encountering severe discrimination, often including denial of university admission.

With the accession of the eastern *Länder* into the FRG, communist ideological control has ended in the schools and universities (as have the jobs of the ideologues in law, the humanities, and social sciences) and the *Länder* themselves, as in the west, have taken charge.

Religious instruction is being reintroduced, western language education expanded, and the humanities and social sciences reconstituted on their own basis. Independent schools are reopening and the *Abitur* restored to its pride of place. Yet the eastern *Länder* wish to retain a more egalitarian organization and orientation than that of the western *Länder*; they are looking toward more social-democratic models.

Overall, in the academic year 1990-91 reunified Germany counted 97 universities, 7 general academies, 17 teachers colleges, 16 theological schools, 43 academies of art, 98 technical colleges, and 24 other professional schools. The western university system alone had seen a fourfold increase in students between 1960 and 1980 and, prompted by student protests at overcrowding, had embarked upon a large building program. Between 1950 and 1980, the percentage of western university students from blue-collar homes grew from 4 to 25 percent. By 1990-91, eastern Germans represented 116,297 of the 1.1 million university students nationwide, easily the largest and most diversified group in the postwar period. These were impressive gains; yet Germany still has one of the lower rates of youth matriculating into the university.

Religion and the Churches

The relatively equal numbers of Catholics and Protestants in the old FRG has been tilted in favor of the Evangelical Lutheran Church with the accession of the five new *Länder*. Thus, on the eve of reunification, the old FRG counted official religious affiliation among its permanent residents (German and foreign) as roughly 26 million Roman Catholics, 25.75 million Protestants (both Evangelical Lutheran and "Free Church"), 32,000 Jews, 1.5 million Muslims, 1 million members of other religions, and 4 million with no religious affiliation. Figures from the ex-GDR are more difficult to present, both because of the reluctance of the communist regime to admit any significant religious

munist government deemed "Zionist." Only in 1988 did Honecker, in an attempt to curry favor with Washington, begin to relent. Israeli policy was no longer equated with Nazi policy and east Berlin was permitted its first rabbi in over two decades. Today, personal indemnification and property restoration proceed apace in the ex-GDR; the Jewish community in the east is reunited with the one in the west, and the two great synagogues are completing renovations.¹⁷

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Table 4.6 BUNDESTAG SEATS OCCUPIED BY THE CDU-CSU AND SPD, 1949–1990

Year	CDU	CSU	Combined percent	Combined seats	SPD	Seats	Total seats
1949	25.2%	5.8%	31.0%	139	29.2%	131	402
1953	36.4	8.8	45.2	243	28.8	151	487
1957	39.7	10.5	50.2	270	31.8	169	497
1961	35.8	9.6	45.3	242	36.2	190	499
1965	38.0	9.6	47.6	245	39.8	202	496
1969	36.6	9.5	46.1	242	42.7	224	496
1972	35.2	9.7	44.9	225	45.8	230	496
1976	38.0	10.6	48.6	243	42.6	214	496
1980	34.0	10.3	44.5	226	42.9	218	497
1983	38.2	10.5	48.8	244	38.2	193	498
1987	34.5	9.8	44.3	223	37.0	186	497
1990	36.7	7.1	43.8	313	33.5	239	662

Sources: Peter Schindler, *Datenbuch zur Geschichte der Deutschen Bundestages 1949 bis 1982*, 4th edition (Baden-Baden: Nomos Verlag, 1984), pp. 34–48; *Statistisches Jahrbuch 1991 für das Vereinigte Deutschland*, p. 101; Karl Cerny (ed.), *Germany at the Polls* (Durham, N.C.: Duke University Press, 1990), pp. 272–3; and Alf Minzel, *Geschichte der CSU* (Opladen: Westdeutscher Verlag, 1977), p. 349.

Policy CDU policies have ranged from the progressive to the very conservative, reflecting tensions with its partner, the CSU, and the necessity for compromise among its constituent groups. The CDU's early support of codetermination in the iron and steel industries, government-sponsored savings programs, subsidized housing, and public stock sales to workers resulted from Christian social pressures within the party. Its later support of fiscal policies favoring individual entrepreneurship, private property, large profits, and high rates of capital investment reflected the increasing prominence of its business, industrial, and middle-class constituency. The CDU-CSU's continued support of conservative economic policies along with codetermination and moderately redistributive tax policies simply underscores its conscious effort to maintain links with all social classes.

Outside the economic realm, party spokesmen have tended to emphasize traditional moral and social values with a heavy accent on law and order in times of civil stress. The influence of the CSU, which is committed to a strong German federalism, has also

prompted many Christian Democrats to defend local cultures and interests against the centralizing influences of the national government. In foreign policy the CDU-CSU has been an ardent supporter of European political and economic integration, the Atlantic Alliance, a militarily strong Germany, and of course German reunification.

Leadership Konrad Adenauer, the pre-1933 mayor of Cologne, was Germany's most wily politician since Bismarck. Projecting the image of another "iron chancellor," he became a powerful, capable, and widely respected leader, as confident in himself as in the future of the FRG. As chancellor from 1949 to 1963, he not only held together a diversified party constituency but led his nation through its formative years, building a new domestic consensus while mapping strategy, in tandem with the United States, for a strong anti-Soviet foreign policy. Adenauer's popularity and performance were not to be matched by any other CDU leader. Ludwig Erhard, the well-known elder statesman and father of the social market economy, succeeded Adenauer in 1963, but domes-

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tic problems forced him to give way in 1966 to Kurt-Georg Kiesinger, who was driven by circumstances into leading a tenuous coalition between the two major parties at a time of declining Christian Democratic strength.

Throughout the 1970s the CDU-CSU labored in vain to find a leader with national appeal to win back the chancellorship. Franz Josef Strauss, the popular and dynamic leader of Bavaria's conservative CSU, was too controversial a figure to heal the party's internal wounds or to attract the support of marginal voters. The nomination of the CSU's long-time head was partly an expression of the CDU's lack of confidence in the uninspiring leadership of its national chairman, Helmut Kohl. Yet it was the "uninspiring" Kohl, a gruff and hearty south German from Ludwigshafen, who rallied his party to a stunning victory in the

1983 elections, just five months after the Bundestag named him chancellor when Schmidt was ousted in a no-confidence vote.

Since then, Kohl has grown in the office, surprising Germans and foreigners alike with his self-confidence and leadership ability. As the youngest chancellor in the FRG's history and an unpretentious representative of the new, more progressive generation of CDU party leaders, Kohl surprised everyone again in the January 1987 federal election, a victory that set the stage for his response to the extraordinary events of 1989. Despite misgivings in many quarters, he seized upon a virtual blank check from Washington to negotiate the quick and complete reunification of Germany, setting the stage yet again for his election in 1990 as the first freely chosen chancellor of *all* the German people since 1932.



Greens bloom in 1990 federal election campaign.

Membership Throughout the 1950s and 1960s the CDU enrolled between 200,000 and 300,000 members, significantly below its immediate postwar high of 450,000. During this time the overwhelming majority of CDU members were middle-class Catholic males over 45 years of age. Apart from its occupational structure—75 percent of CDU members are self-employed persons, white-collar employees, and civil servants—this profile changed dramatically after the CDU's membership drive in the 1970s. By 1985, the CDU had 719,000 members, about 40 percent of whom were Protestant. In addition, the party could now boast of measurably higher percentages of women and men under 45 years of age: occupationally, 76.11 percent of the CDU's members were self-employed persons (24.75 percent), white-collar workers (27.96 percent), civil servants (12.43 percent), and housewives (10.97 percent). (The CSU's still overwhelmingly Catholic membership stood at 183,000 in 1985.) The CDU was clearly transforming itself into a mass-membership party analogous to the SPD.

Social Democrats

History The SPD (*Sozialdemokratische Partei Deutschlands*) traces its parentage back to the General Workingmen's Association, founded in 1863 by the brilliant young radical Ferdinand Lassalle. The first party to organize the working masses on a large scale, the SPD of imperial Germany won the votes of the emerging industrial proletariat and moved on from that popular base to share power in 7 of the Weimar Republic's 21 governing coalitions. When the party reorganized after World War II, it failed to expand its influence significantly beyond the industrial working class, having received no more than 35 percent of the popular vote in the first three federal elections. But in 1959, with the passage of its famed *Godesberg platform*, the SPD sought to transform itself from a narrow ideological party into a pragmatic people's

party by shedding its Marxist roots, accepting the social market economy, and embracing Adenauer's foreign policy. To attract Catholic workers, the party also cut itself free from its anticlerical past. The strategy worked, for in 1966 Social Democrats gained enough acceptability to become part of a governing coalition for the first time since 1930. The SPD (supported by the Free Democrats) went on to elect the chancellor in four successive national elections, and in 1972 it even surpassed the CDU-CSU in popular votes.

Policy The pre-1959 SPD avowedly embraced socialist economic principles, calling for nationalization of the basic industries and abolition of the privileges of class and property. Attaching greater importance to German reunification than to European union, the party opposed German rearmament, the Iron and Steel Community, and the Western Alliance. The post-1959 SPD, while joining the CDU-CSU in support of Adenauer's foreign policy, also pressed hard, particularly in the late 1960s, for the normalization of relations with East Germany and other Soviet bloc countries. By late 1983, in the midst of the Pershing II missile crisis and a growing neutralist movement inside the party, the SPD lurched abruptly to the left as many of its leaders began openly questioning aspects of western, especially American, defense policy. In 1989–90, the SPD supported German reunification but with far less enthusiasm than the CDU-CSU, in part because of the expected cost of unity. Domestically, the party has been identified with programs calling for full employment, redistributive tax policies, strong antitrust enforcement, expanded welfare services, and the equal participation of capital and labor in the management of industry (codetermination). In the 1970s, when traditional economic issues receded into the background, the SPD was in the forefront of efforts to reform the educational system, to conserve energy, to protect the environment, and to promote women's rights.

Leadership The stages of the SPD's postwar evolution are represented by the characters and personalities of the six persons who occupied the party's major leadership positions between 1945 and 1986: the ascetic and iron-willed Kurt Schumacher; the capable but unimaginative party functionary, Erich •llenhauer; the daring adventurer and moral leader, Willy Brandt; the versatile technocrat-politician, Helmut Schmidt; the middle-class intellectual, Hans-Jochen Vogel; and the moderate and personable politician from North Rhine-Westphalia, Johannes Rau.

Despite significant platform changes and three switches in candidate for the chancellorship (Hans-Jochen Vogel, Johannes Rau, and •skar Lafontaine), the SPD failed between 1982 and 1990 to shake its image as a faction-ridden, impractical party unfit for governing in Bonn. Björn Engholm, Premier of Schleswig-Holstein, was elected chairman of the SPD in June 1991, with a 97.5 percent majority at the party conference, on a promise to bring new leadership and a new image to the national party. He delivered swiftly. By September 1991, the party presidium saw 6 of its 13 seats given to the new generation and a new rule: no votes on controversial issues. At the same time, Engholm began to emphasize the problems in the eastern *Länder* and the need for cost-effective solutions thereto. The party also won three consecutive *Land* elections, demonstrating that the CDU no longer could turn the image of being "the party of German unity" to the reality of electoral support.

Membership Served by over 10,000 precinct functionaries, the highly organized SPD is one of the largest mass-membership parties in Europe, enrolling for most of the postwar period between 600,000 and 900,000 persons. By 1977, party membership had climbed to over 1 million before dropping back down to 921,000 in 1989. Like the CDU, the SPD's membership has changed over the years, particularly in its occupational profile. In 1952

nearly 45 percent of all SPD members were blue-collar workers; by 1981 this figure had dropped to 28 percent as the party attracted increasing numbers of civil servants and relatively well-educated, white-collar employees from the "new middle class." The party had also become less overwhelmingly Protestant. By 1981 about 28 percent of party members were Catholic while one out of four was under the age of 35. But as Gerard Braunthal notes, "[e]ven though these shifts took place in the membership, the party still could not expect automatic support from a similar proportion of young or Catholic voters."¹⁸ In any event, these figures clearly qualify the traditional description of the SPD as a workingman's party. In the 1970s the SPD's membership was still more reflective of the social composition of the population at large than that of the CDU or FDP, but clearly the major parties were consciously building more heterogeneous social and occupational membership profiles.¹⁹

Free Democrats

The FDP (*Freie Demokratische Partei*), founded in 1945 by Theodor Heuss and Reinhold Maier, is the modern counterpart of the older German liberal parties. Standing for free enterprise and individual self-determination in all areas of social life, it is the only minor party to have survived the 5 percent clause in all federal elections. By drawing steady support throughout the postwar years from large numbers of business persons, self-employed professionals, civil servants, and the secular middle class, this party of some 70,000 members has been able to capture from 6 percent to 12 percent of the national vote. In the early 1980s, however, particularly at the *Land* level, the FDP's fortunes declined owing to the rising popularity of the *Greens*, a small combination of nontraditional political groups discussed later.

The FDP has determined the governing coalition in 8 out of 12 national elections. Before 1966, when the party leaned rightward,

it was a coalition partner of the CDU-CSU. Later, after its leftward lurch under new leadership, it allied itself with the SPD, a coalition that lasted from 1969 to 1982, when the party again joined hands with the CDU-CSU. Most have been uneasy coalitions. Describing the FDP's role as one of combatting the "conservative torpor" of the CDU-CSU and the "socialist utopia" of the SPD, party leaders have fought with the CDU-CSU over foreign policy and with the SPD over spending programs and social reforms. The party has also taken independently strong stands, consistent with its secular liberal orientation, on such issues as educational reform, abortion, pornography, and church taxes.

The FDP's impact on German politics has been more than slight. FDP leaders were the first to press for a new Eastern policy, thus setting the stage for subsequent moves in both major parties toward détente and the normalization of relations with East Germany; they succeeded in forcing Adenauer from office in 1963; they precipitated the Grand Coalition by voting against CDU proposals for higher taxes in 1966; they brought down Schmidt's government in 1982; and they played a major role in the march toward German unity in 1989–90. In addition, they have managed to secure appointment or election to important ministerial posts, to several seats on the Federal Constitutional Court, and on two occasions even to the federal presidency.

Splinter Parties

Splinter parties rise and fall with predictable regularity in the FRG. Each national election witnesses the emergence of a dozen-odd parties organized around regional or single issues. Their public support has declined precipitously over the years, dropping from 27.9 percent of the popular vote in 1949 to 5.7 percent in 1961 to less than 1.5 percent between 1972 and 1987. Each of these parties, falling prey to the 5 percent clause, has failed to secure parliamentary seats. Extreme right and

left parties have also fared poorly in the FRG's politico-legal environment. On two occasions such parties have been declared unconstitutional under the terms of Article 21: the neo-Nazi Socialist Reich Party (SRP or *Sozialistische Reichspartei*) in 1952 and the Communist party (KPD or *Kommunistische Partei Deutschlands*) in 1956. (See "Impact of Constitutional Court.")

In the 1960s both Communist and nationalist right-wing parties, benefiting from an economic recession and the absence of effective parliamentary opposition during the period of the Grand Coalition, reappeared under new forms. The focal point of the extreme right has been the National Democratic party (NPD or *Nationaldemokratische Partei Deutschlands*), which won seats in five state parliaments and almost entered the Bundestag in 1969 with 4.3 percent of the national vote. But the CDU-CSU, in the minority after 1969, managed to contain and limit the NPD by appealing to its conservative constituency. By the end of the 1970s, the NPD suffered such heavy and continuous losses, including all of its *Land* parliamentary seats, that it withdrew from most state, county, and municipal election contests. The new German Communist Party (slightly renamed as the *Deutsche Kommunistische Partei* or DKP) is headed for a similar fate. Despite its 40,000 members, it is only a shadow of the former party, receiving 0.3 percent or less of the popular vote in national elections in the late 1980s.

The Greens In the 1970s ecological, antinuclear, and peace groups began springing up everywhere in the FRG. In 1980, after notable electoral success at state and local levels, these groups formed themselves into a loose alliance known as the National Green Party. (Interestingly, it was cofounded by the daughter of an American army colonel serving in Germany and a German mother.) A countercultural movement disillusioned with the established parties and politics as usual, the Greens (*die Grünen*, as they are popularly

known, or *die Grün-Alternative Liste* [GAL], the electoral title that emphasizes their position as a radical alternative) sharpened into the cutting edge of political activism in the 1980s. Their leaders, many of them drawn from the student protest movement and citizen initiatives of the late 1960s and 1970s, envision nothing less than the total transformation of West German politics. Some groups within the party have declared "war" on the "bourgeois-democratic state," while others hope to revitalize parliamentary institutions by more grass-roots democracy (*Basisdemokratie*).

The Greens may be characterized as a radical left-libertarian party fully committed to nonviolent methods of protest and change. In foreign policy, they insist on the FRG's disengagement from all military alliances, unilateral disarmament, nonalignment in Europe, and a development strategy sensitive to the ecological needs of poor nations. On the domestic front their policies are oriented toward conserving energy and protecting the environment. They support the abandonment of nuclear power plants, stiff penalties for polluters, and severe restrictions on industrial growth and the use of chemicals in agricultural production. Finally, they favor the democratization of industry and the educational system as well as the decentralization of the political order, including the adoption of the referendum at the national level.²⁰

Standing on this platform, the Greens enjoyed considerable success. They won 5.6 percent of the national vote in 1983, the first minor party apart from the FDP to enter the federal parliament since 1957. Their percentage of the national vote increased to 8.3 in 1987, but thereafter, owing to escalating tensions within the Green party itself—especially between the so-called realists (*Realos*) who wish to cooperate with the established parties in pursuit of their aims, and the fundamentalists (*Fundis*), who insist on following a strategy of outright resistance to established values and institutions—the Greens began to lose their appeal.

One indication that the Greens in particular and the Radical Left in general had lost some of their "alternative" allure was furnished by the December 1990 all-German election. The Greens in the east campaigned on the record of their valiant role in helping to trigger the collapse of the Honecker regime; but the Greens in the west, in addition to their incessant infighting, were the victims of a changing national political agenda. Their alliance with the Greens in the eastern *Länder*, who in turn were allied with other left-wing groups organized as the *Alliance 90* (Bündis-90), failed to clear together the nationwide 5 percent threshold requirement for entering parliament. Almost one-half of the West German Green votes of 1987, that is, just over 1.4 million votes, were lost. The eastern Greens, however, did enter the Bundestag with eight representatives on their own: the Bündis-90 benefited from a one-time-only relaxation of the threshold rule for parties formed exclusively in the five *Länder* of the former GDR.

The continued squabbling among western Greens, combined with the rising socioeconomic costs of reunification—an issue that usually overrides the quality-of-life appeals favored by the radical left in the perception of the general electorate and especially the working class—suggest that electoral support for the Greens in the old *Länder* has reached a period of downturn. The situation scarcely looks better for the Greens in the new *Länder*. By 1994 or whenever the next general election is held, the eastern section of the party may find that memories of their leadership in the autumn of 1989 are not strong enough to compensate for the loss of the 5 percent rule's relaxation. As socioeconomic concerns accumulate in their five *Länder*, they may well find their appeal, like that of the ex-communist party, rejected as anachronistic or utopian or both.²¹

The PDS The PDS is the successor to East Germany's Socialist Unity Party (SED). In the

months preceding reunification, the disintegration of the old SED accelerated with the impending demolition of the GDR. With the loss of some 800,000 members amidst revelations of corruption in the party's leading echelons, the SED decided to dissolve and reconstitute itself as the Party of Democratic Socialism. Gregor Gysi, who had recently replaced Egon Krenz as party chairman, led the PDS into the March 1990 election on a platform calling for a reformed socialism with a human face. It took 16.3 percent of the vote in the only free election in the history of the GDR. Despite efforts to improve its image—efforts bound to fail after 40 years of oppression—the PDS suffered a second crushing defeat in the December 1990 federal election. The PDS dropped to 9.9 percent in the eastern vote and drew only 0.3 percent of the western vote for an all-German total percentage of 2.4 percent. But for the one-time eastern elimination of the 5 percent nationwide threshold, the party would not have won a single seat in the Bundestag. For the once-totalitarian party of Ulbricht and Honecker and its pretensions to represent the way to “Germany, One Fatherland,” this was more than a staggering pair of defeats—this was a consignment to the “dustbin of history” that it had so fervently envisioned for democracy.

The Republicans Not to be lightly dismissed, however, is the distinct rise during the eleventh Bundestag of the far-right Republicans (*Republikaner*). The new Republican party, identified most conspicuously with its campaign to rid Germany of its large foreign population, has been a gathering force in the wake of increasing unemployment and structural changes in the economy. In 1989, after exploiting ethnic tensions in Berlin, the Republicans shocked the established parties by surpassing the 5 percent hurdle in that city's parliamentary elections. The shock deepened when shortly thereafter the party polled 7.1 percent of the total vote in the European parliamentary election held in June 1989, putting

them behind the Greens with 8.4 percent, but substantially ahead of the FDP with 5.6 percent.

With these “victories” in hand, the new party, led by its charismatic leader, Franz Schönhuber, stepped up its activities at the national level in anticipation of the 1990 federal election. Just as the Greens gained at the expense of the SPD among middle-class voters, the Republicans were gaining at the expense of the CDU-CSU among lower-class voters threatened by economic stagnation, unemployment, or competition from foreign workers. The party's local successes in 1989, however, were not followed up nationally in 1990. It received 2.1 percent of the overall national vote and only 2.3 percent in the west. Its eastern vote was 1.3 percent. It appeared as if reunification had taken the wind out of the party's nationalistic sails.

The Republicans turned the tide again, however, in early 1992. Exploiting the deepening economic and political problems caused by the influx of hundreds of thousands of foreigners asking for asylum, the party gained 10.9 percent of the total vote in Baden-Württemberg's state elections, compared with 9.5 percent for the Greens and 5.9 percent for the FDP. On the same day in Schleswig-Holstein, another right-wing party more extreme than the Republicans entered the state parliament with 6.3 percent of the vote, substantially ahead of the FDP with 5.6 percent and the Greens with 4.9 percent. Now the world started to take notice, as many foreign newspapers saw somber omens in these figures. More sober voices traced these “victories” to protest voters who were sending a message to the CDU and the SPD over the state of the economy as well as the government's seeming inability to resolve the asylum problem. Yet the number of neofascist and racist attacks in *Länder* both east and west in 1991 and the fascist-revisionist claims about the Third Reich being put forward in public suggest attitudes and actions long deemed to have been abjured not only do linger on but can tap into

socioeconomic discontent, particularly among the unemployed and undereducated youth.

Party Organization

The major parties are formally organized at the federal, *Land*, and precinct levels. The CDU bears the imprint of the FRG's federalized structure, with organizational power residing in the party's 13 *Land* associations. Like the American Republican and Democratic Parties, the CDU is a loosely structured party held together by a coalition of interests with a common goal of winning elections. The SPD, on the other hand, is a mass-organized party under a centralized leadership served by a large and disciplined core of full-time professionals in charge of 22 district parties (*Bezirksparteien*). The relative power and autonomy of the party district associations have permitted the development of strong regional leaders whose views the national leadership cannot ignore with impunity.

The highest formal authority in each party is the national party convention held every two years—although the FDP meets annually—consisting of delegates elected mainly by *Land*, district, and county associations. The convention sets the general outlines of policy, votes on organizational matters, and elects a national executive committee consisting of the party chairperson, several deputy chairpersons, secretary-general, treasurer, and several other elected members. At the national level, the SPD's organizational chart also includes a large party council, consisting of *Land* and local party leaders, and a nine-member presidium to supervise the work of the party executive committee.

The Basic Law (Article 21) recognizes a privileged role for the democratic parties in the inculcation and articulation of democratic values. This role has been reaffirmed by the Political Parties Act of 1967. Apart from provisions on the disclosure of finances, the Act largely codifies existing party practices and procedures. To safeguard internal party

democracy the act provides, inter alia, for (1) the right of all members to vote for party convention delegates; (2) the right of such delegates to vote on party guidelines and programs; (3) a secret ballot for the election of party officers, who must be elected every two years; (4) a reasonable balance of ex officio and elected members on the party executive committee; and (5) a written arbitration procedure for the resolution of intraparty disputes.

Party Finance

The parties derive their funds from several sources, including public subsidies, private donations, receipts from party events and publications, and contributions from party members and members of parliament. As Table 4.7 shows, the parties draw their funds from their strongest constituencies: the SPD relies mainly on membership dues, whereas the CSU and the FDP rely heavily upon donations from corporations and other private groups. The CDU depended heavily on private contributions during the Adenauer years, but as a result of its membership drive in the 1970s, when it first experienced financial difficulties, it is beginning to catch up with the SPD in number of dues-paying members.

The state began to reimburse the parties for their election campaign costs in 1959. At that time the three major parties (CDU-CSU, SPD, and FDP) received DM 4 million

Table 4.7 PARTY FINANCES, 1980–1984
(IN DM MILLION)

Party	Total income	Public subsidies	Donations	Membership
SPD	343	137	37	129
CDU	321	140	71	85
CSU	91	35	36	16
FDP	83	44	23	11
Greens	60	20	11	11
PDS	—	28	1	30

Source: *Das Parlament*, March 20, 1992, p. 11.

(\$2 million). Over the years these figures have swelled from DM 20 million (\$10 million) in 1965 to DM 186 million (\$116 million) in 1987 to DM 404 million (\$255 million) in the federal election of 1990. Originally, federal law granted state funds only to those parties receiving at least 2.5 percent of the national vote. In 1968, however, the Federal Constitutional Court ruled that any party receiving as little as 0.5 percent of the vote is constitutionally entitled to state support at the rate, per voter, established by federal law.²² In the 1987 federal election the parties received DM 5 (\$3.13) for each second ballot vote cast on their behalf. This meant that over a four-year period following the election the SPD would receive reimbursement checks totaling DM 70 million (\$43 million); the CDU, DM 65 million (\$41 million), the CSU DM 18.5 million (\$11.6 million); the FDP, DM 17 million (\$10.7), and the Greens, DM 15.6 million (\$9.7 million).²³ East German voters accounted for the huge increase in state reimbursements in 1990 (DM 404 million).

The original purpose behind state funding was to help the parties compete on a more equal basis and to liberate them from the excessive influence of interest groups. Yet in the late 1970s, as the cost of political campaigns sky-rocketed, numerous illegal campaign finance practices dominated the news. Over 100 business firms, including the giant Flick conglomerate, were accused of tax fraud for funneling contributions to the political parties through dummy charitable organizations. The scandal affected each of the established parties, with the FDP absorbing the most damage because its leaders—particularly Hans Friederichs and Otto Lambsdorff—controlled the Finance Ministry at the height of the affair. The Greens, untouched by the scandal, exploited it to their advantage (although the affair only flared up in May 1983, two months after the federal elections in which the Greens had squeezed into Parliament with 5.6 percent of the vote) as the other parties, in December 1983, enacted a legislative reform package

designed to put a stop to practices that “go around” the law (*Umwegfinanzierung*).²⁴

INTEREST ASSOCIATIONS

German constitutional theory regards political parties as the chief agencies of political representation, providing the vital link between state and society that makes effective majority rule possible. In reality, public policy results from the complex interplay of political parties and private interests seeking special favors from the government. Hundreds of national associations, ranging from recreational and fraternal to economic and professional groups, maintain offices and highly skilled professional staffs in the capital on a year-round basis. Bonn is the site of most lobbying activity because of the central importance of federal executive agencies in making public policy.

Contact between interest group representatives and public officials in the FRG is much more direct and formal than in some other advanced democracies, which is partly a vestige of the German corporatist tradition. (Corporate representation is still the norm in the upper house of Bavaria's bicameral legislature.) Major social and economic interests are represented on ministerial advisory councils, agency consultative committees, regional planning councils, public broadcasting stations, and the parliamentary study groups of the political parties. Additionally, federal ministerial officials meet on a regular basis behind closed doors with the top representatives of industry, banking, agriculture, and labor for the purpose of coordinating national economic policy. (The quasi-official compulsory membership trade and professional associations empowered to regulate occupational standards and practices are still other examples of direct interest group influence on public policy.) In contrast to German thought, corporatism is not a valued method of representation in the United States.

The link between organized interests and the political parties is equally firm. Far more

than in the United States, these interests are actually represented by their functionaries in the national as well as the parliamentary parties (*Fraktionen*). Representatives of business, religious, agricultural, and refugee organizations have been conspicuous among CDU-CSU members of parliament, whereas trade union officials are to be found in SPD leadership positions at all levels of party organization. Members of parliament associated with trade unions, business associations, and other organized interests actually dominate the membership of parliamentary committees such as labor, social policy, and food, agriculture, and forestry.²⁵

This complex web of public and private interlocking directorates prompted Peter Katzenstein to characterize the FRG as a "semi-sovereign state."²⁶ The FRG is semisovereign because the State shares its sovereignty with private centers of power and influence. In Katzenstein's view, popular elections do not empower the victors to change policy in accordance with an electoral mandate. Public policy is the product of formalized cooperation between a decentralized government and highly centralized private interest associations. Policy develops largely by consensus and thus "incrementalism rather than large-scale policy change typifies West German politics,"²⁷ a reality that helps to explain the stability of the FRG's political system, as well as the frustration felt by citizens who feel the system is insulated and biased against change.

Citizen Initiatives (*Bürgerinitiativen*)

The sudden appearance of numerous urban and rural protest groups in the 1970s was one sign of the citizens' frustration with the political process. Tens of thousands of German citizens have staged protest rallies involving *quality-of-life* issues such as nuclear power plant construction, urban renewal, air and water pollution, land-use regulations, new highway construction, and the cost of inner-city transportation. Their grass-roots activism—

protest marches, letter-writing campaigns, petition gathering, sit-ins, home-drafted newsletters, and other forms of spontaneous action—expresses the disenchantment of many citizens with the unresponsiveness of political parties, private corporations, and official bureaucracies. Their efforts have been most effective at the local level, resulting in the rollback of some public transportation prices, delays in the building of some nuclear power plants, and the postponement of official decisions to cut new highways through certain residential and open areas. Both the CDU and the SPD have responded to these successes and to the disenchantment that fueled them by making *Bürgerinitiativen* models for their local party interelection activities.

Major Interest Aggregations

Business The three largest business associations in the FRG are the German Federation of Industry (BDI), the Federation of German Employers (BDA), and the German Chamber of Trade and Commerce (DIHT). By the late 1980s, approximately 90 percent of employers belonged to this kind of association, a far higher percentage than that of employees in trade unions. The German Federation of Industry, which is dominated by a few large firms, embraces 23 major industrial associations. Its financial resources, expertise, high-powered staff, and close links to the federal ministries make it one of the most effective lobbies in Bonn. The Federation of German Employers, whose economic experts engage in collective-bargaining negotiations on behalf of nearly 90 percent of all private firms in the FRG, consists of 44 trade associations and 13 *Länder* organizations representing some 740 regional associations. The DIHT, speaking for 81 chambers of commerce, is concerned with the legal and promotional interests of organized business. Collectively these groups have been heavy contributors to the CDU-CSU, though the BDI's leaders have also donated funds to the FDP, a strategy calculated to

secure a measure of access to Bonn's ruling circles under SPD-FDP coalition governments.

Labor West German workers are organized into four major unions: the German Salaried Employees Union (DAG), the German Federation of Civil Servants (DBB), the Christian Trade Union Federation of Germany (CGB), and the German Trade Union Federation (DGB). The four unions represent 46 percent of the FRG's potentially organized labor force. These are not strictly blue-collar organizations. The DGB, by far the largest of these, consists of 17 affiliated unions with a total membership of 7.5 million persons, only 70 percent of whom are blue-collar workers. Higher civil servants (794,000), middle-level white-collar employees (473,000), and many Catholic workers (245,000) are represented in the DBB, DAG, and CGB, respectively.

The unions serve their members with an extensive infrastructure of educational, social, and political activity, besides keeping them and the general public informed through a massive communication network that in 1973 included some 50 periodicals with a monthly circulation of 13 million.²⁸ The unions are also heavily represented in parliament. In the eighth Bundestag (1976–1980), no fewer than 327 (or 63.1 percent) of the delegates were members of one or another of the aforementioned unions. Nonetheless, membership levels have fluctuated. For instance, between 1982 and 1990 the CGB grew from 297,000 members to 309,000 members, while between 1980 and 1990 the DBB dropped from 821,000 to 799,000.

The entry of eastern Germany's work force into the west's unions has not been smooth. As eastern workers demand wage settlements on a par with western levels, western employers become more disinclined to invest in the less productive and all too often antiquated eastern plants. Likewise, where western unions exercise "a sense of proportion in the national interest" by taking mere modest raises, such as the 6 percent settlement accepted by the

civil service union leaders in the spring of 1991, the grass-roots membership complains that it is being made to pay for the problems in the east. Calls for western union members to make direct contributions to their eastern fellow members have been particularly poorly received. Hence, the goal of achieving equality in eastern and western living standards is not susceptible to quick or easy attainment in employee terms.

Churches The Basic Law recognizes the corporate rights of religious communities, just as *Länder* concordats and church covenants guarantee the autonomy of the major religious denominations. The Evangelical (or Protestant) Church in Germany (EKD) is an alliance of 17 Lutheran, Reformed, and United Land churches. Their 29 million include some 5 million in the east. (Most Lutheran churches are, in turn, organized in the United Evangelical Lutheran Church of Germany [UELKD].) Its top legislative organ, the Synod, addresses various social, cultural, and educational issues. The Roman Catholic Church was consolidated upon reunification into approximately two dozen dioceses and archdioceses. Its 28 million members include 800,000 in the east. Its top policy making organ, the German Bishops Conference, functions independently of the Central Committee of German Catholics, an influential lay organization.

The political influence of the churches is less today than it was in the earlier years of the FRG. Clergymen once openly exhorted their members to vote for the CDU-CSU, but their ability to deliver votes and influence elections is severely limited today, as the German Catholic Bishops Conference rapidly discovered in 1980 after its issuance, just two weeks prior to the October election, of a pastoral letter implicitly critical of the SPD. Likewise, Lutheran pastors, although leaders in the revolution of 1989 and in the democratically elected GDR government in 1990, minister to a one-third minority of the population in the eastern *Länder* and a slightly smaller

percentage in the western *Länder*. In both the Catholic and Protestant communions, the percentage of regular communicants continues to decline gradually, which suggests that their power of persuasion in the state may also subtly decline.

ELECTORAL POLITICS

The Electoral System

The German electoral system combines single-member districts with proportional representation. Each voter receives two ballots: The first is cast for a specific candidate running in a district, the second for a party list. The second ballot, on which the various party lists appear, includes the names of those candidates nominated by the parties, and it is also possible for a district candidate to be on the list. The number of parliamentary seats allocated to a party is determined by second ballot votes, that is, by its total share of the nationwide vote. Under this system, which the *Länder* also use, the seats allocated to a party would consist of all the district seats it has won together with other seats until the total number of seats equals the percentage of its nationwide, second-ballot vote.

The functioning of the system can be illustrated by the election results of 1983. In winning 48.8 percent of second-ballot votes, the CDU-CSU also captured 180 districts; the figures for the SPD were 38.2 percent and 68 districts; and for the FDP and the Greens they were 7.0 percent and 5.6 percent, respectively, and no districts. These results meant that Christian Democrats were entitled to 244 Bundestag seats. Thus, under the formula, the CDU-CSU was awarded 64 list seats which, when added to its district seats, totaled 244 or 48.8 percent of all second-ballot votes. The SPD, having won 68 district seats, was awarded an additional 125 list seats, totaling 193, whereas the FDP received 34 and the Greens 27 list seats, representing their respective shares of the national (second-ballot) vote.

It is possible, however, for a party to win more district seats than it would normally be entitled to by its second-ballot vote. When this happens, such "overhang" seats are retained, thus increasing the total number of parliamentary seats by that much.

The voting system can also be skewed by the 5 percent clause, which often results in "wasted" votes. In 1990, for example, the western Greens won 4.7 percent of the votes in the old FRG, just missing the 5 percent requirement. Under "pure" proportional representation, the Greens would have been entitled to 23 seats in the Bundestag but, having failed to win 5 percent of the vote, they received none. But Germans generally regard their "modified" form of proportional representation as far more equitable than the straight district-plurality system followed in Britain and the United States.

The 5 percent clause was not regarded as equitable, however, with respect to the first all-German election in December 1990. The Federal Constitutional Court ruled that political parties in the eastern *Länder* would be severely handicapped if the rule were to apply nationwide, as it normally does. For this particular election, therefore, as Table 4.8 indicates, the 5 percent rule applied separately to Germany's eastern and western regions. If seats in the Bundestag had been allocated on a nationwide basis, as is usually the case, neither the Greens (east or west) nor the Party of Democratic Socialism (the old SED) would have achieved parliamentary representation. The two-constituency tabulation presented in Table 4.8 is a one-time exception to the 5 percent nationwide rule.

Split-Ticket Voting

The German system gives voters the opportunity to split their tickets, a method by which coalition partners can help each other. In 1972, for example, the SPD openly encouraged its voters to cast their second ballot in favor of the FDP, while 60 percent of second-ballot

Table 4.8 FEDERAL ELECTION RESULTS, 1990^a

Party	Nationwide	Old FRG	Ex-GDR	Seats won
CDU	36.7%	35.0%	43.4%	262
SPD	33.5	35.9	23.6	239
FDP	11.0	10.6	13.4	79
CSU	7.1	9.1	—	51
Greens (West)	3.9	4.7	—	—
PDS	2.4	0.3	9.9	17
DSU	0.2	—	1.0	—
Greens (East)	1.2	—	5.9	8
Republicans	2.1	2.3	1.3	—

^aThe percentages do not include the election results in Berlin. The DSU (German Social Union) ran as the "sister" party of Bavaria's CSU. The Greens (east) were allied with Alliance '90.

Sources: *Statistisches Jahrbuch 1991 für das Vereinigte Deutschland*, p. 101 and *The Week in Germany* (New York: The German Information Center, December 7, 1990).

FDP voters supported CDU and SPD candidates with their first ballot. Split-ticket voting was also prevalent in the 1987 election when many SPD voters, troubled by their party's military and ecological policies, cast their second ballot for the Greens, whereas many CDU voters cast their second ballot for the FDP. The FDP in turn appeared to convince voters that the best way to keep the CDU-CSU "honest" and on the right course was to ensure its presence in the new government. As Table 4.9 indicates, large numbers of German voters appear to be leery of one-party government. No fewer than 40.1 percent of CDU-CSU voters and 41.7 percent of SPD voters thought that it would "not be good" for their respective parties to win an absolute majority of seats in the Bundestag. The corresponding percentages for the 1983 election were 27.1 and 29.5. These figures point to an increasing tendency on the part of German voters to split their ballots. The German preference for governing coalitions contrasts sharply with the attitudes of British voters who tend to associate responsible parliamentary government with unified party leadership backed by electoral majorities. This split-ticket voting is one indicator of the Americanization of FRG elec-

toral behavior; another is the phenomenon of the "floating voter" who does not owe a deep and consistent attachment to any one party. (At the same time, the campaigns themselves have been highly Americanized.)

Candidate Selection

Political parties monopolize the candidate selection process. Candidates seeking district seats are nominated either directly by party members or by conventions of party delegates. (There is no system of primary elections as in the United States.) In the CDU and SPD party executive committees elected in biannual congresses at the *Land* level select candidates for the Bundestag. Naturally the party will seek to nominate the candidate with the broadest popular appeal. But invariably he or she is a well-known party loyalist with years of faithful service to the organization. "Independent" candidates who circumvent the party organization are rarely if ever nominated. Party control over *Land* list candidates is even tighter. These lists are determined by secret ballot in party conferences, but in truth delegates vote mainly to ratify lists already put together by district and *Land* party executive committees in coop-

Table 4.9 VOTERS PREFERRING ABSOLUTE MAJORITY FOR SPD OR CDU-CSU IN 1987 ELECTION

Absolute majority	CDU-CSU	SPD	FDP	Greens	Total
Good for SPD	0.0%	57.7%	1.0%	14.3%	22.2%
Good for CDU-CSU	59.8	0.0	8.5	0.0	26.5
Not good	40.1	41.7	90.5	85.7	50.3

Source: *Bundestagswahl 1987; Eine Analyse der Wahl zum 11. Deutschen Bundestag am 25. Januar 1987* (Mannheim: Forschungsgruppe Wahlen E.V., 1987), p. 48.

eration with national party officials. These lists are usually headed by leading party officials to ensure their election to the Bundestag.

Campaign Styles and Techniques

West German elections have evolved into major media events and highly professionalized undertakings similar to American presidential campaigns. While both the CDU and the SPD continue to speak in terms of the traditional FRG mass party, the *Volkspartei* (People's Party), both have been highly Americanized and centralized in their campaigns, especially in the use of new communication technologies and new marketing approaches. (The German courts, however, put an end to U.S.-style direct phone canvassing as an illegal infringement of individual privacy.) Campaign advertisements fill newspapers and popular magazines, while election posters and richly colored life-style photographs of leading candidates dot the landscape. Lapel buttons, paper flags, T-shirts, imitation money, letter openers, and bumper stickers by the tens of thousands convey their partisan messages. In the 1970s, the art of selling candidates and creating political images reached new heights of sophistication and brilliance as public relations firms assumed a central role in mapping campaign strategy.

Each party seeks to establish a "brand image" with catching colors and slogans. For example, the SPD, in emphasizing the statesmanlike quality of its leader, sought to capitalize on Schmidt's popularity by turning the

1980 election into a referendum on his chancellorship. The CDU-CSU, emphasizing stability and prosperity, just as clearly sought to influence conservative and middle-of-the-road voters, an appeal reinforced in the 1976 campaign by the insinuating watchwords "freedom or socialism" aimed at the SPD—a slogan that prompted the latter to retort with its equally insinuating "vote for freedom." The FDP, on the other hand, has cultivated itself as a "creative minority" by emphasizing its independence and portraying its leaders as persons of reason and common sense and concerned about the problems of small businesspeople and the "besieged" middle class. The Greens, finally, have seen in their color a powerful symbol of their political goals respecting the environment.²⁹

GERMAN POLITICS IN TRANSITION

Federal Elections, 1949–1990: An Overview

The year 1969 marked the turning point of West German politics in the postwar era. Prior to that year, the CDU-CSU had won five successive national elections, most of them by wide margins over the SPD. Yet the clearest observable trend seen in Table 4.10 is the clockwork regularity of SPD gains between 1953 and 1972. The SPD's chance to enter a governing coalition occurred in 1966 when Erhard, the CDU chancellor, resigned against a backdrop of discord within his own party and

Table 4.10 FEDERAL ELECTION RESULTS, 1949–1990 (AS PERCENTAGE OF VOTE CAST)

Year	Turnout	CDU-CSU	SPD	FDP	KPD ^a	NPD ^b	Others ^c
1949	78.5	31.0	29.2	11.9	5.7	1.8	20.3
1953	86.0	45.2	28.8	9.5	2.3	1.1	13.1
1957	87.8	50.2	31.8	7.7	—	1.0	10.3
1961	87.7	45.3	36.2	12.8	—	0.8	5.7
1965	86.8	47.6	39.3	9.5	—	2.0	3.6
1969	86.7	46.1	42.7	5.8	0.6	4.3	—
1972	91.1	44.9	45.8	8.4	0.3	0.6	—
1976	90.7	48.6	42.6	7.9	0.1	0.3	0.5
1980	88.7	44.5	42.9	10.6	0.2	0.2	1.5
1983	89.1	48.8	38.2	7.0	0.2	0.2	5.6
1987	84.4	44.3	37.0	9.1	—	0.6	8.3
1990	77.8	43.8	33.5	11.0	—	—	9.8

^aThe Communist party was banned in 1956. It reappeared in 1969 under the name of Campaign for Democratic Progress (ADP) and competed later under its new label, the DKP.

^bFigures include votes for extreme right-wing parties before the organization of the National Democratic party (NPD).

^cThe figures for 1983 and 1987 represent the total vote of the Greens.

a widening rift between the CDU-CSU and its regular coalition partner, the FDP. There followed the three-year period (1966–1969) of the so-called Grand Coalition under the CDU's Kurt-Georg Kiesinger (chancellor) and the SPD's Willy Brandt (vice-chancellor). In 1969, when Social Democrats reached a new high of 42.7 percent of the popular vote, the FDP, with 5.8 percent of the vote, decided to join with Brandt in producing Bonn's first SPD-led government.

The new coalition ruled with a slim voting edge of 12 votes, which by 1972 had virtually disappeared in the wake of defections from Brandt's Eastern policy (*Ostpolitik*). Christian Democrats, smelling an opportunity to get back into office, moved for a vote of no confidence, the first time that the parliamentary opposition had tried to topple a ruling government between federal elections. On 27 April 1972, the coalition survived the CDU-CSU challenge by the razor-thin margin of two votes, but on the very next day the Bundestag rejected Brandt's budget, plunging the gov-

ernment into still another crisis. The failure of the budget to win parliamentary approval came at a time of economic downturn and bitter wrangling in the cabinet over fiscal policy. Yet Brandt's personal popularity was at an all-time high, prompting him late in 1972, when the economic news was much brighter, to call for new elections in the hope of increasing his margin of parliamentary support. Accordingly, the chancellor invoked Article 68 and lost his vote of confidence, as planned, whereupon the Federal President dissolved the Bundestag and scheduled new elections for 19 November.

The 1972 federal election campaign—a bitterly fought contest—resulted in a solid victory for Brandt, marking the first time Social Democrats had exceeded the CDU-CSU in popular votes. Shortly thereafter, however, the party's fortunes declined again as the SPD suffered severe losses in several state and local elections, only to be followed by Brandt's resignation in May 1974, setting the stage, after Helmut Schmidt's takeover, for the 1976 election.³⁰

In 1976 the CDU-CSU not only recovered its 1972 losses, but narrowly missed securing the majority that would have toppled the SPD-FDP coalition—a popular victory without power, as many editorial writers characterized the election. The CDU's revival was widely attributed to the expansion of its grassroots membership campaign in the early 1970s under its able general secretary, Kurt Biedenkopf, and to a highly effective national advertising campaign. Yet many spectators saw the election as an issueless campaign, decided mainly by the styles and personalities of the leading candidates.³¹

The 1980 election was in large measure a replay of 1976, except that the Christian Democrats had made the fatal mistake of nominating Franz Josef Strauss as their candidate for chancellor—a nomination that seemed designed less for victory than to keep the sister parties from falling apart after the election. The polls clearly predicted and the CDU anticipated that the “incalculable” and “uncontrolled” Strauss, as one CDU politician was quoted as saying, would be defeated. Meanwhile Schmidt exuded confidence, acting like the winner he would be on 5 October 1980, when West Germans returned the SPD and a much stronger FDP to power in Bonn.

As noted earlier, the fortunes of the new government declined rapidly. The popular chancellor's days were numbered in the face of increasing opposition from the FDP over his economic policy and from his own party over his strong pro-American nuclear missile policy. With FDP support the CDU-CSU chose Helmut Kohl as chancellor on 1 October 1982, whereupon the latter pledged to call new elections in March 1983. The year 1983 turned out to be a banner one for Christian Democrats. Far ahead of the SPD in the polls, they obtained their highest percentage of the national vote since 1957 but fell just short of a majority. The FDP had lost the support of many of its voters, who expected the party to make good on its 1980 election pledge to continue its coalition with the SPD. Old party regulars

were relieved, however, when the FDP crossed the 5 percent mark of the electoral vote, permitting the new CDU-CSU-FDP coalition to function with a substantially enlarged majority. The 1987 election was very much a replay of 1983 and it underscored the dilemma of the SPD. Johannes Rau, the moderate chancellor candidate, promised the electorate that he would not consider a coalition with the Greens. But as the SPD organization itself moved steadily leftward to draw votes away from the Greens, many other voters, particularly the swing vote in German politics, supported the existing coalition led by Chancellor Kohl.

With the FRG's economy booming in the summer of 1989, the SPD under Oskar Lafontaine planned a campaign focusing on “a policy of ecological and social renewal of industrialized society” for 1990. Intervening events in the GDR—specifically the massive demonstrations and exodus of eastern Germans, which brought on, in succession, the collapse of the communist regime and the socialist economy and finally the palpable desire of the people to effect reunion as soon as possible—afforded Chancellor Kohl the opportunity, with the very capable support of his FDP Foreign Minister, Hans-Dietrich Genscher, to obtain Allied support for negotiations with East Berlin and Moscow that would reunite the two German states on 3 October 1990 and thereby make Kohl the first chancellor of all Germany since the war. Kohl's extraordinary determination and enthusiasm overcame all obstacles and all cautionary notes, including those of the President of the Bundesbank as to the costs of reunification. Kohl's project was, of course, welcomed by tumultuous crowds wherever he went in the east. Meanwhile, the SPD was reduced to reacting to his initiatives and to warning, Cassandra-like, of their possible unpleasant side effects. Its support was popularly perceived in the east as too little, too late; Kohl had the diplomatic power and the deutsche mark to offer; Lafontaine, rather qualified consent.

The results were clear well in advance in as much as the election turned on either giving credit where credit was due for reunification or expressing confidence in the current politico-economic stewardship. Either way, the overall east-west vote for the CDU/CSU reached 43.8 percent, only a 0.5 percent drop from 1987, while the overall vote for the SPD fell 3.5 percent to 33.5 percent; the Greens (and their Alliance), together with the reformed communists (PDS), won a combined total of 25 Bundestag seats only by virtue of the one-time relaxation of the 5 percent threshold. Although only the FDP improved its previous performance, the mandate for Kohl was clear.

A CHANGING ELECTORATE

The short-term effects of issues and personalities are important in explaining the outcome of particular elections. But a closer analysis of the voting returns reveals long-term shifts in the basis of party support and attachment. Voting patterns in the 1950s could be explained largely in terms of class and religion. By the 1970s these variables, although still important indicators of voting, were no longer sure predictors of how Germans would vote. The SPD, having shed its Marxist roots in 1959, had been making slow but steady gains in three traditional strongholds of the opposition—namely Catholic industrial workers, the nominally religious members of the middle class, and the secular, status-conscious bourgeoisie. By 1972 the SPD's advance into urban Catholic, white-collar Protestant, and mixed (Catholic and Protestant) constituencies appeared to have halted entirely, to the advantage of the FDP rather than the CDU, whereas Christian Democrats, as the 1976 election showed, were beginning to broaden their appeal in urban white-collar districts previously weak in CDU affiliation. Yet, while continuing to gain among the FRG's trade union population, SPD support was also increasing among nonunion employees and manual workers in rural districts, although the CDU

remained predominant in the agricultural sector. On the whole, Catholicism and ruralism correlated positively with high CDU-CSU voting, whereas the SPD's success over the long term seemed to lie less with its working-class membership than with the broadening of its base in the middle class.³²

Recent studies of German electoral behavior concluded that the most dramatic shift in postwar voting patterns has taken place as a consequence of the changing character of the German middle class. Whereas traditional middle-class voters—property owners and farmers—have seen their numbers dwindle, the new middle class of civil servants and white-collar employees connected with the FRG's mushrooming service trades has more than doubled since 1950. Highly urbanized, younger, and less attached to traditional values, these voters seem more responsive to newer issues centering on foreign policy, environmental matters, educational reform, and alternative life-styles than to older economic concerns, although these older concerns do remain important, especially at a time of high unemployment. The SPD's gains among these new voters—a constituency that is disproportionately Protestant and nonchurchgoing—is evident from the data in Table 4.11. The real battleground for voters is on this turf.

During the 1970s, the SPD appeared to do the better job of bridging the gap between the old politics and the new. The elections of 1983 and 1987, however, show that the CDU was more successful in appealing to

Table 4.11 SOCIAL CLASS AND PARTY SUPPORT, 1987 (IN PERCENT)

Social class	CDU-CSU	SPD	FDP	Greens
Working	39	53	2	6
New Middle	45	41	6	8
Old Middle	54	27	7	12

Source: Russell J. Dalton, *Citizen Politics in Western Democracies* (Chatham, N.J.: Chatham House Publishers, 1988), p. 155.

middle-class voters. Yet many of these voters—especially those in districts with high concentrations of students, salaried workers, and civil servants—cast their votes in favor of the Greens, seriously cutting into traditional FDP strongholds. First voters and younger voters (ages 18–44) cast their ballots disproportionately for the Greens. Religious preference, according to one study, was found “to have no special correlation with a Green vote.” As for the working class, its shift to the right in recent elections could presage deeper CDU penetration into the SPD’s traditional constituency.

POLICY-MAKING INSTITUTIONS

In this subsection we turn our attention to the FRG’s major policy-making institutions, its federal system, and its scheme of separated and divided powers. Upon their accession to the FRG, the eastern *Länder* brought their governmental systems into conformity with the Basic Law. Thus, unless otherwise indicated, the institutions, structures, and policy making processes discussed here are applicable to all of Germany.

Germany’s main legislative institutions are the popularly elected *Bundestag* (house of representatives) and the *Bundesrat*, the indirectly nonelected upper house, whose delegates represent the *Länder* governments. The leading executive institutions are the chancellor and cabinet, collectively known as the federal government. The president, once a powerful head of state directly elected by the people, has been reduced in the FRG to a figurehead akin to the British monarch. One of the unique features of Germany’s federal system is that the states are entrusted under the Constitution with the administration of national law. This system, often dubbed *administrative federalism*, is a carryover from the past. Finally, empowered to enforce the provisions of the Basic Law, the judiciary, at the top of which is the Federal Constitutional Court, serves as a check on the activities of the other branches of government.

The Federal President

The Federal President is the FRG’s highest ranking public official, but he functions mainly as a ceremonial head of state, a vestigial reminder of the once-thriving presidency under the emperor. Symbolically, he remains important as a spokesman for the nation. Although the presidency is perceived as a non-partisan office, its occupant is elected for a five-year term—under Article 54 of the Basic Law he may be reelected only once—by a federal convention composed of party representatives from national and state parliaments. The president is chosen as a result of bargaining between the coalition parties forming the majority in the convention. Yet the office has been filled by respected public officials widely recognized for their fair-mindedness and ability to communicate across party lines. Up to now, the office has served as a capstone to a successful career in politics.

On 23 May 1984, Richard von Weizsäcker, a Christian Democrat, became the FRG’s sixth president. He was preceded by Theodor Heuss (FDP; 1949–1959), Heinrich Lübke (CDU; 1959–1969), Gustav Heinemann (SPD; 1969–1974), Walter Scheel (FDP; 1974–1979), and Karl Carstens (CDU; 1979–1984). Until 1974, an incumbent president otherwise competent and prudent in the exercise of his authority could expect, if he wished, to be reelected to a second term. The 1979 election, however, was largely an exercise in partisan politics. Scheel withdrew as the SPD-FDP candidate when the CDU-CSU entered the federal convention resolved, with a slim majority of 26 votes, to elect its own candidate, Karl Carstens. The 1984 election, on the other hand, was unusual for its lack of partisan maneuvering. Supported by both the governing center-right coalition and the opposition SDP, the federal convention chose as president Richard von Weizsäcker, the once popular Christian Democratic mayor of West Berlin—traditionally a Social Democratic stronghold—and scion of a patrician line of statesmen, theologians, and scientists,

highly respected for his elegance and intellectual prowess.

The president's powers include the appointment and dismissal of various public officials, including cabinet officials and military officers, and the pardoning of criminal offenders. His most common official duty, apart from receiving and visiting foreign heads of state, is to promulgate, with his signature, all federal laws. Whether he can reject a statute on substantive constitutional grounds is disputed, although presidents have done so on at least five occasions.³³ A president's refusal to sign a properly enacted bill could conceivably bring about a constitutional crisis resulting in demands for the president's resignation or his impeachment.

Whereas the president's political powers are limited, his position is potentially one of significant moral leadership. President Weizsäcker, noted for his integrity and credibility, has often used his office in this way. Recently, he opposed amending the Basic Law to curtail the right of asylum in Germany and, in a stinging rebuke to young "skinheads" attacking foreigners, he went out of his way to visit several hostels for foreign refugees and to reassure their residents of the government's concern for their protection and welfare. (Several German newspapers carried a photograph of the president with a smiling Indian boy on his lap.) Additionally, and contrary to the stated position of leaders within his own party, he came out in favor of a quota system that would allow non-German immigrants to resettle in Germany. On the other hand, he strongly supported, for "historic reasons," his government's refusal to send troops to fight in the Gulf war against Iraq.

The Federal Government

The Chancellor The Basic Law puts the chancellor in firm control of the federal government. He alone is responsible to parliament, whereas his ministers—that is, the members of his cabinet—whom he may hire and fire,

are responsible only to him. Constitutionally charged under Article 65 (see Feature 4.2) to lay down the guidelines for national policy, he is chosen by a majority of the Bundestag and is usually the leader of the largest party in the governing coalition. Parliament, however, is not empowered to dismiss the chancellor at will, as it was able to do in the Weimar Republic. Under the so-called constructive vote of no confidence, prescribed by Article 67 of the Basic Law, the Bundestag may dismiss a chancellor only when a majority of its members simultaneously elects his successor. The stabilizing effect of this provision has led many persons to label the FRG a "chancellor democracy."

The constructive vote of no confidence has succeeded only once, in 1982, when the Bundestag voted Helmut Schmidt out of office after the FDP's withdrawal from the coalition government. (In 1972, Willy Brandt survived a Christian Democratic challenge to his leadership, the only other occasion on which parliament invoked the procedure under Article 67.) A new alliance between the FDP and the CDU-CSU elected Helmut Kohl as chancellor by a vote of 256 to 235, the first time in the FRG's history that a government had been replaced without an election.

Article 68 allows the chancellor to initiate a vote of confidence, authorizing him, if he loses the vote, to request the president to dissolve parliament and call for new elections. Brandt used this procedure in 1972 and Kohl used it again in 1983. Both chancellors planned to lose in the expectation that new elections would increase their parliamentary majority and thus their hold on governmental power. In both instances the strategy worked, although some constitutional lawyers argued that these were cynical political moves designed to circumvent the intent and spirit of the Basic Law.

In an important constitutional case arising out of President Carsten's dissolution of parliament in 1983, the Federal Constitutional Court ruled that the dissolving power is limited. It cannot be exercised out of mere con-

Feature 4.2 Article 65

The Federal Chancellor shall determine, and be responsible for, the general policy guidelines. Within the limits set by these guidelines, each Federal Minister shall conduct the affairs of his department autonomously and on his own responsibility. The Federal Government shall decide on differences of opinion between Federal Ministers. The Federal Chancellor shall conduct the affairs of the Federal Government in accordance with rules of procedure adopted by it and approved by the Federal President.

Basic Law, Article 65

venience, especially when the chancellor commands a *working* parliamentary majority. In this case, however, where such a majority appeared not to exist, the chancellor, Bundestag, and president, said the court, could each exercise their discretion on whether to invoke the dissolving machinery of Article 68.

The chancellor's role as the centerpiece of West German democracy is manifest from national election campaigns. As the parties have converged in their general policy orientations, national elections have tended to focus on the experience, personality, and leadership capability of chancellor candidates. Many Germans speak of the *chancellor effect* in national elections. The party of the chancellor has the advantage of incumbency and election results are often interpreted as a personal victory for the chancellor as well as a vote of confidence in the existing governing coalition. Only once in the last 40 years has a governing coalition changed as the result of a national election.

The Chancellor's Office The most powerful instrument of executive leadership in the FRG is the chancellor's office. Originally a small secretariat serving the chancellor's personal needs, it has evolved into an agency of major political importance, even overshadowing the cabinet. It contains departments corresponding to the various federal ministries as well as a planning bureau, created in 1969, to engage

in long-range social and economic planning. Its staff of about 500 persons keeps the chancellor informed on domestic and foreign affairs, assists him or her in setting policy guidelines, coordinates policy making among the federal ministries, and monitors the implementation of cabinet decisions.

The chancellor's office is headed by a chief of staff, usually an experienced public official and close personal advisor. The chief of staff is a person of immense power in Bonn, his influence often exceeding that of federal ministers. Other chancellery advisors have obtained national prominence in their policy-making role. Such a person was Egon Bahr, the principal architect of Brandt's *Ostpolitik*. Finally, the chancellor is served by a press secretary, who in turn heads the Federal Press and Information Office (staffed by over 800 persons), which is also under the chancellor's direct control.

The Cabinet While prescribing a chancellor-led government, the Basic Law (Article 65) also envisions a high level of cabinet responsibility. In practice, however, the cabinet has not functioned as a true collegial body. First of all, the chancellor decides how much authority is to be accorded to each minister: Adenauer and Brandt, for example, virtually served as their own foreign ministers, as did Schmidt in certain areas of foreign policy. On the other hand, certain ministers achieve enor-

mous prominence in their own right and occasionally overshadow the chancellor. Hans-Dietrich Genscher, the chief architect of German foreign policy in the 1980s, was often thought to have been the dominant figure in foreign affairs under Chancellor Kohl.

Furthermore, cabinet members are not all equal in rank. For example, the minister of finance—probably the cabinet's most powerful official in the field of domestic policy—has a qualified veto over proposals affecting public finances. His objection to such proposals can be overridden only by the vote of the chancellor, with whom he is ordinarily closely affiliated, and a majority of the cabinet. The ministers of justice and interior also have special powers of review over cabinet proposals impinging upon their jurisdiction.³⁴

In creating the cabinet, a chancellor is constrained by the demands of coalition politics and the interests of groups allied to and rivalries within his party. Often he is required to negotiate at length over the nature and number of ministries to be awarded the minor party in his coalition government. The FDP, the perennial minor party in German coalition governments, has often threatened to withhold its votes for the chancellor (i.e., the head of the major party in the coalition) pending agreement on the cabinet posts to be allocated to its party as well as agreement on a wide variety of policy issues. Coalition talks after the 1990 election resulted in a 75-page coalition policy document.

The formation of Chancellor Kohl's cabinet after the 1990 election reflects the compromises worked out in several days of coalition talks between the CDU-CSU and FDP. The FDP initially bargained for six cabinet positions but ended up with five, one more than in the previous cabinet. It was a foregone conclusion that Hans-Dietrich Genscher, head of the FDP and Vice-Chancellor, would continue as Foreign Minister. Nor is it by chance that the FDP held on to the ministries of Education and Economics and picked up Justice; for these are areas in which Genscher's

party has long-standing and vital interests. Among ministers belonging to the CDU-CSU, we find almost perfect parity in religious identification (7 Catholics and 6 Protestants). The cabinet's geographic distribution, however, is concentrated in the western *Länder*. Three ministers were chosen from the east, all from Mecklenburg-West Pomerania.

Chancellors have a great deal of flexibility in reshaping their cabinets. Kohl, for example, engineered a number of changes in 1991. Jürgen Möllemann was transferred from Education to Economics, while the former Ministry of Health, Welfare, and Family Affairs was split into three separate ministries. The Ministry of East-West German Relations was, for obvious reasons, abolished. Seven new faces appeared in the cabinet, including three appointees, as mentioned, from eastern Germany. Their credentials are typical of cabinet appointees. Nearly all are high-ranking party officials with previous ministerial experience at the federal or state level. Ten incumbent ministers remained at their posts. Only one—Klaus Kinkel—was appointed from outside of parliament. A professional civil servant, the new Minister of Justice, was formerly director of the Federal Intelligence Service. By 1 May 1992, Kohl had made two changes in his cabinet. Rudolf Seiters, chief of staff in the chancellor's office, replaced Wolfgang Schäuble as Interior Minister. (Schäuble assumed the chairmanship of the CDU/CSU parliamentary party in the Bundestag amid speculation that he would eventually succeed Kohl as party leader.) Gerhard Stoltenberg, for decades a familiar face on the national political stage, was forced to resign as Defense Minister over the illegal delivery of tanks to Turkey. Kohl filled the post with Volker Rühe, a close personal confidant and general secretary to the CDU.

Parliamentary State Secretaries The office of parliamentary state secretary—to be distinguished from the permanent state secretaries of the various ministerial bureaucracies—was

introduced in 1967. Parliamentary state secretaries are selected from among the more junior members of the Bundestag to help the ministries run their departments, defend their records in parliament, and maintain contact with the public. A new element in the Schmidt cabinet was the high number of former parliamentary state secretaries who were elevated to cabinet post. The office is now widely recognized as a training ground for cabinet service by all the major parties.

The Bundestag: Legislative Branch

The Bundestag, the parliament of the FRG, is the successor to the old imperial (1871–1918) and republican (1919–1933) Reichstag (see Feature 4.3). In these earlier regimes the legislative branch was politically and in some respects constitutionally subordinate to the executive establishment, just as elected representatives played second fiddle to professional civil servants. In contrast, the Basic Law elevates parliament to first rank among the FRG's governing institutions. Though commentators agree that parliament has fallen short of the founders' vision of a vigorously self-confident body in control of the executive, they are also of the view that the Bundestag has evolved from the rather submissive body of the Adenauer era into an increasingly assertive and vital agency of the national policy-making process. Even in the event of a national emergency, which only it can declare, the Bundestag's authority remains largely intact, thus helping to ensure that ultimate power shall always reside in the hands of civilian leaders and the elected representatives of the people.

Power and Functions While playing a role similar to the U.S. Congress, the Bundestag is structurally a very different institution. First of all, it is "the parliament of a parliamentary system of government" in that "it [also] determine[s] the political composition and tenure in office of the government."³⁵

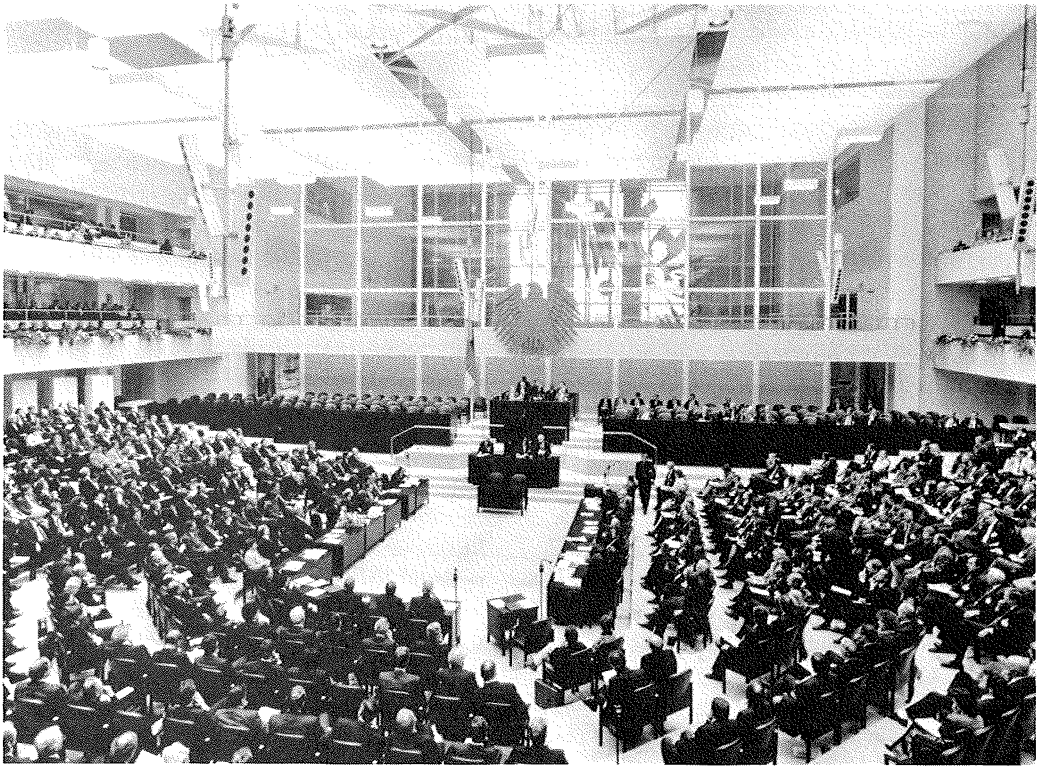
Secondly, and by the same token, the highest officials in the executive branch—that is, the chancellor and his ministers—are among the most important and influential members of the Bundestag. This symbiotic relationship between executive and legislative power is wholly incompatible with the U.S. notion of separation of powers. In the FRG, separation of powers is embodied largely in the role of the opposition within parliament. Its task is to call the government or ruling coalition—and thus the executive—to account in the crucible of parliamentary inquiry and debate.

Parliament checks the executive by its power to review the national budget, to pass on all bills introduced by the government, to hold hearings and investigations, and to confront the chancellor and his ministers in the legislative question hour, a device borrowed from British parliamentary practice. Individual ministers or their deputies may be summoned before the Bundestag at any time to defend their actions or the performance of their departments. The chancellor is often present on those occasions when leaders of the opposition schedule major inquiries (*grosse Anfragen*) on general government policy, of which there were 145 in the Eleventh Bundestag (1987–1990). Individual members of the Bundestag addressed no fewer than 20,251 minor inquiries (*kleine Anfragen*) to the government in the same four-year period, compared with the 2997 questions asked during the first 12 years of the Adenauer era.³⁶

The screening of proposed legislation absorbs most of the Bundestag's time. By far the largest number of bills screened are initiated by the government. Of the 1117 bills received by the Bundestag in the tenth and eleventh legislative periods (1983–90), 54 percent were government bills, 37 percent originated in the Bundestag itself, and 9 percent were sent over by the Bundesrat. In these two legislative periods the government managed to pass 77 percent of the bills it introduced, as compared with a 16 percent and 7 percent success rate, respectively, for the Bundestag and Bundesrat.

Feature 4.3 Bundestag in Berlin

On 4 October 1990, for the first time in 57 years, a democratically elected all-German parliament met in the Reichstag building in Berlin. In the presence of the two men who paved the way to reunification—Helmut Kohl and Willy Brandt—144 members of the former GDR Volkskammer joined 519 members of the Bonn parliament in celebration of German unity. The eastern German delegates were chosen by the Volkskammer as a whole to represent the eastern *Länder* pending the new all-German elections of 2 December 1990. On 20 June 1991, after heated debate, the Bundestag voted, by the slim margin of 17 votes, to move the Bundestag to Berlin. (The United Treaty had already designated Berlin as the capital.) Relocation in Berlin is expected within ten years. The Bundesrat, however, by a vote of 30 to 30, decided to remain in Bonn.



All-German Bundestag meets in old Reichstag.

As these statistics show, the federal government dominates the law-making process.

The principal officers of the Bundestag are the president, ordinarily a member of the strongest parliamentary party, and three vice-presidents. Together they form the Presidium, which is entrusted with the chamber's general administration. The chamber's more powerful executive arm is the Council of Elders, consisting of the president, vice-presidents, 17 to 20 delegates chosen by the various parliamentary parties, and 2 cabinet representatives. The council is charged with scheduling debates, regulating the question period, making committee assignments, and otherwise shaping the Bundestag's agenda. Staffed by the senior and most experienced members of parliament, it usually manages to achieve broad interparty agreement on legislative procedures.

Fraktionen and Committees The most important groups in the Bundestag are the parliamentary parties, or *Fraktionen*. In practice, they control the Bundestag's organization and decision-making machinery. Although constitutionally regarded as "representatives of the whole people, not bound to instructions [from any group,]" deputies who plan on advancing their legislative careers will not lightly oppose the policy decisions of the party hierarchy, for party unity and discipline are strongly embedded in the parliamentary party system. Party discipline, however, is exercised in only a small number of cases. Most bills—over 85 percent—are the product of group negotiation in which representatives of the federal government, the Bundestag, and the Bundesrat participate, and they are passed unanimously.

Each *Fraktion* divides itself topically into working groups or councils, which parallel the Bundestag's committee structure and serve as instruments for crystallizing party policy and developing the expertise of deputies. The *Fraktionen* include large numbers of deputies who represent various organized interests. These interest group representatives, as noted later in this section, dominate several Bun-

destag committees. In any event, the deputy who does his homework in the party group to which he is assigned—showing leadership, skill, forensic ability, and mastery of subject matter—often winds up as an influential member of a corresponding legislative committee and eventually a parliamentary state secretary.

The Bundestag also has a differentiated committee system, including standing, investigating, and special committees. Of these, the 23 standing committees are the most important. Comparable to the committees of the U.S. Congress, they and their numerous subcommittees are the workhorses of parliament. In the Bundestag, however, committee chairs are shared by all the *Fraktionen* in proportion to their strength in the chamber as a whole and are allocated on the basis of expertise instead of seniority. "This expertise," writes Michael L. Mezy, "leads to a sense of cohesion and group identification among committee members that frequently transcend party lines."³⁷ Yet "their decisions are usually accepted by the party caucuses and then on the floor of the Bundestag."³⁸ It remains to be seen whether the 144 additional representatives from the eastern *Länder*, with their radically different political backgrounds, will change German legislative politics.

Members of Parliament Typically, having studied law, political science, or economics, members of parliament often begin their careers in the youth branch of a political party, frequently assisting established politicians. Successfully fulfilling an apprenticeship in the party apparatus or, as is often the case, in a trade, farm, or labor organization closely linked to their party, they are then, in their late thirties, elected to parliament. They remain there for about 16 years, only to resign in their mid-fifties to draw a comfortable pension and to enter the employment of an organized interest group. The careerism and security inherent in this system of political recruitment are not calculated to staff parliament with "movers and shakers" and often insulate

deputies against new and evolving trends in society.

Not all groups are equally represented in parliament. Civil servants, teachers, trade association officials, lawyers, and labor union officials make up about 80 percent of the membership. Nearly two-thirds are university graduates. For most of the 1980s women have represented about 15 percent of the membership, more than double the number elected in the 1970s. In the eleventh Bundestag, as in previous legislative periods, the SPD led overwhelmingly in labor union officials and party functionaries, whereas the CDU-CSU was disproportionately represented by businessmen and merchants. Self-employed persons were almost equally divided between the FDP and CDU-CSU. All three parties claimed, as usual, a fairly equal number of persons in the various professions.

Civil servants are clearly the most important occupational group in the legislature, reflecting the overlapping of administrative and parliamentary careers that has always been possible in Germany. As David P. Conradt remarks, "the strong representation of state officials in parliament is . . . consistent with the expert administrative orientation to politics that characterizes German political culture."³⁹ Such dual careers are actually encouraged by regulations that permit state officials to return to their old jobs in government after their legislative service and to accumulate pension rights from parliament as well as from the civil service.

The Law-making Process Bills may be introduced by any member of the Bundestag or by the Bundesrat. As indicated earlier, however, the overwhelming majority of legislative bills originate with the federal government. A bill sponsored by the latter is first submitted to the Bundesrat, which is required to act on the bill within six weeks. If there are any changes, the Bundesrat must return the bill to the cabinet for its approval or disapproval. (Bills originating in the Bundesrat are

submitted to the Bundestag by the cabinet after the latter has expressed its opinion on the bill.) The bill is then submitted to the Bundestag, where it is given a first reading. From there it is assigned to the proper committee. If it survives this stage, together with a second and third reading, it is transmitted to the Bundesrat. If the Bundesrat amends the bill, it may be sent to a joint conference committee for mediation. Any changes by the committee require the Bundestag's approval, once again, of the entire bill. The Bundesrat, however, has a suspensive veto over ordinary legislation and an absolute veto over legislation involving the *Länder* (for a discussion of these vetoes, see "Bundesrat")—but any such veto can be overridden by the Bundestag. After final approval a bill is countersigned by the chancellor or appropriate federal minister and then signed by the federal president, whereupon it is promulgated as law in the *Federal Law Gazette*.

The chancellor, federal and *Land* ministries, and representatives of organized interest groups are the major actors in the law-making process. They work closely with the *Fraktionen* in hammering out legislative policy, though, as earlier noted, committees play a critical role in filtering legislation for final passage. So successful are the committees in the performance of this role that few bills, once reported out of committee, are the subject of amendment or even debate from the floor. The intense plenary debates of 1979 on energy policy and on the repeal of the statute of limitations on Nazi crimes—debates stretching over several days—are exceptions to the customary practice of securing broad interparty agreement on most bills that become law.

FEDERALISM AND BUREAUCRACY

Like the United States, Germany divides power constitutionally between national and state governments. Federalism is in fact one of the unamendable principles of the Basic Law. The 16 *Länder* consist of 13 territorial states and the three city states of Berlin, Bremen,

and Hamburg. Each *Land*, like the national government, has its own constitution based on principles of republican and democratic government. Each has a parliamentary system. A minister-president—lord mayor in the city-states—responsible to a one-house popularly elected legislature is the head of government in the territorial states. Historically, however, German federalism differs from the U.S. brand. The crucial distinction is that in the United States both federal and state governments exercise a full range of separate legislative and administrative functions, whereas German federalism confers the bulk of legislative powers upon the national government, with the *Länder* being mainly responsible for the administration of both federal and state laws.

The boundaries of the *Länder* were drawn without much reference to their ancestral ties. Only Bavaria, Saxony, and Thuringia survived with their pre-1945 boundaries relatively intact. In 1952, however, the GDR abolished the *Länder* and replaced them with 14 administrative districts under the control of the central government. These *Länder* were reestablished in July 1990 as one of the conditions of reunification. The *Länder* now range in population from 650,000 in Bremen to 17 million in North-Rhine Westphalia. They also differ vastly in territorial size: excluding the small city states, they range from Saarland with 2570 sq. km. to Bavaria with 70,554. The largest and richest states, measured in terms of population and geography, are in the west. The eastern *Länder*, by contrast, are relatively smaller and much poorer.

This imbalance between the eastern and western *Länder* has revived proposals to redraw state lines for the purpose of creating larger and more integrated political and economic units. The Basic Law permits the restructuring of the *Länder* so long as the system as a whole remains federal in design. Under the terms of the Basic Law (Article 29) any federal law proposing a state boundary change must be approved by the

Bundesrat and subsequently ratified by referendum in the affected *Länder*. This procedure was first used in 1952 when the states of Baden, Württemberg, and Württemberg-Hohenzollern were consolidated into the single state of Baden-Württemberg. The next change is likely to be Berlin's incorporation into Brandenburg, a change that the all-German government is obligated to consider under the Unity Treaty.

The *Bundesrat*

The Bundesrat, as the mainstay of German federalism, was designed to safeguard the vital interests of the *Länder*. But it is not a second chamber like the U.S. Senate. First, its powers are not fully equal to those of the Bundestag; second, its 68 votes are cast by officials who serve at the pleasure of the *Länder*. Thus, each *Land* delegation votes as a unit and in accordance with the instructions of its government. How a delegation—or the person appointed to represent the state—votes often depends on the party composition of the *Land* cabinet. Nearly all seats in the Bundesrat are occupied by *Land* minister-presidents or their delegates.

To accommodate the interests of the eastern *Länder*, the Unity Treaty also amended Article 51 of the Basic Law, changing the allocation of seats in the Bundesrat. As before, each state is entitled to at least three votes, but now states with a population of more than 2 million are entitled to four votes, those with more than 6 million receive five votes, and those with more than 7 million receive six votes. (In the past, the largest states had five votes.) This system favors the smaller states. The five largest states, with 64.4 percent of the population, have 28 votes in the Bundesrat; the remaining states, with 35.6 percent of the population, have 40 votes.

The Bundesrat's consent is required for all federal legislation affecting the administrative, financial, and territorial interests of the *Länder*. With respect to other legislation, it has

a suspensive veto, as noted earlier. If the Bundesrat objects to a bill by a majority vote, the Bundestag may override by a majority vote; if the former is by two-thirds, the vote to override must also be two-thirds. Additionally, the Bundesrat is authorized to approve all federal action enforcing national law in the *Länder*; to participate in major legislative decisions taken during a national emergency, and to elect half of the members of the Federal Constitutional Court. This last prerogative is important, for the Bundesrat has a record of electing judges with strong federalist leanings, thus giving to the upper house an indirect influence in constitutional cases involving the interpretation of federal laws and ordinances.⁴⁰

An Emerging Instrument of Opposition

In spite of its considerable powers, the Bundesrat during its first 20 years functioned largely in the shadow of the Bundestag, ratifying the latter's policies and those of Bonn's ruling party or coalition. Its leaders have tended

to view the Bundesrat as a nonpartisan chamber concerned exclusively with the merits of proposed legislation, an image reinforced by the dominant role of bureaucratic officials in its proceedings.

Since 1969, however, the Bundesrat has risen in political importance and popular awareness. Until then the parties dominating the "lower" house also controlled the "upper" chamber. Owing to the distribution of power among the parties within the states, however, the Christian Democrats—the party out of power in Bonn—enjoyed a 21-to-20 voting edge in the Bundesrat between 1969 and 1975, an advantage that swelled to 11 votes by 1979, leading to sharp confrontations with the governing parties in the Bundestag. In 1992, however, as Table 4.12 shows, the tables were turned. The ruling CDU-FDP coalition in the Bundestag confronted a Bundesrat overwhelmingly controlled by SPD-led coalitions.

The Bundesrat, however, has developed interests of its own that transcend party lines,

Table 4.12 THE BUNDESRAT, 1 MAY 1992

State	Votes	Ruling coalition	Population (million)
Baden-Württemberg	6	CDU-SPD	9.6
Bavaria	6	CSU	11.2
Berlin	4	CDU-SPD	3.4
Brandenburg	4	SPD-FDP-GR	2.6
Bremen	3	SPD-FDP-GR	.7
Hamburg	3	SPD-FDP	1.6
Hesse	4	SPD-GR	5.6
Mecklenburg-W. Pomerania	3	CDU-FDP	2.0
Lower-Saxony	6	SPD-GR	7.2
N. Rhine Westphalia	6	SPD	17.1
Rhineland-Palatinate	4	SPD-FDP	3.7
Saarland	3	SPD	1.1
Saxony	4	CDU	4.9
Saxony-Anhalt	4	CDU-FDP	3.0
Schleswig-Holstein	4	SPD	2.6
Thuringia	4	CDU-FDP	2.7

Source: *Handbuch des Bundesrates 1991/92* (Munich: C.H. Beck'sche Verlagsbuchhandlung, 1991).

and in the course of time, the upper house has managed to expand its influence via broadening interpretations of its constitutional power to veto legislation. During the tenth Bundestag (1983–87), 60.9 percent of all bills passed by the Bundestag required the Bundesrat's consent. The Bundesrat retained a suspensive veto right over the remainder or 39.4 percent of all bills passed.⁴¹

The FRG follows the pattern of the 1871 Reich and the Weimar Republic by conferring exclusive legislative and administrative responsibility on the national government in such fields as foreign affairs, interstate commerce, postal services, and transportation. Most other major public policies and guidelines are also established by the national government. But these policies and guidelines, as noted earlier, are carried out by the *Länder* as a matter of their own concern, not to mention the exclusive power of the *Länder* over cultural and most educational matters, police activity, and municipal affairs. As a consequence, the federal bureaucracy is relatively small when compared with the number of persons employed by other levels of government. If the 870,000 federal railroad and post office workers are not counted, a mere 10 percent of all public employees are on the federal payroll, whereas 55 percent are employed by the *Länder* and 35 percent at the local level.

Whether responsibility so divided would meet the needs of a modern industrial welfare state was an issue pondered by many Germans after 1949. By the late 1960s a shift in power toward the central government was clearly underway. The Federation's concurrent powers had been constitutionally expanded to embrace the production and utilization of nuclear energy, the promotion of scientific research, energy conservation, and control of environmental pollution. Bonn had also been accorded a new and leading role in the fields of university education, regional economic improvement, agricultural organization, coastal preservation, and general educational planning, although its initiatives here must, as always, be

coordinated and negotiated with *Länder* and local governments.

Public Administration: Decentralized Federalism

There are five levels of public administration in the FRG, organized mainly on a spatial or territorial basis.⁴² The first, of course, is the national level. But here (except for those few functions administered directly by the national government) the various ministries are mainly engaged in formulating general policy. Under Article 65 of the Basic Law each federal minister is in complete control of his department, though he runs it within the limits of the chancellor's policy guidelines. The command hierarchy of the ministries follows a uniform pattern. The top aides to each federal minister are the parliamentary state secretary (the ministry's chief spokesman in the Bundestag) and the permanent state secretary, who is ordinarily a career civil service officer and the ministry's top administrative official. In recent years, however, the latter have increasingly been chosen on the basis of political criteria from outside the ministry, particularly with respect to those secretaries who as "professional experts" are expected to play a significant role in program or policy development.⁴³ Finally, undersecretaries head the major departments of each ministry, which in turn are divided into sections, offices, or bureaus.

The ministries work out their programs and policies in accordance with the general policy guidelines and political predispositions of their top executives. Most people now recognize the political basis of each minister's authority as well as the legitimacy of long-range planning. Yet the ministries do not shape policy by issuing central directives from on high any more than they shape it from the bottom up on the basis of purely professional considerations. The planning units of the various ministries, which were created in the late 1960s, weave their program recommendations out of clientele demands, the expertise of

bureaucrats, and the political orientation of the top executives. In general, policy planning is more of an interactive process, following what Mayntz and Scharpf call a *dialogue model* of policy making,⁴⁴ involving a good deal of discussion and bargaining within and among bureaucracies.

Land governments are the next level of administration. In addition to administering federal law as a matter of their own concern, they enact laws in certain areas within the framework of national policy guidelines and in areas of their exclusive jurisdiction. *Land* administration of federal law is not closely supervised by the national government, so even here *Länder* have considerable leeway in setting administrative policy. Each *Land* has adopted its own system of unified public administration. Public policies at the *Land* level are carried out by *Land* ministries, various functional *Land* agencies, and several self-governing corporations.

The last three levels of administration are the administrative district, counties and county-free independent cities, and municipalities. The administrative district (*Regierungsbezirk*), found in the six larger *Länder*, "is a general purpose regional *Land* institution of administration."⁴⁵ Most *Land* administration is actually carried out at this and the county level. Analogous to the French *département*, the administrative district is the level at which "the concept of unity of administration is applied most consistently, since the goal is to subsume for coordination under the authority of the district officer as many national and *Land* administrative tasks as possible."⁴⁶ The county, at the lowest level of *Land* administration, carries out functions delegated to it by state governments. Finally, municipalities or associations of local governments, whose independence is also guaranteed by the Basic Law, and which also operate under the principle of unity of administration, are responsible, within the framework of *Land* law, for the provision of local public services.

Cooperative Federalism and Finances

No field of federal-state relations in the FRG is as important as that of public finance. As a result of a series of 1969 amendments to the finance section of the constitution, the federal government received greater flexibility and control over national tax policy, although the looser approach of the new provisions still required, as a matter of practical necessity, a high degree of federal-state cooperation. Table 4.13 shows the major sources of income for each level of government. State officials in revenue offices located in the various *Länder* collect shared revenues representing about two-thirds of the total tax revenue. Under vertical equalization procedures, the *Länder* and the federal government are entitled to equal shares of the revenue from corporation taxes. Local governments receive 15 percent of revenue from the income tax, while the *Länder* and the federation each receive 42.5 percent. Together, shared revenue represents nearly 50 percent of all tax receipts. The general sales (that is, value-added) tax is also shared (on a per capita basis) by these governments in accordance with a formula worked out annually by the federal chancellor and *Land* heads of government and requiring the Bundesrat's approval. In 1988, federal and state governments shared these revenues at a ratio of 65 percent to 35 percent.⁴⁷ Local governments and their respective *Länder* also work out similar revenue-sharing agreements.

Horizontal equalization procedures also require the wealthier states to share their revenues with poorer *Länder*. Here, too, federal law establishes the formulas for the distribution of such funds, although the Basic Law authorizes the federation to make supplementary equalization payments to financially weak states. (In 1986 the Federal Constitutional Court ruled that the federal government was constitutionally obligated to assist the weaker states in meeting their financial obligations.) In 1989, the financially strong *Länder* transferred DM 3.5 billion to the weaker *Länder*, while

Table 4.13 MAIN SOURCES OF TAX REVENUE

Federation	Länder	Local government	Shared taxes
Customs	Property	Real estate	Income
Freight (road)	Inheritance	Business	Corporation
Bills of exchange	Motor vehicle		Capital gain
Income surtax	Beer		Sales
Corporation surtax	Gambling		

the federal government's supplemental allocation to the weaker states amounted to DM 2.7 billion.

The new eastern *Länder* will not participate in these revenue-sharing arrangements. The Unity Treaty exempts these states from the fiscal provisions of the Basic Law for five years, during which time German leaders hope to repair their deficient economies and to restore some balance between east and west. In the meantime, the Federation and *Länder* have agreed to establish an off-budget plan known as the *German Unity Fund*. Under this plan, DM 115 billion will be transferred to the eastern *Länder* in installments over five years, 80 percent of which is to be raised in the capital market and the rest supplied from the federal budget. Because of this added strain on the FRG's financial resources, the system of federal financial sharing is likely to be restructured in the coming years.

THE LEGAL SYSTEM AND THE JUDICIARY

Legal Tradition and the *Rechtsstaat*

The *Rechtsstaat* or *law state* is a key concept in the German legal order.⁴⁸ All just states are of course based on law, but in its original form the German *Rechtsstaat* placed extraordinary emphasis upon legality. Germans viewed the state as a neutral entity entrusted with the resolution of public issues in accordance with objective standards of law, unsullied by the play of selfish interests or the machinations of poli-

tical parties. The sovereign state, the axis of the law state, was the guarantor of freedom and equality, just as rights and obligations arose from membership in the state. Liberty did not precede law; rather, law defined it, and the judiciary, staffed by a professional class of impartial and apolitical civil servants loyal to the state, was to enforce the law as written.

Under the Basic Law, the *Rechtsstaat* remains a vital principle of German constitutionalism, but not in its earlier nineteenth-century sense. The *law state* would henceforth be limited by constitutionally guaranteed individual rights enforced by the judiciary, just as it would be moderated by the humanity implicit in the constitutional notion of *Sozialstaat* (freely translated, a *socially conscious state*). In legal theory the sovereign is no longer supreme. Article 20 reads: "All state authority emanates from the people," and further, "Legislation shall be subject to the constitutional order; the executive and the judiciary shall be bound by law *and justice*" (italics added). Finally, Article 20 contains this remarkable provision: "All Germans shall have the right to resist any person or persons seeking to abolish [the] constitutional order, should no other remedy be possible."

The Court System

Germany has a uniform and integrated judicial system. All lower and intermediate courts of appeal are state courts, whereas all courts of final appeal are federal tribunals. Federal law specifies the structure of state courts,

but their administration and staffing, including the training of judges, is under the control of the *Länder*. The trademarks of the German judiciary are collegiality and specialization. Except for courts of minor jurisdiction, all tribunals are multi-judge courts. Most operate in panels of three. (In 1989, the regular trial courts of general jurisdiction consisted of 1242 civil and 1084 criminal panels.) In addition to the regular courts, which handle ordinary civil and criminal cases, there are separate judicial hierarchies consisting of labor, administrative, social, finance, and constitutional courts. The federal courts, as shown in Table 4.14 cap these hierarchies.

Justice in the western *Länder* is carried out by 17,627 judges (as of 1989), nearly 80 percent of whom serve on the regular courts of ordinary civil and criminal jurisdiction. Some 4237 judges sit on the courts of specialized jurisdiction. The high federal courts, listed in Table 4.14, consist of 467 judges. Other legal professionals associated with the courts are some 3759 public prosecutors. The 51,266–60,460 if notary publics are included—attorneys practicing law in 1989 are also regarded as officers of the courts, although their practice is by law limited to a certain level of the judiciary as well as to certain courts within a given geographical area.

In 1991, the eastern half of the country was still in the process of restructuring its judiciary along FRG lines. The old GDR had rejected the “capitalist” *Rechtsstaat* in favor of a system rooted in “socialist” legality. Socialist law, unlike the *Rechtsstaat*, celebrated the values of security and solidarity implicit in the socialist vision of society. More simply organized and less fastidious about procedure than the FRG judiciary, courts functioned to carry out this vision, not to question it. The political state, not the law state, governed the judiciary. In point of fact, many judges were mere functionaries, while others made a travesty out of any notion of “justice.”

Most GDR judges were members of the SED—they had to be—and their legal educa-

tion was heavily infused with Marxist-Leninist ideology. By 1991, as batteries of western German judges deluged the east to begin the process of restructuring, eastern German judges as well as prosecutors were being dismissed en masse, pending reviews of their credentials and inquiries into their backgrounds. For many of these judges, now required to fill out long questionnaires about their personal and public lives, this was a humiliating and saddening experience, causing enormous resentment among conscientious judges not implicated in the crimes of the old regime. Most of these judges had reconciled themselves to the permanent loss of their jobs, for they were unlikely to survive the tough screening procedures installed by the FRG.⁴⁹

The Judges

The training and professional standing of German judges varies from their peers in the United States or Britain. In the United States, for example, judgeships are usually awarded to lawyers in their middle years following successful private practice or experience in public office. In Germany, by contrast, lateral mobility of this kind is rare among legal professionals. After six years of study, which includes practical training in various administrative and judicial capacities, law graduates must make their choice of a legal career. Those deciding to become judges go through still another three-year probationary period, upon the successful completion of which they receive a judgeship with lifetime tenure and security. Judges can expect to ascend slowly the hierarchy of the judicial establishment if they meet with the approval of the *Land* Justice Ministry—the *Länder* are in charge of the training, recruitment, and supervision of judges—and if they are lucky and know the right persons in Bonn, they may end their careers as judges of one of the high federal courts.

The civil service orientation of the judiciary tends to be reinforced by the narrow social base from which judges, particularly those

Table 4.14 FEDERAL COURTS 1988

Court	Location	Number of judges	Cases docketed
Federal Supreme Court	Karlsruhe	271	4048
Federal Administrative Court	Berlin	52	3287
Federal Social Court	Kassel	40	2259
Federal Labor Court	Kassel	28	658
Federal Finance Court	Munich	60	3394
Federal Constitutional Court	Karlsruhe	16	3702

Source: *Statistisches Jahrbuch 1990 für die Bundesrepublik Deutschland* (Stuttgart: Metzler-Poeschel Verlag, 1990), pp. 339–341.

appointed by the *Länder*, are recruited. Almost half are themselves the sons and daughters of parents who have spent their lives in the civil service. Federal judges tend to be more diversified in social background and occupational experience, largely because of the method by which they are selected. They are chosen by a committee of electors composed of 11 members of the Bundestag together with those *Land* and federal ministries whose authority is in the same area as the federal court to which a judge is to be named. This mechanism allows interest groups, political parties, state and federal agencies, and the public to participate in the selection process, producing a federal bench somewhat less characterized by professional inbreeding and political conservatism than the state judiciary.

THE FEDERAL CONSTITUTIONAL COURT

The Federal Constitutional Court with its sweeping powers of judicial review is only as old as the Basic Law. To the surprise of many observers, this tribunal has developed into an institution of major policy-making importance in the FRG. Judicial review was a relatively new departure in German constitutional history. Postwar German leaders were of the opinion that, in the light of Germany's authoritarian and totalitarian past, traditional parliamentary and judicial institutions were insufficient to safeguard the new liberal demo-

cratic order. So they created a national constitutional tribunal, as well as equivalents at the *Land* level, to supervise the judiciary's interpretation of constitutional norms, to enforce a consistent reading of the constitution on the other branches of government, to resolve conflicts between branches and levels of government, and to protect the basic liberties of German citizens. Thus, the old positivist belief separating the realm of law from the realm of politics was abandoned, together with the idea that justice could automatically be achieved through the mechanical application of general laws duly enacted by the legislature.

Structurally, the Federal Constitutional Court is divided into two chambers, called senates, each of which is composed of eight justices chosen for single 12-year terms. Half of the justices are chosen by the Bundestag's 12-member Judicial Selection Committee and the other half by the Bundesrat. A two-thirds vote is required in both electoral organs. This method of selection, together with the requirement that the Bundestag and Bundesrat alternate in the selection of the court's president and vice-president, usually means that judicial appointments are the subject of intensive bargaining both among the parliamentary parties and, occasionally, between the Bundesrat and Bundestag. No one party has been strong enough to make appointments over the objections of the other parties. Thus, the court's membership has reflected fairly well the balance of forces in parliament as a whole.

Judicial Review in Operation

The Constitutional Court's jurisdiction includes 16 categories of disputes, all of which the Basic Law itself prescribes. (Table 4.15 presents the most important of these categories.) The Basic Law authorizes both judges and legislative groups, as well as state governments, to petition the court directly. Judges may initiate a "concrete" judicial review proceeding by asking the court to rule on a constitutional question arising out of a pending case if in their view the law under which a case has arisen is of doubtful validity under the Basic Law. On the other hand, a state government or one-third of the members of the Bundestag may initiate an "abstract" proceeding by petitioning the court to review the constitutionality of a federal or a state statute. Cases on abstract review tend to draw the judges directly into the arena of political conflict, prompting its harshest critics to deplore what they perceive as the "judicialization" of politics.

Constitutional complaints account for about 95 percent—an average of 3145 per year between 1978 and 1990—of all cases coming to the court and for about 55 percent of its published opinions. These cases relate to fundamental rights and freedoms guaranteed

by the Basic Law. To encourage Germans to view the constitution as the source of their rights and freedoms, the Basic Law (Article 93 [13]) authorizes ordinary citizens to file complaints with the Federal Constitutional Court in the event that their basic rights have been violated by the state. (Prior to 1969, this right was conferred by statute.) Such an action involves neither court costs nor even the participation of legal counsel, an ideal situation in which Hans Everyman can bring his woes to the attention of the country's highest tribunal.

The Constitutional Court's Impact

Public opinion polls continue to show the high regard German citizens have for the Constitutional Court. In this respect, it outranks all other institutions in the nation's public life, including the civil service and the churches.⁵⁰ When the court speaks, Germany's "attentive public" listens; what people hear is often an outspoken tribunal reminding them of their constitutional values, their political morality, and their ethical goals as a nation.

The Federal Constitutional Court's landmark cases include decisions (1) outlawing the neo-Nazi Socialist Reichs Party and the former Communist Party of Germany; (2) upholding a

TABLE 4.15 WORKLOAD OF FEDERAL CONSTITUTIONAL COURT, 1951–1991

Category	Cases docketed	Decided by full senate	Otherwise resolved
Election disputes	89	62	9
Disputes between federal organs	87	45	36
Federal-state disputes	24	13	10
Abstract judicial review	112	62	33
Concrete judicial review	2,619	897	1,563
Constitutional complaints	82,353	3,689	12,639

^aCases decided by the three-judge chambers. A constitutional complaint is decided on the merits by the full senate only if a three-judge chamber (three in each senate) fails unanimously to reject it.

Source: *Statistisches Übersicht des Bundesverfassungsgerichts* (mimeographed) (Karlsruhe: Das Bundesverfassungsgericht, 1992).

Land education statute over the Federal Government's objection that it violated an international treaty; (3) nullifying an attempt on the part of the Federal Government to establish a national television station; (4) invalidating a federal statute providing for the general public financing of political parties; (5) declaring unconstitutional a liberal abortion law on the ground of its interference with the right to life; (6) sustaining the validity of prayer in state schools; and (7) after striking down parts of a federal census statute, creating a new right of "informational self-determination."

Key Terms

Abstract judicial review

Bundesrat

Chancellor democracy

Citizen initiatives

Constructive vote of no confidence

Council of Elders

Federal Law Gazette

Fraktion

Godesberg platform

Grand Coalition

Greens

Iron chancellor

New middle class

Overhang votes

Parliamentary state secretary

PDS

Realos

Rechtsstaat

Republicans

Second ballot

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C. Public Policy

CIVIL LIBERTIES: AN ORDERING OF CONSTITUTIONAL VALUES

The first part of the Basic Law (Articles 1 to 19) is a charter of fundamental rights and an affirmation of human personhood rooted in the natural law thesis that certain liberties of the individual are antecedent to organized society and beyond the reach of governmental power. As interpreted by the Federal Constitutional Court, the Basic Law has established a value-oriented order based on human dignity. Article 1 is no idle declaration. As the Basic Law's "highest legal value," the concept of human dignity has been employed by the Constitutional Court, much as the U.S. Supreme Court has used the due process clauses of the fifth and fourteenth amendments as an independent standard of value by which to measure the legitimacy of state actions as well as the uses of individual liberty.

Apart from the freedoms guaranteed by Articles 1, 2, 3, and 5 (see Feature 4.4), the Basic Law's fundamental rights include the freedoms of religion (Article 4, assembly (Article 8), association (Article 9), privacy (Articles 10 and 13), and movement (Article 11), together with the right to property (Article 14), the right to choose a trade or occupation (Article 12), and the right to refuse military service for

reasons of conscience (Article 12a). (Additionally, criminal defendants are accorded most of the rights and privileges normally associated with the Anglo-American notion of due process of law.) The primacy of these rights in the FRG's constitutional order is underscored by Article 19, paragraph 2, which states that "in no case may the essential content of a basic right be encroached upon."

These rights, however, have been proclaimed with an important German twist—that is, they are to be exercised responsibly and used to foster the growth of human dignity within the framework of the political and moral order ordained by the Basic Law. Article 2 is a paradigm of the German approach to basic rights. While individual liberty and personal autonomy are jealously guarded values of the legal order, they are also constrained by the equally important values of political order and social morality (see Feature 4.5). Thus, the right to develop one's personality is limited by the moral code, just as the right to freedom of speech is limited by the inviolability of personal honor. As the Federal Constitutional Court noted in the Privacy of Communications Case: "The concept of man in the Basic Law is not that of an isolated, sovereign individual; rather, the Basic Law has decided in favor of a relationship between individual and commun-

Feature 4.4 Selected Basic Rights

ARTICLE 1

1. The dignity of man shall be inviolable. To respect and protect it shall be the duty of all state authority.
2. The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.

ARTICLE 2

1. Everyone shall have the right to the free development of his personality insofar as he does not violate the rights of others or offend against the constitutional order or the moral code.
2. Everyone shall have the right to life and to the inviolability of his person. The liberty of the individual shall be inviolable. These rights may be encroached upon pursuant to a law.

ARTICLE 3

1. All persons shall be equal before the law.
2. Men and women shall have equal rights.
3. No one may be prejudiced or favored because of his sex, parentage, race, language, homeland and origin, faith, or religious or political opinions.

ARTICLE 5

1. Everyone shall have the right freely to express and disseminate his opinion by speech, writing, and pictures and freely to inform himself from generally accessible sources . . . There shall be no censorship.
2. These rights are limited by the provisions of the general laws, the provisions of law for the protection of youth, and by the right to inviolability of personal honor.

ity in the sense of a person's dependence on and commitment to the community, without infringing upon a person's individual value."⁵¹

With regard to the polity as a whole, the Basic Law creates what the Federal Constitutional Court refers to repeatedly as a

militant democracy. This means that certain forms of speech and behavior described as anticonstitutional—activities that would probably be protected under prevailing U.S. constitutional doctrine—may legally be punished. The Basic Law itself predicates political free-

Feature 4.5 Freedom and Order in German Constitutionalism

The Basic Law . . . reflects a conscious ordering of individual freedoms and public interests. It resounds with the language of human freedom, but a freedom restrained by certain political values, community norms, and ethical principles. Its image of man is of a person rooted in and defined by a certain kind of human community. Yet in the German constitutionalist view the person is also a transcendent being far more important than any collectivity. Thus, there is a sense in which the Basic Law is both contractarian and communitarian in its foundation: contractarian in that the Constitution carves out an area of human freedom that neither government, private groups, nor individuals may touch; communitarian in the sense that every German citizen is under obligation to abide, at least in his overt behavior, by the values and principles of the moral and political order.

Source: Donald P. Kommers, "The Jurisprudence of Free Speech in the United States and the Federal Republic of Germany," *Southern California Law Review* 53 (1980): 677.

dom on the acceptance of certain principles of political obligation. Freedom of association, for instance, is guaranteed, but associations "the purposes or activities of which . . . are directed against the constitutional order" are prohibited (Article 9). Similarly, political parties "whose aims . . . seek to impair or abolish the free democratic basic order" may be declared unconstitutional (Article 21). These provisions spring from the abiding conviction of the FRG founders, who drafted the Basic Law in the aftermath of Weimar's collapse and Hitler's totalitarianism, that a democracy is not an unarmed society, and that it has the right to dissolve organizations and prohibit activities aimed at the destruction of republican government so long as the rule of law is thereby preserved.

Public Servant Loyalty Decree: A Case Study

The Loyalty Decree of 28 January 1972, commonly referred to as the *extremist resolution* (*Extremistenbeschluss*), serves as a useful device for illustrating the principle of *militant democracy*. It also helps to illustrate the problem

of policy implementation under the FRG's peculiar brand of federalism, as well as the complexity of constitutional argument that frequently arises under the speech, association, and political obligation clauses of the Basic Law.

Loyalty to the established political order has been a hallmark of the German civil service. Article 33 of the Basic Law carries on this historic tradition, providing that the "exercise of state authority as a permanent function shall as a rule be entrusted to members of the public service whose status, service, and loyalty are guaranteed by public law." Federal law lays down the general guidelines for the organization and conduct of civil servants. Supplemented and enforced by state regulations, these guidelines have long insisted upon the allegiance of civil servants to the constitution.⁵² Chancellor Brandt and the Conference of State Governors issued the Loyalty Decree against a backdrop of political terrorism, violent student demonstrations, and the renewed determination of radical groups to "march through the institutions" of the FRG. They insisted that the decree was simply a restatement of existing policy and intended

merely to ensure the uniform application of civil service guidelines.

One of the Loyalty Decree's main principles required civil servants (*Beamten*), public-sector workers (*Arbeiter*), and employees (*Angestellten*) "to defend the free democratic basic order as defined in the Basic Law during service and nonservice hours." It banned from the public service those persons engaged in anticonstitutional activities as well as persons who are members of organizations pursuing anticonstitutional goals. The decree's most controversial paragraph provided that any person belonging to an organization "that pursues goals hostile to the Constitution" was presumptively unfit for public service. Opponents of the decree, however, made the point that the loyalty provisions would effectively bar some persons from their chosen profession—for example, applicants for teaching positions—because certain jobs are held almost exclusively by state employees. In any event, as an effort to clarify standards of recruitment and dismissal from the public service and to ensure uniform and nondiscriminatory application by the *Länder* of national guidelines, it was a failure.

When compared to the laws of other democratic nations, the provisions of the Loyalty Decree were not extraordinary.⁵³ It was the manner of their enforcement that raised a storm of protest in Germany and abroad. Several *Länder*, mainly under CDU-CSU leadership, seized upon the decree's "membership" provision to deny public service jobs to persons in any way connected with communist or other "subversive" organizations. Other states, mainly under SPD leadership, followed the more liberal policy of not excluding persons from the public service in the absence of real evidence of anticonstitutional behavior on the part of the applicant. Meanwhile, the federal office for the protection of the constitution and its *Länder* equivalents stepped up their surveillance of subversive activity and initiated security checks of increasing numbers of public service applicants. Although

thousands of persons were swept up in the net of official inquiry, only a small number of applicants were actually denied public employment on the grounds of doubtful loyalty.⁵⁴

However, a few of these denials became a *cause célèbre*, eliciting strong public outcries from literary figures, students, clergymen, and other intellectuals who attacked the decree as a pernicious attempt to stifle dissent and block social change. Some politicians and editorial writers responded by questioning the loyalty of these critics, thus seeming to confirm the critics' charge that fear and distrust were sweeping the land. Other commentators saw the whole enterprise as a cycle of overreaction: the government overreacting to the security threat in the first place, the critics responding with gross exaggerations of the decree's impact, and the critics of the critics retaliating in language far more robust than enlightening.

The public controversy came to a head in the Federal Constitutional Court's decision of 22 May 1975. The constitutional complaint before the court challenged Schleswig-Holstein's refusal to allow a recent law school graduate to embark upon his required in-service training with state agencies because of his participation in several meetings of an organization of radical law students engaged in "anticonstitutional" activities at Kiel University. The loyalty provisions used to justify the refusal were identical to those contained in the federal decree, so to this extent the validity of the federal decree itself was squarely before the court.

The constitutional analysis in this case was complex. Four articles of the Basic Law—Articles 5 (freedom of expression), 12 (right to choose a trade), 3 (equality under law), and 33 (equal eligibility for public service)—were in need of interpretation. The constitutional principles of *Rechtsstaatlichkeit* (the rough equivalent of the U.S. notion of due process of law) and proportionality were also involved. The most important arguments rested on Articles 12 and 33. Article 12 guarantees to all West Germans the right "freely to choose their trade, occupation, or profession." Article

33, paragraph 2, proclaims that "every German shall be equally eligible for any public office according to his aptitude, qualifications, and professional achievements." But Article 33, paragraph 4, provides that the "status, service, and loyalty" of public servants is to be "governed by public law."

Several constitutional issues were before the court. Is employment in the public service a *trade or profession* within the meaning of Article 12? Does Article 33 imply a limitation on the reach of Article 12? Does the term *loyalty* used in Article 33 fall within a reasonable definition of the "aptitude" required under the same article? Does Article 33 confer an entitlement to public service employment or merely a privilege? Is the principle of proportionality violated if limitations upon the right to enter the public service cannot be shown to further a compelling state purpose? Should Article 33 be broadly construed—and thus supportive of the complainant—in the light of Article 3, paragraph 3, affirming that "no person may be prejudiced or favored because of his . . . political opinions"? Or should Article 33 be narrowly construed—and thus damaging to the complainant—in the light of other constitutional doctrines requiring the protection and active support of the "free democratic basic order"?

After weighing and balancing these considerations, the court sustained the decree's validity but found fault with its administration.⁵⁵ The principle of *Rechtsstaatlichkeit*, said the court, limits the discretion of appointing authorities. Procedural guarantees must be observed. These include the right of the applicant to be precisely informed of the damaging evidence in his file and to a fair hearing, including representation by counsel and the right to rebut evidence against him. The court also held that membership in an organization with anticonstitutional aims is a valid consideration in determining the loyalty of an applicant but cautioned that such membership alone would not be sufficient to exclude a person from the pub-

lic service. Other facts must also be present to substantiate a judgment of disloyalty. With the situation of the complainant in mind, the court rebuked state authorities for drawing inferences of disloyalty from statements made and activities carried out in the heat of emotion during the applicant's student days. Finally, three dissenting justices maintained that, as applied to the complainant, the decree did amount to a *Berufsverbot*, since lack of in-service training would effectively bar him from a career in the private practice of law. For this reason, they held, the legal educational requirement of in-service training with the State should not be regarded as public service within the meaning of Article 33, although they conceded that this training period could not be used to promote anticonstitutional goals.⁵⁶

The political response to the court's decision was both supportive and swift. Over the opposition of the CDU-CSU, the Bundestag passed a resolution affirming the principles laid down in the decision. The *Länder*, however, continued to follow different policies. By the mid-1980s most states controlled by the SPD were no longer routinely screening applicants for their loyalty, while CDU-controlled states kept up their erstwhile vigilance with varying degrees of intensity. At the federal level politicians grew weary of the continuing controversy, and Willy Brandt publicly expressed his regret for originally supporting the Loyalty Decree. In 1979, the ruling coalition (SPD-FDP) rescinded the Decree and adopted new and less stringent guidelines applicable to federal civil servants. The restoration of the CDU-CSU-FDP coalition in 1982 led to a slight increase in the screening of applicants for federal positions, but by that time the public salience of the civil servant loyalty issue had declined. The letter of the law still demanded loyalty, on and off duty, from all public employees, but with the embers of the cold war beginning to expire in the late 1980s, the FRG's liberal democracy seemed far less endangered by extremists than it had

been in the 1970s. Civil libertarians and the proponents of the FRG's *militant democracy* continued, of course, to disagree over the legitimacy of the original decree and its long-range impact upon freedom and democracy in the FRG.

THE POLITICS OF EDUCATION

In the 1960s older Germans were aware of the fundamental social, economic, and political changes that had taken place since the 1920s. But when they looked at the schools, they saw the same system through which they had passed some 40 years earlier. The four-year common elementary school, a Weimar Republic institution, was at the bottom of the pyramid. Then came the tripartite structure of secondary schools (briefly described in Section A). Each level offered a different curriculum and played a distinct educational role. The second-level primary school trained its pupils for vocational schools and handicrafts; the intermediate school channeled its students into technical schools and middle-level jobs; and the academic high school (*Gymnasium*) prepared its students for the university and the learned professions. The teaching profession was similarly stratified as the content and duration of training, together with examinations and certification procedures, were dependent on the particular level of school for which the teacher was preparing. General education was kept institutionally separate from vocational schools. Finally, at the top, was the university, still largely an elite research-oriented institution based on the traditional Humboldt model of the nineteenth century. This system was subjected to the fierce crossfire of several opposing groups in the late 1960s.

Secondary Education

When the SPD came to power in 1969, it placed educational reform at the top of the federal government's social agenda. The reforms

proposed were advanced under the slogans of modernization and democratization. Essentially these reforms sought to loosen the tripartite structure by combining general and vocational education, by introducing a diversified curriculum of scientific and technical education around a common core of academically oriented studies in all schools, and by instituting courses of study that would keep professional options open for as long as possible. Systems of advancement were proposed to encourage many more students than in the past to qualify for admission to the university. The federal government also favored the eventual adoption of the integrated comprehensive school as the model of secondary education in the future. Its educational policy seemed clearly informed by an egalitarian vision of a "classless" common public school oriented toward personal growth and emancipation.⁵⁷

At the elementary and secondary levels, the government's program achieved only token success. Federalism, interest groups, and sharply divided opinions about the nature and purpose of education conspired to block the implementation of any uniform system in the FRG. Under the Basic Law, educational policy is the primary responsibility of the *Länder*, an independence zealously guarded by local educational officials. *Länder* controlled by Social Democrats have been more sympathetic to basic structural reform than those controlled by Christian Democrats. By 1978, long-lasting SPD and CDU governments had created, respectively, 135 and 19 comprehensive schools, whereas other *Länder* (Baden-Württemberg and North Rhine-Westphalia) had created 65. Together, they enrolled a mere 2.09 percent of all students attending primary and secondary schools. But even these schools differed in their practices and approaches to education.

The lack of centralized control over educational planning in the FGR furnished the context for strong interest-group support of the status quo. Opposing teachers' organizations allied to trade unions or *Land* educational bureaucracies fought to a virtual

stand-off; Catholic teachers in denominational schools resisted what they perceived as a threat to educational pluralism; parents themselves were mobilizing to oppose or to temper educational experimentation. Clearly, educational reformers had overestimated the public's desire for change. Even the SPD's ardor for reform cooled in the 1970s after several of the party's *Land* education ministers had failed to marshal adequate support for their proposals. The SPD could advance its reform proposals only at the "risk of alienating just those segments of the white-collar and professional classes which [it] needed most to expand [its basis of electoral support]." ⁵⁸ And, as recently as 1978, civic pressure groups in North Rhine-Westphalia took advantage of a popular referendum to defeat a school proposal, forcing that *Land's* SPD-FDP government to shelve its master plan for comprehensive schools.

School reform also foundered on serious disagreement over the purpose of education and the locus of responsibility for the educational enterprise. Yet, for all the debate, considerable pioneering was going on within the system, and many partial reforms have been accomplished. While the future of the comprehensive school remains uncertain, the iron curtain that once separated the three schools in the tripartite system has been lifted. There is now the possibility of lateral movement between schools, and within each level curricula have been expanded to accommodate the different needs and abilities of students. Entry into the *Gymnasium* and intermediate school is now easier for socially and culturally deprived children. Several *Länder* have introduced compensatory education for these children. Several have established foreign-language training and a ninth compulsory year of learning in the second-level primary system. Baden-Württemberg has successfully experimented with vocational academies, whose combination of practical and theoretical training at a relatively advanced level makes it a genuine alternative to the university. Finally, the increasing permeability of the system has

resulted in several routes of access to the university.

Higher Education

Problem The German system of higher education was hit by a major crisis in the 1960s. Traditionally an elite institution hierarchically organized around research institutes monopolized by full professors, the typical German university was designed to handle relatively small numbers of students. This structure was wholly unprepared to accommodate, or properly train, the rising number of students qualifying for university admission in the 1960s. The high postwar birth rate and reforms in secondary education drove the number of university students to a high of 253,000 in 1965, nearly double the 1955 total of 130,000. By 1980, the student population would surge to a staggering 1 million. The building of additional universities in the 1960s failed to relieve the pressure on higher education. Modeled after the old universities, they introduced few changes in academic governance, curriculum, or teaching methods. The result was to deepen the frustration of students, teaching assistants, and academic reformers.

Aggravating the crisis was the social discrimination reflected in the composition of the student body. As late as 1966, students from working-class families represented a mere 5.7 percent of all university students. By 1980 this figure would reach 20 percent. Yet, despite the increasing inflow of students from all social sectors, the FRG ranked substantially lower than some other industrial nations in the proportion of its youth enrolled in the universities. ⁵⁹ Consequently, as the 1970s approached, many political, educational, and business leaders were beginning to ask whether the system would continue to meet the demands of an advanced and increasingly diversified political economy.

Reforms The need for reform in West German higher education has long been recognized, but the barriers to change have been

high and formidable. One such barrier is the traditional autonomy of the German university. Another is state sovereignty in the field of education. Prior to 1969, reforms national in scope depended entirely on cooperation among the *Länder*. The Standing Conference of State Cultural Ministers (KMK), established in 1949, has been a dominant influence in setting higher education policy. But its conservative leadership, bound by instructions from *Länder* governments and working under a rule of unanimity, served mainly as a block to fundamental reform. Not until the founding of the Science Council (WR) in 1957—an independent national advisory board organized jointly by the states and the federal government—was serious planning for the future undertaken. The work of this group and the German Education Council (BR)—also a joint federal-state body set up in 1965—laid the basis of a larger federal role in educational planning.

The year 1969 was the turning point in the shift of power over educational matters to the Federation. Amendments to the Basic Law recognized a federal role in educational planning and the promotion of scientific research (Article 91b) and authorized the Federation to enact “skeleton provisions [framework law] concerning . . . the general principles governing higher education” (Article 75a). Shortly thereafter the Federal Ministry of Education and Science was created, followed in 1970 by the establishment of the Federal-State Commission for Educational Planning (BLK). Both agencies soon developed into cogent instruments of reform, generating studies and reports that would form the basis of the Higher Education Framework Act of 1976. Lastly, the Federal Constitutional Court assumed a critically important role in laying down uniform national rules over university governance and admission procedure.

As the policy changes described show, higher education since 1960 “has been transformed from an elite to a mass system.”⁶⁰ This rather sudden transformation contrasts sharply

with the slow pace of change that has occurred in other domestic policy areas. The decentralized character of the FRG’s political system, together with the widespread representation of private interests in the councils of government, imposes severe limits upon the capacity of the parliamentary parties to bring about major change in domestic policy. However, as Peter Katzenstein argues, higher education proved to be more open to general societal pressures and partisan politics, in part because of the relative disinterest of “parapublic” institutions.⁶¹ In addition, the political parties manifested a common interest in educational reform, the CDU-CSU because of its concern for economic growth and efficiency, the SPD because of its interest in promoting social equality.

At the same time, federalism and particular interests continued to exert their influence over the course of educational policy. The effective implementation of federal policy still depends on *Land*-enabling legislation, and much room remains for variation and experimentation at the local level. In addition, several nongovernmental interests with strong *Land* links are represented in the national educational policy-making process. On the academic side, the influential West German Rectors Conference (WRK) and various professorial organizations, especially the CDU-leaning Union for Academic Freedom, have resisted major changes in university governance. Outside of the academy, unions and employer groups have had a hand in drafting state-enabling legislation. Indeed, the pattern of interest-group representation prevalent in so many areas of German social and political life is duplicated in education. For example, the Permanent National Education Commission established by the Federal Framework Act of 1976 provides for a 26-member body consisting of 11 *Land* representatives; 11 university members, including professors, assistant professors, students, and staff; 2 federal delegates; and 1 representative each for labor and management.

Policy Quantitatively, the reforms in higher education were most impressive. Student enrollment quadrupled between 1960 and 1985, and nearly one quarter of those students were the sons and daughters of working-class parents. Meanwhile, the *Länder* reorganized and expanded existing institutions of higher education. "Engineering schools revamped and broadened their curriculum and were accredited as universities. A new stratum of junior faculty was hired to restore student-teacher ratios to the levels of the 1950s. The number of university 'assistants' increased from 9000 in 1960 to 28,000 in 1971. State governments founded 18 new universities, among them Bochum and Regensburg."⁶² Finally, federal and state policy makers agreed to create "comprehensive" universities for the purpose of "combin[ing] theoretical and applied work in new ways."⁶³

Qualitative reforms were equally impressive. Reforms instituted most faithfully in the new universities included curriculum revisions, standardized programs of study, rationalized use of plant and equipment, accelerated degree programs, and the adoption of new administrative structures. At some older universities the compartmentalized structure of formerly autonomous institutes gave way to coordinated and cooperative programs of study. Even the definition of research was changing. An older notion identified exclusively with professional activity leading to the discovery of new knowledge was being supplemented by a more student-oriented emphasis on acquisition of knowledge that is new for the individual. Not surprisingly, reforms in university decision making have sought to define more precisely the roles of professors, assistant professors, research assistants, students, and staff as one means of more effectively integrating teaching and research. The power of these various groups, together with policies affecting university admissions, has been extremely controversial and the subject of considerable litigation.

University Governance and Admissions The judicial determination of national education policy was even more pervasive in the area of admission standards and procedures. The flood of students into the universities in the 1960s led to the imposition of a numerus clausus on admission to overcrowded fields. In its unanimous decision of 18 July 1972, the Federal Constitutional Court held that a numerical limit on admission to given fields of study (in this case law and medicine) violated the right of West Germans under Article 12 (Basic Law) "freely to choose their trade, occupation, or profession."⁶⁴ In so ruling, the Court left the *Länder* with one of two choices: either expand facilities to accommodate qualified students or define more clearly the criteria and priorities of admission policy. In response to the court's decision the Standing Conference of State Cultural Ministers established the Central Office for University Admissions and negotiated a detailed interstate compact on admission criteria. In what many commentators regarded as another example of excessive judicial activism in the field of education, the Constitutional Court nullified some of these criteria, too, and made clear that it was prepared to order the admission of any qualified student who could prove that university facilities were not being fully utilized.⁶⁵

These decisions prompted Parliament to pass the Federal Higher Education Framework Act of 1976 establishing uniform guidelines for, inter alia, academic administration, research and teaching, planning and development, and admission procedures. In the sensitive area of admissions the Central Admission Office, in cooperation with the states, formulated revised criteria pursuant to the act's guidelines, including specific quotas for hardship cases, veterans, foreign students, and persons willing to enter designated fields. The remaining students were to be selected on the basis of aptitude and achievement and according to their length of time on the Central Admission Office's waiting list. These experiments contin-

ued as the decade ended amid expectations that the pressure on universities would be substantially eased (owing to low birth rates in the 1960s) by the mid-1980s. Finally, in 1984, a new conservative coalition government sought to reorient educational reform in the direction of greater excellence and competition among institutions of higher learning as well as more emphasis upon the critical importance of research universities. In revising the Framework Act the new government strengthened the position of chaired professors and shifted, partly in response to limited funds and tighter budgets, the system of student aid from grants to loans.

CODETERMINATION

The issue of *codetermination* exemplifies the usual pattern of politics and policy in post-war Germany. This pattern is largely one of consultation and accommodation within and between state agencies, private groups, and political parties, particularly those in the governing coalition. The corporatist strain in German public life has institutionalized this process of consultation, in this case between interests representing labor and management within and without the political parties. The filtering of this process through the FRG's decentralized political system means that a large degree of consensus is necessary before any real movement in public policy can be achieved. This is why policy change in the FRG has been aptly described as *incremental* rather than *large scale*, even in the face of major shifts in electoral politics.

The politics of codetermination support the incrementalist thesis. First of all, the participation of workers in industrial decision making has a long history in Germany. In the early 1840s workers were already, even in the absence of unions, demanding a voice in shaping the conditions of their labor, a "right" that narrowly missed being incorporated into the Frankfurt Constitution of 1848. Thereafter,

however, some employers voluntarily accepted proposals to allow workers to establish factory committees to advise management on labor-related matters. These proposals were legally recognized in 1891 with the passage of the Labor Protection Act (*Arbeitsschutzgesetz*). However, the establishment of factory committees remained at the discretion of employers.

The Auxiliary Service Act of 1916 (*Hilfsdienstgesetz*), a wartime measure that set the stage for further developments in worker representation, was another example of labor-management cooperation. The act created committees of workers and salaried employees in all establishments that were vital to the war effort and that employed more than 50 persons. Yet, the committees were advisory in character and could be ignored by the employer. It was not until 1920, with the passage of the Work Council Act (*Betriebsrätegesetz*), that employers were required to listen to, even if they did not accept, the proposals or complaints of their employees. The act, now extended to all concerns, both public and private, with at least 20 employees, authorized workers and white-collar staff employees to elect councils empowered to lay their recommendations on social and financial matters before the employer. Employers could still reject the councils' advice, but workers at least had a voice in factory management. Finally, in 1922, with the passage of the Supervisory Board Act (*Aufsichtsratsgesetz*), the voice was upgraded to a vote. Now, for the first time in German history, employees were entitled to at least one representative on factory management boards. Supported by a large cross-section of the public—liberals, Catholics, trade unions, and the business community—the work councils became the main pillar of industrial democracy—and peace—in Germany.

Needless to say, with the coming of Hitler, the work councils, while continuing to exist, lost their vitality as Nazi legislation strengthened the hand of management. In 1945, right after the war, the work councils were re-

vived. Under Allied Control Council supervision each *Land* was authorized to provide for the reestablishment of work councils modeled on the Work Council Act of 1920. The *Land* statutes differed significantly from one another. Some conferred on work councils only a right to economic information; others limited codetermination to social and personnel decisions; and others granted councils a substantial participatory role in determining basic company policies relating to production and operating methods.⁶⁶

Current codetermination policy traces its origin to the pattern that developed in the iron and steel industry in the British zone of occupation. Trade union pressure combined with the Christian social outlook of the young CDU and the strong pro-labor orientation of the SPD to bring about the Codetermination Act of 1951. This act provided for the equal representation of workers on the supervisory boards of the mining, iron, and steel industries. The supervisory board was to consist of five employee representatives, five shareholder representatives, and an eleventh "neutral" person.⁶⁷

Over the course of the next 25 years, labor struggled to achieve in other industries the kind of parity that the 1951 act established in iron and steel. In 1952, however, parliament enacted the Works Constitution Act (*Betriebsverfassungsgesetz*), establishing one-third employee representation on the management boards of all private industries employing between 500 and 2000 workers, a principle that a 1965 statute extended to the public sector. These work councils participate with management in determining wage structures, working hours, employment, transfer and dismissal policies, training and welfare programs, and grievance procedures.

Additional years of consultation between labor and management and mutual adjustments between the established parties resulted in the Works Constitution Act of 1972, which replaced the 1952 act. It authorizes every factory or business with more than five

employees to elect a work council. Councillors are elected in a secret ballot by all employees of the firm, their main function being to bargain with plant managers over issues not dealt with within collective bargaining agreements.

Finally, in 1976, after four more years of struggle and compromise among the various parliamentary fractions, the Bundestag passed the Codetermination Act (*Mitbestimmungsgesetz*). The overwhelming parliamentary majority that voted for the act underscored the consensus achieved over several years of negotiation. The act extended the principle of numerical parity to all enterprises with more than 2000 employees, affecting about 7 million workers in more than 500 firms. It provides for 12- to 20-member supervisory boards, depending on the size of the plant, with an equal number of shareholder representatives and representatives from the work force, the latter to include delegations elected separately by blue-collar, white-collar, and managerial staff. Under the statute the board chairperson and vice-chairperson are elected by a two-thirds majority of the board membership. Barring a two-thirds vote, the vice-chairperson is elected by a majority of the employee members and the chairperson by a majority of the shareholder members. Decisions of the supervisory board are taken by a majority of votes cast. In case of a tie, the chairperson is authorized to cast the deciding vote. The unions were not entirely pleased with the allocation of seats on the board or with the provision that allows the chairperson—usually a shareholder—to break a tie vote, but it gives them a significant foothold in the industrial decision-making process.

Not long after the act's passage on 4 May 1976, several industrial firms and employer associations, together with the German Association for the Protection of Security Holdings, filed a constitutional complaint in the Federal Constitutional Court challenging the law's validity. They charged (1) that the equal representation of workers in company decision

making violated the right to property under Article 14, (2) that enforced parity between stockholders and employees infringed both the right of association and the right to form associations under Article 9, and (3) that the act infringes the entrepreneurial freedom to choose a trade or profession under Article 12. The complainants also charged that the principle of parity in managerial decision making would be the first step to equal representation in the actual management of industrial firms.

In its landmark decision of 1 March 1979, the Federal Constitutional Court sustained the validity of the statute in a guarded opinion.⁶⁸ Reemphasizing its teaching in older decisions that the Basic Law does not prescribe a particular economic system, the court rejected the arguments of the business community on the ground that the act does not constitute "an inadmissible interference with the self-determination of companies in regard to their organization and decision-making processes." In short, the court suggested that the statutory scheme left intact the core of associational autonomy as guaranteed by the constitution. But the court did hedge a little, indicating that if the worse fears of the business community were to be realized in the future, a constitutional issue of critical importance could then clearly arise. This seemed to be the court's way of admonishing parliament against bolder initiatives that would extend the principle of codetermination into the actual organization and operation of private firms.

In its present form, however, the court has suggested that codetermination is a legitimate application of the constitutional ideal of a "social federal state" (Article 20) based on law. "The connection between the demand for codetermination and the principle of the state governed by the rule of law," writes one commentator, "may be made clear by reference to the fact that those employees in the Common Market who strive for the realization of economic democracy are also striving for greater freedom, equality and substantive justice." He concluded, as the court implied,

that "[c]odetermination may be considered as a means of the partial realization of this aim, although the 'economic democracy' is capable of different interpretations."⁶⁹

FOREIGN POLICY AND THE ROAD TO UNITY

The "German Problem" and Ostpolitik

One aspect of the "German problem" was the simple yet age-old one of how to define Germany. This problem remained at the center of East-West conflict for two decades following World War II. It was a problem involving the FRG's relationship to the German Democratic Republic (GDR) and Eastern Europe. West German rearmament within the North Atlantic Treaty Organization (NATO), coupled with the refusal under a succession of Christian Democratic governments to recognize the Oder-Neisse line as a permanent boundary between Poland and Germany, was viewed by the Soviet Union as a dangerous threat to peace in Central Europe. The city of Berlin represented still another component of the German problem. Cleft by concrete and barbed wire, and later by the infamous Wall, the city had become the most poignant living symbol of German separation and East-West confrontation.

There clearly could be no resolution of the German problem without a relaxation of tension in Central Europe. Moscow was the key to any such resolution. It is significant that both Adenauer and Brandt journeyed to the Soviet Union—the former in 1955, the latter in 1970—in search of "normalized" relations between Bonn and Moscow. For Adenauer, however, normalization meant the reestablishment of diplomatic relations with the Soviet Union, which he accomplished, and the reunification of Germany, which he failed to achieve. In his Moscow talks he spoke of the "abnormality" of Germany's division, leaving his Soviet hosts with the message that "there can be no real security in Europe without the restoration of German unity." A decade and a half later, with

Germany still divided, Willy Brandt appeared before a Soviet television audience, redefining *normalization*. He announced that "it is now time to reconstitute our relationship to the East upon the basis of the unrestricted, reciprocal renunciation of force, proceeding from the existing political situation in Europe."

Brandt's Eastern policy was designed to achieve this result. The cornerstone of the new policy was the Soviet-West German Treaty on the renunciation of the use of force, signed in Moscow in August 1970. The Warsaw Treaty, signed in November of the same year, rounded out the foundation of *détente*. Essentially, these treaties recognized existing boundaries in Europe, including the Oder-Neisse line separating the GDR and Poland. Another stone in Brandt's rising edifice of *détente* was the 1971 Quadripartite Agreement on Berlin. In fact, Brandt conditioned Bonn's ratification of the Moscow and Warsaw treaties upon progress toward settlement of the Berlin question. Pledging to settle all their disputes by peaceful means, the four powers reaffirmed their individual and joint responsibility for Berlin. While the Soviet Union acknowledged the special ties between West Berlin and the FRG, the Western Allies deferred to the Soviet contention that West Berlin was not "a constituent part of the Federal Republic and not to be governed by it."

The capstone of *détente* was the Basic Treaty between East and West Germany, signed in December 1972. The FRG and GDR both agreed to develop normal relations with each other on the basis of equal rights. The concept of "two German states in one nation," which the FRG urged on the GDR, was conspicuously left out of the treaty. Instead, the right of both German states to "territorial integrity" and "self-determination" was affirmed, along with an agreement "to refrain from the threat or use of force." In addition, the two states agreed that "neither... can represent the other in the international spheres or act on its behalf." In supplementary protocols both states also agreed to settle their frontier prob-

lems, to improve trade relations, and to cooperate in scientific, technological, medical, cultural, athletic, and environmental fields.

Gorbachev and *Glasnost*

The advent of Gorbachev and the associated policies of *glasnost* (openness) and *perestroika* (reform) placed East-West relations in a new light and encouraged many Germans to think once again about the prospects of eventual reunification. GDR leaders, however, remained adamant in their view of the Basic Treaty as a step toward a fully sovereign and independent GDR—an interpretation the FRG has never accepted. Unlike Poland and Hungary and the Soviet Union itself, the GDR refused to move toward democracy or free markets. The hardliners in charge of the regime—most of them old men—brooked no opposition to the socialist system of their creation. By 1989, however, as thousands of young GDR citizens fled to the FRG by way of Hungary in search of freedom and employment, GDR leaders seemed to be standing alone, isolated in their own backyard. They accused Hungary of violating various legal treaties and denounced the FRG for encouraging the exodus, but these charges were seen for what they were: feeble attempts to hide the fragility of a regime deeply in trouble in the face of a "new order" emerging in Eastern Europe.

The GDR was impaled on the horns of an excruciating dilemma. It could either loosen up the regime and allow the free movement of its people in and out of the country or continue on its present course. The first option would lead to greater contact between east and west Germans and intensify the desire for reunification. The second option—keeping a tight grip on its people—would lead to another crisis of legitimacy and to the continued flight of its most productive citizens. With the collapse of the hardline Communist regime in October 1989 a hastily reassembled government under younger and more pragmatic leadership chose the first option. In the following weeks, events

unfolded with dizzying speed, surprising and confounding even close observers of German affairs. By the end of the year the Communist party had disavowed its leading role, promised to hold free elections in the months ahead, and exposed the corruption of its long-time leaders as an increasingly angry and outspoken citizenry demanded their prosecution. In the meantime, the Brandenburg Gate flew open, GDR citizens waved FRG flags in the streets, and East and West German leaders began to talk about a new relationship against the backdrop of Chancellor Helmut Kohl's controversial ten-point plan for German reunification.

The Progress and Politics of German Unity

The path to German unity is a fascinating tale. On the one hand, the story seems to show that the forces of history, once unleashed, cannot be stopped. On the other hand, unity would not have come about without the cooperation of the Allied Powers, especially the United States and the Soviet Union, and the intense negotiations between the GDR and FRG. Although the FRG held most of the trump cards in these negotiations, the GDR managed to extract significant promises from the FRG, including some changes in the Basic Law. The negotiations between the GDR and FRG, on the one hand, and Britain, France, the Soviet Union, and the United States, on the other, did not proceed on separate tracks. They were conducted—in coordinated simultaneous fashion—over many months; hence, the common reference to the *two-plus-four* talks. This mix of international and domestic politics, with its interplay of constitutional law and public policy, made the new Germany possible.

Four landmarks pointed the way to reunification. These are the State Treaty on Monetary, Economic, and Social Union (18 May 1990), the All-German Election Treaty (3 August 1990), the Unity Treaty (31 August 1990), and the Treaty on the Final Settlement with

Respect to Germany (12 September 1990). The GDR and the FRG negotiated the first three treaties, but often in consultation with the Allies; the last was the product mainly of the two-plus-four negotiations. Many of the events leading up to these treaties, including the opening of the Berlin Wall on 9 November 1989 and the East German election of 18 March 1990, have already been recounted in this chapter. (See Feature 4.6 for other major events on the path to German unity.) What has not been discussed is the debate in Germany over the various methods by which unity might have been achieved. This debate is important because it is bound up with the question of when and under what circumstances a people should give to itself a new constitution. Whether a reunited Germany should have a new constitution was a hotly contested issue in the early stages of the reunification movement.

Reconstituting the German People

The Basic Law itself provided an authoritative basis for a new constitution. After all, it was originally framed as a transitional document pending Germany's reunification. Together with the Preamble, Articles 23 and 146 also emphasized the document's impermanence. Article 23, discussed briefly at the outset of this chapter, provides that the Basic Law shall apply to "other parts of Germany" upon "their accession." Unity, as already noted, was achieved by this quick and easy procedure. Article 146, however, declared that the Basic Law "shall cease to be in force on the day on which a constitution adopted by a free decision of the German people comes into force."

Reunification pursuant to Article 146 would have meant (1) the dissolution of both the GDR and FRG governments, (2) the framing of a new constitution, presumably by an elected constitutional convention, (3) ratification by the electorate or perhaps by the state legislatures, and (4) the election and for-

Feature 4.6 Path to German Unity

1989	
July-September	GDR citizens flee to the FRG by way of Hungary.
October 9	100,000 persons demonstrate in Leipzig to the chant, "We are the people."
October 18	Honecker removed as head of GDR.
November 7	GDR government resigns after 1 million persons demonstrate in Berlin.
November 9	Berlin Wall is breached.
November 28	Chancellor Kohl announces a 10-point program for unity.
December 1	GDR Constitution amended to end the SED's monopoly of power.
1990	
March 18	First free election in GDR. Overwhelming victory for parties allied with CDU.
April 12	GDR legislature elects first democratic government. Lothar de Maizière elected Prime Minister.
May 18	State treaty on monetary, social, and economic union.
July 22	GDR legislature reestablishes its five constituent states (Länder).
August 3	All-German election treaty.
August 31	Unity Treaty signed.
September 12	Two Plus Four Treaty signed.
October 3	Day of German unity. GDR ceases to exist.
October 4	First all-German legislature meets in the Berlin Reichstag building.
October 24	Five eastern states elect new parliaments.
December 2	First all-German Bundestag election.

mation of a new government under the terms of the new constitution. The process may not have occurred precisely in this sequence, but it would surely have been a long and cumbersome affair, not to mention the divisiveness that would have been caused by reopening constitutional issues resolved when the Basic Law was drafted in 1949.

One can understand why some Germans might have preferred this route to unity. After all, here was a chance for Germany to make a fresh start and, equally significant, what could be more democratic than for *all* the German people to give themselves a new constitution in free, self-determination. What a "free deci-

sion of the German people" would have meant, however, was never clear. Debate on this issue might also have resulted in another divisive battle over the method of selecting the constitution makers and of ratifying the constitution, matters on which the Basic Law is silent. Then, too, we need to recall that the organizations that started the revolution in the GDR—such as New Forum, Democracy Now, and the Initiative for Peace and Human Rights—did not set out to unify Germany. Rather, the Central Round Table to which these and other opposition groups belonged wanted to democratize the GDR and retain the humane values of socialism. The Round Table even drafted a



Brandenburg Gate after reunification.

new GDR constitution and, like the Basic Law, it looked toward eventual unity but saw it as a long-term objective.⁷⁰

Chancellor Kohl also started slowly. In November 1989, following the tumbling of the Berlin Wall, he unveiled his famous Ten-Point Plan for Germany's eventual union. He envisioned the development of a *contractual community* in which the two Germans would establish confederative structures leading first to social, monetary, and economic union and eventually, perhaps in a few years, to political union. Events, however, overtook him as well as the East German Round Table. The "bloodless coup" occurred on 18 March 1990, when East Germans voted in their first free election since Hitler was named chancellor in 1933. Unity *now* was their unmistakable message. Fired up, and with Chancellor Kohl

at the controls, the "unity train" roared toward its destination. Along the way, one could hear the voices of the Round Table in the GDR and those of the "unity skeptics" in the FRG, but they were scarcely audible over the noise of the speeding train.

The State Treaty

The State Treaty united the social, economic, and monetary systems of east and west.⁷¹ (See Feature 4.7) It effectively extended the FRG's social market economy eastward, installing in all of Germany an economy based on private ownership, competition, and the free movement of goods and services. As of 2 July 1990, the West German D-Mark became the official currency of the GDR. Under the terms of the treaty, "[w]ages, salaries, grants, pensions,

Feature 4.7 Selected Provisions of the State Treaty

The law of the GDR will be modelled on the principles of a free, democratic federal and social order governed by the rule of law and be guided by the legal regime of the European Communities (General Guidelines, A.I.1).

Regulations which commit individuals or state institutions, including the legislature and the judiciary, to a socialist system of law, a socialist body politic, the aims and targets of centralized economic control and planning, a socialist sense of justice, socialist convictions, the convictions of individual groups or parties, socialist morality, or comparable notions, will no longer be applied (General Guidelines, A.I.2).

The issuance of coin shall be the exclusive right of the Federal Republic of Germany (Article 10 [13]).

The GDR shall harmonize the provisions governing the promotion of environmental protection with those of the FRG (Article 16 [5]).

The GDR shall introduce a system of unemployment insurance including employment promotion which shall be in line with the provisions of the Employment Promotion Act of the FRG (Article 19).

rents and leases as well as other recurring payments shall be converted at a rate of one [east German] to one [west German mark]." All other claims and assets were to be converted at a rate of two to one. One effect of the currency union was to increase the importance of Germany's central bank, already renowned for its control over monetary policy in the FRG.⁷² The bank would now take responsibility for all of Germany and sorely test its capacity to fight inflation in the face of price rises that were surely to occur from the transfer of billions of D-Marks into the east.

The State Treaty covered other areas such as intra-German and foreign trade, agriculture, environmental protection, social and health insurance, pension plans, budgetary planning, revenue administration, and tax policy. For each of these areas, the treaty required the GDR to adopt laws consistent with policies prevailing in the FRG. In some instances, however, transitional arrangements were worked out to ease the pain of the legal and structural changes that the GDR would have to make. One of these temporary arrangements was

the establishment of an arbitration tribunal to resolve GDR-FRG disputes arising under the Treaty in the event that they could not be settled by negotiation.

The All-German Election Treaty

The GDR election of 18 March 1990 set the stage for the all-German election of 2 December 1990. As noted earlier, the election resulted in an impressive victory for the CDU-led Alliance for Germany and thus for German unity. The new People's Chamber went on to create a grand coalition consisting of the Alliance for Germany, the SPD, and the Federation of Free Democrats under the leadership of Lothar de Maizière (CDU). It was this coalition that negotiated the unity treaties with Bonn's CDU-FDP coalition government.

Before unity could be achieved, however, the contracting parties had to agree on holding a national election. The GDR's voting system differed from the FRG's. First, each voter had only one vote in a system of pure proportional representation, in contrast to the



Chancellor Helmut Kohl (left) and Prime Minister Lothar de Maizière (right).

FRG's two ballot system. Second, there was no 5 percent threshold; to gain one of the 400 seats in the People's Chamber, a party needed to win only 0.25 percent of the vote. Finally, political movements such as New Forum could put up candidates, whereas the FRG allowed only political parties to enter candidates in federal elections.

GDR-FRG negotiations sought to compromise these differences. Prime Minister de Maizière wanted to drop the national 5 percent rule so that organizations like Alliance 90, which received only 2.9 percent of the vote on 18 March would be included in the all-German Bundestag. He regarded the representation of such groups as a matter of political morality in the light of the crucial role they played in the GDR's peaceful revolution. Finally, with the support of the SPD in both governments, an agreement was reached. The GDR relented on the 5 percent rule, but the two sides worked out a so-called piggyback arrangement that would permit smaller parties or groups in the GDR to field candidates in alliance with other, larger parties in the west.⁷³ This plan, however, favored some small parties at the expense of others. For example, the strength of Bavaria's CSU would carry its sister party, the GDR's DSU (German Social Union)

into the Bundestag, whereas the old Communist SED—now dressed up as the PDS—was unlikely to find a willing partner in the FRG to help it win the needed 5 percent of the national vote.

Upon the initiative of the PDS, Greens, and far-right Republicans, however, the Federal Constitutional Court struck down the agreement, holding that it discriminated against these parties.⁷⁴ The unanimous decision also invalidated the 5 percent rule as applied to them, whereupon the court suggested a plan that in its view would be more consistent with the principle of electoral equality. It advised the Bundestag to apply the 5 percent clause separately in East and West Germany and to allow small groups in the GDR to form joint tickets to help them over the 5 percent hurdle. Without further ado, the Bundestag went along with the Court's suggestion. The amended statute allowed some of these groups to win seats in the Twelfth Bundestag.

The Unity Treaty

The Unity Treaty—a massive document consisting of 433 printed pages—is the historic agreement that provided for the GDR's accession to the FRG and the application of the Basic Law to all of Germany. Its 45 articles, annexes, and special provisions touch almost every aspect of German public policy. The Treaty's "Special Provisions on the Conversion to Federal Law" appear in 19 chapters that deal with the laws, procedures, and institutions subject to the jurisdiction of the various federal ministries. While extending FRG law immediately to numerous policy areas in the eastern *Länder*, these special provisions also contain transitional and interim measures that seek to accommodate the special interests of or conditions in the ex-GDR.

Constitutional Amendments The Unity Treaty amended several provisions of the Basic Law. First, the preamble was amended to delete all references to the goal of reunifi-

cation, for "Germans in [the sixteen *Länder*] have [now] achieved the unity and freedom of Germany in free self-determination." This new language effectively freezes Germany's present borders, making it legally impossible for Germany to lay claim to other territories lost as a result of World War II. Second, and to the same end, the treaty repealed Article 23—the very provision under which the GDR acceded to the FRG. In short, no "other parts of Germany" are left to be incorporated by accession. Third, the treaty added the following italicized words to Article 146: "This Basic Law, *which is valid for the entire German people following the achievement of the unity and freedom of Germany*, shall cease to be in force on the day on which a constitution adopted by a free decision of the German people comes into force." Fourth, Article 135a was amended to relieve the FRG of certain liabilities incurred by the GDR or its legal entities. Finally, the treaty changed the number of votes allocated to the states in the Bundesrat under the terms of Article 51.

Amending the Basic Law by treaty was an unusual procedure and arguably in violation of Article 79 (1), which declares that "the Basic Law can be amended only by statutes. . . ." Despite the fact that the treaty was passed by a two-thirds vote of the Bundestag and Bundesrat, two-thirds being required for amendments to the Basic Law, several groups, backed by a former Justice of the Federal Constitutional Court, brought suit, claiming that each amendment in the Unity Treaty should have been the subject of a separate statute, allowing for extended debate on each proposal. (Certain refugee groups were particularly disturbed over amendments that sealed Germany's eastern borders.) The Constitutional Court, however, rejected the complaint. In the light of the Basic Law's overriding commitment to reunification, the court ruled, the government enjoyed broad procedural discretion in choosing the means to this goal.⁷⁵

In addition to the above amendments, the Unity Treaty inserted a new article—Article

143—into the Basic Law (see Feature 4.8). The new article allowed the all-German government to deal flexibly with issues that might otherwise have slowed down or even stopped the unity train. Abortion, property rights, and inter-governmental relations were among these issues. The eastern *Länder*, for example, were unable to abide by the revenue-sharing provisions of the Basic Law or other obligations growing out of its scheme of federal-state relations. Allowing the east to deviate from these provisions was a practical necessity. Moreover, no constitutional obstacle threatened to block the deviation. In any event, the Basic Law's federal-state provisions, especially Sections VIIIa (Joint Tasks) and X (Revenue Sharing), will probably be amended in the light of fiscal and economic developments in the east. Indeed, the Unity Treaty commits German legislative bodies to consider changing the Basic Law's provisions on federal-state relations by 1994.

Abortion The deviation clause of Article 143 (1), however, is another matter. Its incorporation into the Unity Treaty represented a compromise between east and west over abortion. In 1975, as noted in Section B, the Federal Constitutional Court struck down the FRG's liberalized abortion law, holding that it violated the right to life within the meaning of Article 2 (1) as well as the principle of human dignity that the state is duty-bound "to respect and protect" under Article (1).⁷⁶ In so ruling, the Court obligated the state to make abortion a crime at all stages of pregnancy subject to exceptions specified by law. The GDR, on the other hand, permitted abortion on demand within the first three months of pregnancy. The effect of Article 143 is to allow eastern and western Germany to follow their respective policies on abortion. The FRG conceded this much to the GDR. But the treaty also requires the Bundestag to enact a common policy on abortion by the end of 1992 "to ensure better protection of unborn life and provide a better solution in conformity, with the Consti-

Feature 4.8 Article 143

(1) Law in the territory [of the eastern *Länder*] may deviate from provisions of this Basic Law for a period not extending beyond 31 December 1992 in so far as and as long as no complete adjustment to the order of the Basic Law can be achieved as a consequence of the different conditions. Deviations must not violate Article 19 (2) and must be compatible with the principles set out in Article 79 (3).

(2) Deviations from sections II, VIII, VIIIa, IX, X and XI are permissible for a period not extending beyond 31 December 1995.

tution, of conflict situations faced by pregnant women" (Article 31 [4]). This was the GDR's concession to the west.

These concessions, however, raised a difficult constitutional issue, for Article 143 bans deviations from the Basic Law in violation of Articles 19 (2) and 79 (3): The first flatly prohibits any encroachment on a basic right; the second bars any amendment to the Basic Law contravening principles laid down in Articles 1 (protecting "human dignity") and 20 (enshrining the rule of law). The constitutional issue is whether the deviation clause encroaches upon the principle of human dignity with respect to abortion. In addition, may a treaty suspend the application of a Constitutional Court ruling authoritatively defining the meaning of this principle? These questions remained unanswered in 1992 as the Bundestag heatedly debated a number of abortion reform proposals. Whatever the all-German policy turns out to be, the Constitutional Court will doubtless have the last word on its validity.

Property The deviation clause of Article 143 (1) was also designed to deal with the problem of property rights. On 15 June 1992, the GDR and FRG governments signed a Joint Declaration on the Settlement of Open Property Issues. This agreement provided that all property taken by the GDR's Communist government between 1949 and 1989, including expropriated businesses and property placed

under state administration, was to be returned to their rightful owners. Compensation would be paid in the event that property could not be returned. The treaty contained one exception to this policy of restitution: Expropriated property would not be returned to their former owners if needed for investment purposes—a rule applied mainly to factories and large businesses—if innocently acquired by third parties, or if incapable of being returned in its original form. In each case, however, compensation would be forthcoming.

The most controversial of the Unity Treaty's property-settlement provisions was the exclusion from restitution of property expropriated by the Soviet Union in eastern Germany between 1945 and 1949. The Soviet Union had seized all land holdings over 250 acres and distributed most of them to small farmers. Prime Minister de Maizière refused to undo these takings. For one thing, any return of these millions of acres to their former owners would have caused enormous social unrest in the east. For another, the Soviet Union insisted on the exclusion. Yet the right to property, the rule of law, and equality under law are core values of the Basic Law. Accordingly, former owners of land in the east, invoking these values, challenged the 1945–49 exclusion in the Constitutional Court. In this instance, however, the achievement of unity—one of the Basic Law's highest values—trumped the right to property in the form of its restoration.

Furthermore, said the Court, the 1945–49 takings occurred before the Basic Law entered into force.⁷⁷

Other Treaty Provisions As already noted, the Unity Treaty provided for the creation of the *Treuhandanstalt*, set up the German Unity Fund, and revised the constitutional formula for intergovernmental revenue-sharing. In addition, all property and assets owned by the GDR, including the special funds of its railway and postal systems, would become the property of the FRG. Several provisions dealt with the status or continuing validity of GDR treaties, court decisions, and administrative rulings, most of which were to remain in effect unless incompatible with the Basic Law or federal law. GDR school certificates, university degrees, and titles were to retain their validity, although only in the eastern *Länder*, whereas judges and civil servants would be required to submit to recredentialing procedures. The treaty also required the former GDR to adopt EEC regulations, to maintain the church tax, and to decentralize cultural, educational, and athletic institutions. The German government would also be responsible for “rehabilitat[ing the] victims of the iniquitous SED regime” obliging it to sponsor “appropriate arrangements for compensation” (Article 17). In this connection, and at the insistence of the GDR, the six million files of the disbanded state security policy (*Stasi*) were to remain in the ex-GDR until an all-German parliament could enact a law regarding their storage and access. GDR officials were interested in keeping control of the files and to allow public access to them. The FRG, on the other hand, wanted them moved west and kept under the control of federal security police.

Finally, the contracting parties agreed that within two years further amendments to the Basic Law would be considered in the light of reunification. To wit: (1) a revision of federal-state fiscal relationships; (2) the incorporation of Berlin into Brandenburg; (3) the introduction of state objectives into the Basic Law;

and (4) holding a referendum within the context of Article 146. The last two proposals could lead to general constitutional reform. Eastern German leaders, drawing upon their socialist heritage, will try to incorporate more social and economic rights into the Basic Law, an endeavor likely to be supported by the western Greens and the SPD. Together, these groups are also likely to press for a popular referendum on a revised constitution or, what is more probable, on the Basic Law itself.

The Two-Plus-Four Treaty

After seven months of negotiation, the four war-time Allies and the two Germanys signed the treaty that finally closed the books on World War II.⁷⁸ The Allied Powers relinquished all their occupation rights and restored full sovereignty to a united Germany. Under the treaty, the new Germany (1) accepts its present boundaries and guarantees the border with Poland; (2) renounces aggressive warfare as well as the production and use of biological, chemical, and nuclear weapons; and (3) agrees to reduce its armed forces (ground, air, and naval forces) to 370,000, to allow Soviet troops to remain in the ex-GDR until 1995, and to finance their return to the Soviet Union. Germany also agreed to ban any NATO presence in the east while Soviet troops remain there. A major Soviet concession was to allow the FRG to choose its military alliance.

Finally, in a supplementary letter to the Allied foreign ministers, Foreign Minister Hans-Dietrich Genscher and Prime Minister Lothar de Maizière noted that Germany would abide by the 15 June 1990 Joint Resolution excluding property expropriated between 1945 and 1949 from the general terms of the Unity Treaty. They also pledged on behalf of Germany to preserve monuments to war victims erected on German soil and to maintain war graves. The two German leaders also declared that in united Germany “the free democratic basic order will be protected by the Constitution. It provides the basis,” they continued,

"for ensuring that parties which, by reason of their aims or the behavior of their adherents, seek to impair or abolish the free democratic basic order as well as associations which are directed against the constitutional order or the concept of international understanding can be prohibited." This language was taken directly from Article 21 of the Basic law, which authorizes the Federal Constitutional Court to pronounce antidemocratic parties unconstitutional. It thus appears that the new Germany will also be a "fighting democracy."

CONCLUSION

The portrait of Germany sketched in this chapter is one of a polity that up to now has worked and one that has brought about a high measure of stability and prosperity. The FRG also appears to have come of age politically. Its people are committed to democratic values, its party system is open and competitive, and its policymaking institutions are responsive to public opinion. Only time will tell whether the transition to democracy will be as smooth in the eastern *Länder*.

The FRG is a decentralized state marked by a system of administrative federalism, a fragmented bureaucracy, autonomous federal ministries, and a powerful Bundesrat capable of blocking parliamentary action. These institutions, like the political parties and parliament itself, are closely linked to various social and economic groups in the private sector, producing a politics largely of compromise and consensus. The Federal Constitutional Court, another independent center of power, watches over this system, keeping the major organs of government within their proper spheres of competence while helping to protect individual rights and liberties. Finally, having regained full sovereignty under the Two-Plus-Four Treaty of 1990, and increasingly confident of its power to influence events in Europe and the world, Germany can be expected to define its own foreign policy, preferably in harmony with American interests but against

them if necessary, but indubitably within the general framework of the Atlantic Alliance and an expanding European community.

Key Terms

Codetermination
Gymnasium
Loyalty Decree
Militant democracy
Numerus clausus
Ostpolitik
Socialist Unity Party (SED)
Works council
Two-Plus-Four Treaty
Lothar de Maizière
"Round Table" talks
Framework Act
Ten-Point Plan
Alliance 90
Stasi

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5. Dennis L. Bank and David R. Gness, *Democracy and its Discontents 1945-1963*, Vol. 1 (Oxford: Basil Blackwell, 1989), pp. 231-249.
 6. Much of the statistical information supplied here and in subsequent sections of this chapter is derived from *Statistisches Jahrbuch 1991 für Vereinte Deutschland* (Wiesbaden: Matzler Poeschel, Sept. 1991).
 7. John Ardagh, *Germany and the Germans* (London: Penguin Books, 1991), p. 63.
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 14. *Ibid.*, p. 3.
 15. Female labor statistics are drawn from "Women in the Labor Market," *The OECD Observer*, May 1980, pp. 4-7.
 16. See Ray C. Rist, "Migration and Marginality: Guestworkers in Germany and France," *Daedalus* 108 (Spring 1979): 95-108.

A. Notes

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2. This and the following historical subsections rely heavily on Geoffrey Barraclough, *The Origin of Modern Germany* (New York: Capricorn Books, 1963); Koppel S. Pinson, *Modern Germany*, 2nd ed. (New York: Macmillan, 1966); and H. W. Koch, *A Constitutional History of Germany in the Nineteenth and Twentieth Centuries* (London and New York: Longman, 1984).
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4. *Ostpolitik*, which means Eastern policy, is the term used to describe the efforts of West Germany, especially its chancellor Willy Brandt, to normalize relations with the eastern countries. The high point of

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18. Gerard Braunthal, "The Social Democratic Party," in H. G. Peter Wallach and George K. Rosomer, eds., *West German Politics in the Mid-Eighties* (New York: Praeger, 1985), p. 90.
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20. See Petra Kelly, *Fighting for Hope* (London: The Hogarth Press, 1984).
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26. See Peter J. Katzenstein, *Policy and Politics in West Germany* (Philadelphia: Temple University Press, 1987), p. 10.
27. *Ibid.*, p. 362.
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39. *The German Polity* (New York: Longman, 1978), p. 130.
40. See Donald P. Kommers, *Judicial Politics in West Germany* (Beverly Hills, Calif.: Sage, 1976), pp. 128-144.
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46. Ibid., p. 337.
47. See Rudiger Voigt, "Financing the German Federal System in the 1980s," *Publius* 19 (1989), p. 109.
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50. Klaus von Beyme, *Das Politische System der Bundesrepublik Deutschland nach der Vereinigung* (Munich: R. Piper & Co., 1991), p. 67.

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51. Walter F. Murphy and Joseph Tanenhaus, *Comparative Constitutional Law* (New York: St. Martin's Press, 1977), p. 660.
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