
Germany

The Grand Coalition State

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Germany experienced more radical regime changes during the nineteenth and twentieth centuries than most other nations. Over the course of almost 150 years, the country has been governed by a constitutional monarchy (1871–1918), an unstable democracy during the Weimar Republic (1919–33), National Socialist totalitarianism (1933–45), military occupation (1945–49), a liberal democratic regime in western Germany and a communist regime in the eastern part of the country in the period from 1949 to 1990, and a unified democratic State since the unification of West and East Germany in 1990.

Most observers during the early post-World War II period were pessimistic about the future of Germany's democracy. The country was faced with a political and economic load that seemed too heavy for it to shoulder: its National Socialist past, military defeat, wartime destruction and occupation, as well as the influx of twelve million refugees and those who had been expelled from Germany's eastern territories during the war and in the post-war period. Yet Germany's post-1949 transition to democracy turned out to be a 'success story'. The reasons for the success were manifold. One of the explanatory factors is the total discrediting of alternatives of a National Socialist or Communist nature. The support for democracy on the part of the Western occupation powers and on the part of most West German political elites at the local and the state level was also of central importance. The factors that were conducive to democratic consolidation in West Germany also include the restoration of the economy and its high rate of growth in the 1950s and 1960s. No less important were the reconstruction and expansion of the welfare state, which provided social protection on a massive scale. The success of Germany's democratic transition manifested itself not only in a high level of political stability and governability, the regular alternation of government, and the insignificance of anti-system parties, but also in the preference of a majority of East German citizens for the rapid accession of the states of the former communist German Democratic Republic to the Federal Republic in 1990.

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INTERNATIONAL CONTEXT: NATO MEMBERSHIP, CIVILIAN POWER, TRADING STATE AND EUROPEAN INTEGRATION

The political construction of the German State, it has been argued, has been characterized by 'semi-sovereignty' in domestic politics (Katzstein 1987, Green and Patterson 2005). Domestic semi-sovereignty has been complemented by a 'civilian power' approach to foreign policy (Maull 1991), the predominance of a 'trading state policy' rather than a 'great power' approach (Staack 2000), an open economy and international and suprational integration. Although Germany's participation in multilateral peacekeeping and peace enforcement has added a new component to its foreign policy stance since the mid-1990s, the country's foreign affairs continue to be those of a non-militant democracy. Integration into the West and multilateralism, together with sovereignty transfer to international and supranational organizations, form the leitmotif of Germany's foreign policy stance both before and after unification.

In comparison to its pre-1945 regimes and to other large countries or central powers, Germany has a very high degree of international or supranational integration, as exemplified by its membership in the North Atlantic Treaty Organization (NATO) and the European Union (EU) membership on the one hand and participation in world markets on the other. Integration into the alliance of Western democracies, defence against the Soviet Union and its allies and taming the power of the German State were major motives for the admission of West Germany into NATO and for the founding of the European Community in the 1950s. Part of the deal was the transfer of a considerable proportion of national sovereignty to supranational organizations both in military politics and in civilian affairs. Originally, the transfer of sovereignty to the European Union was largely confined to a few selected policy areas, particularly agricultural policy, and tariff and trade regulation. Owing to the acceleration of European integration in the 1980s and subsequent to German unification in the early 1990s, sovereignty transfers began to involve major areas of economic policy, environmental policy and monetary policy, as demonstrated in the Joint Internal Market and in the creation of a joint currency for the member countries of the Eurozone.

Despite the technocratic character of government in the European Union and notwithstanding the high level of compartmentalization in EU policy-making, the political leadership and the established parties in Germany have been among the advocates and activists for European integration. This is a reflection of the economic and political benefits that Germany has derived from European integration, but it is also at least partly attributable to a desire for an undisputed political vision on the part of the political class.

Generally speaking, European integration has received considerable support from most political actors in Germany, with the exception of those with nationalist

tendencies and the Eurosceptics, which include the activists and voters affiliated with the Alternative for Germany (AfD), a political party founded in 2013.

The extent to which the European Community has altered the institutional structures of politics and policy in Germany has been a matter of controversy. According to the ‘Europeanization’ hypothesis, politics and policy in the Federal Republic are shaped to a large extent nowadays by the requirements of the European integration process and by the impact of European Union legislative and executive acts on the EU member states. According to this view, Germany’s political system today is ‘europeanized’ to a large degree (Sturm and Pehle 2012). In contrast, the ‘nation state-oriented school of thought’ argues that national politics and national policy-making continue to significantly shape the parameters of timing and substance of policy-making in the EU and circumscribe the extent to which European legislation and EU policy are implemented in Germany. This school of thought is part of the view held by Germany’s Constitutional Court on the relationship between the European Union and its member states. An intermediate view emphasizes sectoral variation in governance structures at the national and the EU level (Scharpf 1999, 2010). According to this view, some policy areas are, indeed, governed by coalitions composed of specialized Euro-bureaucracy and national administrations, such as policy on trade and tariffs and agricultural policy, while others are mainly controlled at the national level, such as the core institutions of the welfare state. But there are also areas in which all major decisions are taken in EU institutions above all in monetary policy, in major economic policy areas and in judicial politics. In these areas, three EU institutions play a particularly powerful role: the European Central Bank, which is in charge of monetary policy and which has functioned since 2010 as a key actor in the management of the Eurozone crisis, the European Commission and the European Court of Justice.

A further point needs to be mentioned in this context. Most EU interventions are attempts to achieve a higher level of standardization, or harmonization in large parts of the legal system and the institutional apparatus of each of the member countries. Because a substantial proportion of the European Union’s economic policy is geared towards strengthening competition, creating markets and removing trade barriers, the European Union’s interventions tend to favour a liberal political economy rather than a coordinated market economy with a strong welfare state such as is found in Germany and Northern Europe (Höpner and Schäfer 2008). However, achieving effective and legitimate standardization, including economic liberalization, requires a high degree of harmonization of intermediary institutions, such as political parties, trade unions, professional groups and the mass media. But this type of harmonization is largely lacking in the process of European integration, with the practical implication that a Europeanized public space does not yet exist in Europe. Moreover, policy-making by the EU and for the EU lacks a European demos – a clear manifestation of the structural democratic deficit of the European Community. NATO membership, a civilian power approach to foreign policy, an open economy together with a trading state, and European integration are among the central

international constraints of the political system of the Federal Republic of Germany. It is to the latter that the focus now shifts.

ELECTIONS

Political parties and voters

In the 2013 election to the Lower House of the Federal Republic (the German *Bundestag*), the Christian Democratic Union (CDU) and its Bavarian sister organisation, the Christian Social Union (CSU), assumed the role of strongest party with a vote share of 41.5 per cent. This is consistent with a long series of national elections, in which the CDU-CSU had been the strongest party, with an average vote share of 42.6 per cent in the 1949–2013 period. The Social Democratic Party (SPD) was the second largest party in 15 out of 18 national elections and the strongest party in the remaining three elections, with an average vote share of 35.9 percent in the 1949–2013 period but only 25.7 per cent in 2013, the party's second lowest vote share since 1949. Politically, the CDU and CSU are centre-right people's parties of a religious, inter-confessional and interclass complexion and with a pragmatic, conservative and reformist bent. The SPD can also be classified as a people's party but with a somewhat stronger position among the unionised blue-collar and white-collar workers and among voters with a weak religious affiliation. The Liberals, or the Free Democratic Party (FDP), managed to garner less than 10 per cent of the vote (8.9 per cent) on average, while the Green Party (or *Bündnis '90/Die Grünen*, the official name since 1993), which made its entry onto the parliamentary scene in the late 1970s in state parliaments and in 1983 in the Lower House, has won an average of 7.0 per cent of the vote in the period from 1980 to 2013 and 8.4 per cent in 2013. Number four in terms of the vote share is the post-communist party, *Die Linke* (The Left), the former Party of Democratic Socialism (PDS), which was itself the follow-up organization to the Socialist Unity Party (SED) of the communist German Democratic Republic.

Smaller parties have also competed for votes, but their share has been low or insignificant in most elections, with the exception of the early 1950s and the 2013 election. In the early 1950s, the German Communist Party, the Unified Germany Federation/Bloc of the Expelled and Dispossessed (GB-BHE) and the regional parties, such as the Bavarian Party, garnered 4–6 per cent of the vote. In the 2013 national election, more than 15 per cent of the vote was gained by smaller parties, among them the Eurosceptical Alternative for Germany (*Alternative für Deutschland*, 4.7 per cent), the FDP (4.8 per cent), the Pirate Party (*Piratenpartei*, 2.2 per cent) and the National Democratic Party (NPD, 1.3 per cent). These parties did not surpass the 5 per cent clause of the *Bundestag* Election Act and were therefore not represented in parliament. In contrast to France or Italy, right-wing parties such as the NPD have been unsuccessful in both national elections and, with a few exceptions, state elections in the Federal Republic of Germany. And in contrast to the English-

speaking family of nations, secular conservative parties, such as the British Conservative Party, have been absent from the German party system in the post-1949 period. Germany's party system is therefore marked to an unusual degree by the predominance of pro-welfare state parties.

Judging by the distribution of voters across parties, the natural centre of gravity in politics in pre-1990 West Germany was located between a centrist position and a centre-right one. German unification has altered this distribution insofar as the party system in the East German states has been marked by the weaker role of the CDU-CSU, the SPD, the Liberals and the Greens than in western Germany, on the one hand, and the strong position of the PDS, and later The Left, on the other.

In comparison to the period of the Weimar Republic, in which sharp cleavages prevailed, the ideological distance between the political tendencies in the western part of post-war Germany were overall speaking significantly smaller, above all from the late 1950s until the late 1960s. Moreover, the established parties exhibited a significantly greater willingness and ability to cooperate with their opponents, with grand coalitions between the Christian Democratic Union and the Social Democratic Party as major examples. The rise of a green party in the 1980s and the rise of the PDS (or The Left) after unification in 1990, however, changed this pattern. Both parties adopted more radical views, the Green Party with a preference for post-materialistic, environmentalist and pacifist policy positions, and The Left with a determined leftist-socialist programme. This has resulted in an increase in political polarization in post-unification Germany, albeit at a level below that of Italian-style 'polarized pluralism' and well below that of the Weimar Republic.

The degree of party concentration also indicates a further contrast between the First and the Second German Republic. The party system of the Weimar Republic was notorious for its very high level of fragmentation. In contrast, the level of fragmentation in the party system in West Germany in the 1960s and 1970s has been low, with two large parties – CDU-CSU and SPD – and a smaller liberal party as the key actors. And even if the level of fragmentation in the party system of unified Germany is higher than before – five parties instead of three are nowadays represented in parliament - it is below the Weimar Republic standard. Furthermore the ideological spectrum of the parties represented in the national parliament for most of the period since 1949 has been narrower than that found during the Weimar Republic and also in most other democracies based on proportional representation. This is largely due to the lack of a secular conservative party of the Anglo-American type and a communist party, and also the small size of a radical right-wing party.

Table 3.1 about here -----

What accounts for the distribution of power between the political parties and tendencies in the Federal Republic? Why are the two major political camps divided between Christian Democrats and their coalition partners, mostly the Liberals, on the one hand, and Social Democrats and their allies – such as the Greens (1998–2005),

the Liberals (1969–1982) and the post-communists in post-1990 Germany and in some of the eastern German states – on the other? The answers to these questions can largely be found in the structure of cleavages and in the impact of issues and candidates on voters' choices.

The relative strength of groups with centrist and centre-right tendencies in Germany, especially in the pre-unification period, mirrors a distinct distribution of preferences. West German voters, as measured by the distribution of voter preferences on the left-right scale, have been less inclined to adopt left-centre or leftist positions than voters in many other advanced democracies, such as France, Italy, Spain and Sweden. But in contrast to nations with a strong centre-right or right-wing tendency, such as France, Italy and Ireland, the median voter in the Federal Republic of the pre-1990 period also preferred a more centrist position.

The advantage the centrist and centre-right tendencies had over the Social Democratic tendency in the pre-unification period mirrored, to a considerable extent, the impact of the cleavage structure on electoral behaviour. The major cleavages in the Federal Republic of Germany are religion and class. The country's relatively strong religious cleavage is particularly important for an understanding of politics in the pre-1990 Federal Republic; the class-based division is somewhat weaker. Religion and class still play a role in structuring voting behaviour in post-unification Germany, but religion is by far less important in eastern Germany. Major social and economic trends, such as secularisation, the decline of the industrial sector and the rise of the service sector economy had also significantly reduced the overall importance of the religious cleavage and the class cleavage in West Germany. German unification amplified this process, a major factor in which was the very large proportion of East German voters without an affiliation to any church.

All else being equal, the cleavage structure and the distribution of preferences on the left-right scale contributed to the weaker position of leftist parties in general and of the SPD in particular. The position of the SPD has also been negatively affected by the relative decline in the size of the Social Democratic core constituency in the industrial sector of the economy. Moreover, the position of the SPD has been challenged by the rise of the Green Party since the late 1970s and by the post-communist Left Party in the East German states since the 1990s. Although it has been difficult for the SPD to compensate for the loss of votes due to changes in cleavages and structural trends, it is not impossible, as the national elections in 1998 and in 2002 demonstrate. Three trends contributed to the success of the SPD in these elections: first, higher measures of issue competence in relevant policy areas, such as social policy; second, popular candidates, first and foremost Gerhard Schröder at that time; and third, the relative weakness of its major opponent, the CDU-CSU, prior to the national elections of 1998 and 2002. The next three elections verged on disaster for the SPD, though. Due at least in part to electoral losses as a consequence of the unpopular third-way reforms introduced by the SPD–Green government between 2002 and 2005 (Arndt 2013), the vote share of the SPD dropped to 34.2 per cent in

2005 and 23.0 per cent in 2009, followed by a moderate increase in the 2013 election (25.7 per cent).

Socioeconomic trends have posed a challenge not only to the SPD but also to the Christian Democratic parties. The CDU-CSU has suffered losses in voter support due to secularisation in general, and to a relative decline in the proportion of voters with a strong religious affiliation in particular. These trends have been exacerbated by the post-1990 developments in the East German states. The weak religious affiliation of the electorate there, the weakness of entrepreneurial culture and the small entrepreneurial strata, as well as the legacy of the former socialist State, have all created unfavourable conditions for both the Christian Democratic parties and the Liberals in the new German states. On the national level, however, the Christian Democratic parties have been more successful in mitigating their losses in the electoral market than the SPD, although the decline of the Christian Democratic vote from an all-time high of 48.8 per cent in 1983 to an all-time low of 33.8 per cent in 2009 has also been dramatic. However, in contrast to the SPD, the CDU-CSU recovered its strong position in the electoral market in the 2013 election – not least due to the popularity of the Christian Democratic Party's leader, Angela Merkel, Chancellor of the Federal Republic of Germany since 2005.

While socioeconomic trends and the patterns of competition in the electoral market were more favourable to the Christian Democratic parties and the liberal party until the late 1980s, the overall balance of forces is different in the post-unification period. This is due to long-term trends such as secularisation and de-industrialization, but it also mirrors unification effects and short- and medium-term changes in the candidates and issue competency. In contrast to the pre-1990 period, the balance between the major political tendencies in unified Germany, as reflected in vote shares, is skewed in favour of parties left of centre. For example, the total share of the vote for the major non-leftist parties, the CDU-CSU and the FDP, repeatedly exceeded the 50 per cent mark from the *Bundestag* election in 1953 until the national election in 1990. However, after 1990 that share fell below the 50 per cent threshold, and dropped to an all-time low of 41.4 per cent in 1998. Whether this pattern will remain stable is difficult to forecast because Germany's voters in the post-unification period are more volatile than before. For this reason, short- and medium-term determinants such as candidates, issues and issue competency play a more important role in shaping voting behaviour. This results in a higher level of uncertainty for the competing political parties as well as for those studying electoral behaviour.

Electoral system

Germany has a two-part formula for elections to the national parliament: the electoral system combines regional closed-list proportional representation with a nominal plurality vote in single-member districts and is based on universal suffrage for citizens of German nationality aged eighteen or over. In elections to the German *Bundestag*, the Lower House, voters have two votes, the first for a constituency candidate, and the second for the party lists. The total number of the basic seats in

the Lower House is 598 since 2005. One half of the 598 seats are allocated by relative majority votes in each of the 256 constituencies, and the other half through party lists in each of the sixteen states (*Länder*) of the Federal Republic. The second vote is the decisive one because the distribution of the second vote determines how many parliamentary seats a party will receive, while the first vote determines which candidates will get one half of the 598 basic seats. The second vote guarantees proportional representation, whereas the first vote adds a personalized component and a majoritarian element to the electoral formula. The distribution of the second vote and the transformation of votes into seats according to the Sainte-Laguë formula generate a high level of proportionality between votes and seats in the outcome, much higher than the degree of proportionality in most other democracies.

There are, however, two restrictions on proportionality. The first restriction comes from the 5 per cent clause. According to the Lower House Elections Act, only parties with at least 5 per cent of the second votes or, alternatively, three constituency seats by relative majority in the first votes win rights to a proportional share of seats. (But if a party receives one or two seats by relative majority in the first vote and less than 5 per cent in the second vote, as occurred with the PDS in the national election in 2002, that party keeps those seats). ‘Overhang seats’ (*Überhangmandate*) are the second restriction on pure proportionality. These result from a party winning more constituency seats than its proportional share of second votes would indicate. In that case, the party retains the overhang seats, and parliament is enlarged accordingly. However, since 2013 adjustment seats compensate overhang seats in order to restore the degree of proportionality generated by the second vote. Adjustment seats (*Ausgleichsmandate*) were introduced in response to a ruling by the Constitutional Court, which declared parts of the former Elections Act to be unconstitutional.

Most of the political debates and most studies of electoral behaviour have focused on elections to the Lower House (*Bundestag*). That perspective unavoidably underestimates the impact of state parliament elections in each of the sixteen states on the composition of the state governments and the distribution of power in the influential Upper House (*Bundesrat*), which plays a major role in national policy-making in Germany. The electoral systems in the constituent states of the Federal Republic differ from the rules for Lower House elections in nuance and detail, but all are members of the family of proportional representation. However, party preferences and election outcomes differ widely between national elections and elections to the state parliaments. The vote for the Christian Democratic parties, for example, varied in the elections to state parliaments during the period from 2009 to 2013 from a minimum of 19.8 per cent in Brandenburg (2009) to a maximum of 47.7 per cent in Bavaria (2013), while the SPD vote varied in this period from an all-time low of 10.4 per cent in Saxony (2009) to 48.4 per cent in Hamburg (2011). Hardly less dramatic have been the differences in the vote for the Green Party (varying from 24.2 per cent in Baden-Württemberg in 2011 to 5.0 per cent in Saarland in 2011), as well as for The Left (with a maximum of 28.2 per cent in Thuringia in 2014 and a minimum

of 2.1 per cent in Bavaria in 2013), and for the Liberals (16.2 per cent in Hesse in 2009 versus 1.2 per cent in Saarland in 2012).

Election outcomes in the German states have major effects on politics and policy at the national level because they affect the distribution of votes in the Federal Council (*Bundesrat*), in which the states are represented at the federal level; they are therefore important for federal legislation. Consider, for example, the situation after the national election in 2013: At the national level, the reins of power were held by the third grand coalition of the CDU-CSU and the SPD. But only five states were governed by a CDU-SPD coalition at that time, and one state each was led by a SPD- and a CSU-dominated government. The coalition of CDU-CSU and SPD could therefore count only on 27 out of the 69 votes in the Upper House (see Table 3.4). Nine state governments with a total of 42 Upper House votes were controlled by alternative coalitions between either the CDU, the CSU or the SPD and one of the opposition parties in the national parliament.

Party composition in the states has a major impact on the majority in the Upper House, which is composed of delegates from the state governments. Owing to the powerful role of the Upper House in legislation – most major legislation and every constitutional amendment require the explicit consent of a majority in the Upper House – this constellation of political forces introduces powerful consociational elements to the architecture of government in Germany and often requires oversized coalitions between the incumbent parties and the major opposition party. This results in one of two alternatives: blockage of the decision-making process in the Upper House, or Germany being governed by a grand coalition of the federal and state governments, accompanied by a more or less hidden grand coalition between the incumbent parties in the federal government and the major opposition party.

PARTIES AND PARTY STRATEGIES

The German party system has undergone major changes both in regards to the total number of effective parties and the ideological distance between the various political tendencies. In the first and second legislative periods (1949–57), the party system was characterized by a large number of parties, a high level of fragmentation in the party system and a complex cleavage structure (class, religion, centre-periphery, anti-communism versus communism, and native population versus refugees and exiles). However, the total number and relative importance of smaller parties declined rapidly, largely due to rapid social change, high economic growth rates, the effective social and economic integration of weaker social groups through expanding job opportunities and welfare provision, and political mobilization on the part of the CDU-CSU and the SPD. What had been a party system with a degree of fragmentation not too dissimilar to that of the Weimar Republic was transformed into a three-party system in the 1960s and 1970s. That party system was composed of

a centre-right people's party of a Christian Democratic complexion, a centre-left SPD and a smaller liberal party. During this period, the Liberals were positioned to play the role of kingmaker.

As measured by indicators of political differences, the German party system of the 1960s and 1970s almost perfectly embodied the category of moderate pluralism rather than that of Italian style of polarized pluralism, to borrow a concept from Giovanni Sartori's typology of party systems. Notwithstanding its low level of fragmentation, Germany's party system proved more open to new parties than most observers had been expecting, as was demonstrated by the rise of the Green Party in the 1980s and the rise of the PDS (and its follow-up organizations), mainly in eastern Germany, since 1990. Furthermore, in contrast to the 'uncommon democracies' dominated by one party, such as Japan under the rule of the Liberal Party, Germany's post-war democracy has been marked by major changes in the partisan complexion of national government. These include the replacement of the CDU-CSU-led government by a grand coalition of CDU-CSU and SPD in 1966, the change in 1969 from the grand coalition to an SPD-FDP coalition, the substitution of a new CDU-CSU-FDP coalition for the social-liberal coalition in 1982 and in 2009, the formation of a coalition between the SPD and the Green Party (the 'red-green coalition') in 1998, and the changes in power in 2005 and in 2013 which resulted in the formation of the second and the third grand coalition of the Christian Democratic parties and the Social Democratic Party.

Policy positions

Policy positions differ from one party to another. On most left-right scales The Left (and its predecessor, the PDS) is located at the extreme left pole and the National Democratic Party is located to the far right, making it the rightist party par excellence. In contrast, the CDU-CSU occupies a centre-right position, the SPD is located left of centre but to the right of the Greens, and the FDP has a centrist position (see Table 3.2). This pattern is broadly consistent with the overall policy positions of the parties surveyed in Benoit and Laver (2007) and the policy position of the parties in the German national election in 2013 (Bianchi et al. 2013). The latter study also reveals significant differences between a more conservative position of the Christian Democratic parties and a more permissive, modernisation-oriented policy stance on the part of the SPD, the Green Party and The Left (Bianchi et al. 2013). The parties' policy positions differ for a wide variety of reasons, including their differing social constituencies. The Christian Democratic parties, for example, are the main representatives of the property owners, farmers, the old middle class, business and religiously affiliated voters, but they also represent a sizeable proportion of wage earners, lower-income voters and the religiously unaffiliated, and they receive the largest proportion of the votes of old-age pensioners. In so far as the Christian Democratic parties are interconfessional and interclass and of a pragmatic, conservative, reformist – if not populist – character, they may even be regarded as roughly corresponding to the Kirchheimerian 'catch-all party' (Kirchheimer 1966a).

The policy positions of the CDU-CSU mirror the complex structure of its social constituency. The CDU has been described as 'a new attempt to unite practising Catholics and Protestants in a modern centrist party, mainly in reaction to their experience of Nazism' (Klingemann 1987: 296). Moreover the policy profile of the CDU-CSU is marked by 'adherence to Christian values, democratic constitutionalism, a liberal social order, the social market economy, European unity and the reunification of Germany'. Others have emphasized the combination of pro-market and pro-welfare state positions the CDU has advocated and have pointed out that a 'social market' approach, or 'social capitalism', is the trademark of Christian Democratic public policy (van Kersbergen 1995). Since Angela Merkel was first elected as Chancellor, the CDU has proved to be particularly flexible in terms of surprising policy changes, including the adoption of Social Democratic policy stances, such as the acceptance of a nation-wide minimum wage regulation. But the most dramatic example of unexpected policy changes concerns the issue of nuclear energy. The Christian Democratic–Liberal coalition had long promoted a pro-nuclear energy policy stance, but that policy was upended in 2011 in response to the nuclear power plant disaster in Fukushima, Japan, and replaced by the decision to phase out nuclear energy even earlier than the date proposed by the coalition government of the SPD and the Green Party in 2001.

A heterogeneous social constituency, pragmatism and religious affiliation have also characterized the CSU, the Bavarian sister organization of the Christian Democratic Party. But in contrast to the CDU, the CSU has placed more emphasis on issues of regional concern; on populism; on a significantly higher level of State intervention in favour of business, farmers, workers and also ecological concerns; and has taken a conservative stance on civil rights issues, migration and issues related to the increasing role of the European Union.

The SPD is the oldest of the political parties in modern Germany and the one with the longest democratic tradition. Originally the SPD was mainly a class-based party of organized labour, deeply rooted in the milieu of the German working class. In the post-1949 period, the SPD has gradually been transformed from a class-based mass integration party to an ideologically moderate centre-left party. The SPD has mobilized voters mainly from the ranks of workers and social income earners, private-sector employees and public servants, blue-collar and white-collar workers and from materialists and post-materialists. The policy preferences of the SPD emphasize social justice, high levels of welfare state provision, social equality and an influential role for the State in regulating society and the economy in general, and in promoting an ecologically oriented industrialism in particular.

The Free Democratic Party, the liberal party, it has been argued, is for 'people who found the CDU too close to the Churches and the SPD too close to the trade unions'. As a strong advocate of private enterprise, the FDP is closer to the CDU-CSU on economic issues. However, on most civil rights and post-materialist issues, the FDP holds a position in the middle between the CDU-CSU on one side and the SPD and the Green Party on the other side. The Liberals' economic and political ideology

mirrors the interests of a social constituency pervaded by a middle-class entrepreneurial ideology and the predominance of secular views. The primary political goals of the liberal party, it has been argued, are to be found in the preservation of individual freedom, in its market-oriented economic policy and in the rejection of socialist planning and clericalism. However, that picture needs to be completed by outlining the social policy differences between the FDP and the bigger parties. In contrast to both the CDU and the SPD, the Free Democratic Party is not linked to the interests of the social income earners, such as old-age pensioners and recipients of social assistance, and is not affiliated with the trade unions.

The Green Party, or *Bündnis '90/Die Grünen*, is the offspring of the change in values from materialism to post-materialism and is a product of the rise of 'emancipative values', which emphasize free choice and equal opportunity (Welzel 2014). Ecological and gender issues as well as pacifism have been among the major concerns of the Green Party, although the Greens do not have a monopoly in these issue areas. A particularly large proportion of Green Party voters and party members is to be found among the better-educated generations, especially among people working in personal social services. In regard to their policy positions, the Greens advocate ecologically oriented, left-wing, post-materialist policies, with a major emphasis on environmental protection, phasing out nuclear energy, liberal migration policy and citizen participation, as well as supporting a high degree of decentralization and autonomy in the structure of the polity. Organizationally, the Green Party is a loose coalition of decentralized groups and factional tendencies, which encompass both the proponents of an uncompromising ecologist stance in their policy, the so-called fundamentalists, and the advocates of a more moderate approach to policy-making and coalition-building with centre-left or liberal parties, conceivably also with the CDU, the so-called realists. The merger between the West German Greens and the East German Greens in 1993 strengthened the more moderate tendencies within the Green Party, as did the participation of the Greens in the federal government in the period between 1998 and 2005.

In contrast to other political parties in Germany, the PDS (or The Left/PDS, the label adopted in summer 2005, and The Left, the label established in 2007) is a post-communist party. Historically, the PDS was the follow-up organization to the Socialist Unity Party, the communist state party of the German Democratic Republic. The new label 'The Left' is a reflection of the formation of an alliance between the PDS and a West German-based leftist opposition party in order to oppose the 'Third Way' reforms of the Social Democratic Party. According to its party programme, The Left is a radical socialist party. However, more detailed analysis reveals a more heterogeneous profile. First of all, The Left is much stronger in eastern Germany than in western Germany. Second, The Left is composed of different factions – from protest movements to radical democratic socialists and orthodox communists of the Stalinist and Leninist tradition. Its rank and file also includes supporters of the theory and practice of socialism in the style of the former German Democratic Republic, especially the intelligentsia and party faithful in eastern Germany, but it

also counts former members of the Social Democratic Party as followers. And as a protest party, The Left benefits from the economic problems and disappointed expectations arising from the process of unification. A vote for The Left can therefore be regarded at least partly as an indicator of disappointment with the outcome of unification. The Left has also been regarded as a potential, if not actual, anti-system party. However, the profile of The Left is more diverse than that implies. It oscillates between anti-system radicalism, socialist nostalgia, opposition to capitalism and pro-market policy, on the one hand, and relatively moderate policy-making in government, on the other, for example in the state of Berlin, where the leftist party presided together with the SPD over a policy of fiscal retrenchment.

Policy distances and coalition strategies of the parties

According to an influential view, the competitiveness in Germany's party system declined dramatically in the 1950s and 1960s. This view has been most forcefully advanced in Otto Kirchheimer's theory of the 'waning of opposition' and the rise of 'catch-all parties' (Kirchheimer 1966a, 1966b). According to Kirchheimer, Germany was a prime example of both processes. Studies of party manifestoes have supported Kirchheimer's view, at least in part, by pointing to the change from a conflict orientation to consensus: 'In a comparative perspective . . . post-war German parties seem the most consensual of all' (Klingemann 1987: 321). The distance between the extreme poles of the party system in the Federal Republic in the 1960s and 1970s was indeed smaller than in most other constitutional democracies and much smaller than during the period of the Weimar Republic.

However, the 'waning of opposition' view and the consensus hypothesis overestimate the decline and underestimate the possibility of re-polarization, as in the post-1969 period and after unification. Moreover, the 'waning of opposition' view veils the continuity of significant policy differences between the German political parties. In economic issues, the major policy difference has long been an inter-bloc conflict between the centre-left, the left and the Greens on one side and the centre-right parties and the Liberals on the other. Moreover, on most civil rights issues, such as abortion, and political rights issues, such as citizen participation and citizenship issues, and also on foreign policy issues, there has been a major division between the SPD, the Liberals and to some extent also the Greens on one side and the Christian Democratic parties with their more conservative stance on the other.

----- Table 3.2 about here

These policy differences make possible widely divergent coalition governments in Germany. On economic policy and other issues concerning the division of labour between the state and the private sector, the most natural coalition has long been a Christian Democratic-liberal alliance. On civil rights issues, on political rights and in many foreign policy areas, the natural coalition partner for the Liberals has been the SPD rather than the CDU-CSU. The policy differences and

commonalities both prior to unification and in a unified Germany also allow for the formation of an oversized coalition between the CDU-CSU and the SPD. As of spring 2014, for example, the federal government and seven states are governed by such an oversized coalition, or a grand coalition: Baden-Württemberg, Bremen, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate and Schleswig-Holstein.

Coalition potentials have changed in the post-unification environment and have tended to privilege the SPD over the Christian Democratic parties. The SPD's options include, in principle, a red-green coalition, such as the federal government between 1998 and 2005 and also in several states, among them North Rhine-Westphalia (since 2010). They also include a Social Democratic-liberal coalition, such as in the period from 1969 to 1982 and later in some of the states, such as Rhineland-Palatinate, and coalitions between the SPD and the PDS or The Left, such as in Berlin between 2001 and 2002 and in several eastern German states.

The coalition options for the Christian Democratic parties are more restricted. Its most natural coalition partner is the FDP, but the electoral weakness of the Liberals reduces the likelihood of future coalitions between the Christian Democratic parties and the Liberal Party. Grand coalitions with the Social Democratic Party are conceivable as long as no other feasible coalition choice exists. Other coalition options are either inconceivable for the CDU-CSU, such as an alliance with The Left, or would be very difficult to choose at the present time, such as a coalition with the Greens like the one in power in Hesse since 2014.

In contrast to majoritarian democracies, coalitions have been the typical form of government in the Federal Republic of Germany. However, the coalition patterns in post-war Germany are also at variance with those of many other democratic States outside the world of majoritarian democracies. The coalition status of the federal governments in Germany has been characterized by a wide range of variation. The dominant coalition type is a surplus majority government (if the CDU and the CSU are counted as separate parties, although they do not compete with each other). There have been minimum winning coalitions in power in five sub-periods (1969–72, 1976–82, 1987–91, 1998–2002, and 2009–2013), while grand coalitions have been formed in three legislative periods out of a total of 18. Single party governments (1960–61) and minority governments (November 1962, November–December 1965 and September 1982) have been exceptions rather than the rule. The coalition patterns in the states have been even more diverse. All-inclusive coalitions were prevalent in the immediate post-war period, but when the Cold War began, all-party coalitions were replaced first by coalitions which excluded the Communist Party, and later by surplus majority or minimum winning coalitions of differing political compositions. Although a clear trend emerged in the 1950s towards centre-right-liberal coalitions or, alternatively, centre-left-liberal governments, grand coalitions of the CDU and the SPD have been a familiar phenomenon at the state level.

The rise of the Green Party in the late 1970s and 1980s also had a distinctive impact on coalition building. The outcome has been mainly so-called red-green coalitions, i.e. alliances between the SPD and the Green Party, only at the state level

at first, but also at the level of the federation between 1998 and 2005. Since the early 1980s, the environmentalists of the Green Party entered coalitions with the SPD in 12 out of 16 German states): in Baden-Württemberg (since 2011), Berlin (1989 to January 1991 and in 2001–2002), Brandenburg (1990–94), Bremen (1991–95 and since 2007), Hamburg (1997–2001, 2008–2010), Hesse (1985–87, 1991–99 and since 2014), in Lower Saxony (1990–94 and since 2013), North Rhine-Westphalia (from 1995 to 2005 and since 2010), Rhineland-Palatinate (since 2011), Saarland (2009–2012), Sachsen-Anhalt (1994–98) and Schleswig-Holstein (1996–2005 and since 2012). The exception from the red-green coalition pattern has so far been the coalition of the Green Party with the CDU in Hesse starting in 2014.

The formation of an SPD–FDP coalition in 1969 and the CDU-CSU's adoption of a conflict-oriented stance as the opposition party in this period marked the end of the era of rapprochement between the Christian Democratic parties and the SPD which had characterized the 1960s. The higher level of political polarization in the party system was also the result of controversies over 'new politics' issues and new social movements in the 1970s and 1980s, such as the environmentalists, the anti-nuclear energy movement and the peace movement, and over issues regarding the eastern German transition to a market economy in the post-1990 period. During this period, political conflicts intensified to such a degree that they resembled the bitter disputes of the early 1950s between the Christian Democratic parties, with their emphasis on a pro-market economic policy, rearmament and the rapid integration of West Germany into the international and supranational organizations of the West, and the SPD, with its emphasis on the priority of national reunification and a democratic socialist economic policy.

However, for most of this period and also in the decades that followed, this higher level of political and ideological polarization had to be reconciled with the requirements of cooperation inherent in the political institutions of the Federal Republic of Germany. These requirements have been largely due to divided government, or divergent majorities in the Lower and Upper Houses. Divergent majorities have been frequent in the Federal Republic of Germany, such as during the period from the early 1970s to 1982 when a social-liberal coalition in power faced an opposition party in control of the majority of the seats in the Upper House. A similar pattern existed in the period from 1991 to 1998, when the CDU-CSU-FDP coalition lost its majority in the Upper House; from 1999, when the red-green coalition lost its majority in the *Bundestag*, until 2005; and during the period of the CDU-CSU-FDP coalition from 2005 to 2009. Even the grand coalition of the CDU-CSU and SPD in the federal government since December 2013 cannot count on a majority of the votes in the Federal Council (see Table 3.4). The outcome of divergent majorities in the Lower and Upper House is the coexistence of majority rule and consociational bargaining. Whether these circumstances result in blocked decision-making or in compromise depends on the capacity and willingness of the participants in the games between the Lower House, the *Bundestag*, and the Upper House, the *Bundesrat*. Within this context the typical outcome is a unique mixture of confrontation and cooperation between

government and opposition. As long as it controls the majority of the votes in the *Bundesrat*, the major opposition party is able to gain a co-governing position in this game particularly in legislation subject to an affirmative vote by the Upper House and in legislation on constitutional amendment. A better understanding of this constellation and its grand coalition outcome requires a more detailed study of the interaction between parliament, government and federalism in Germany. It is on these topics that attention will now be focused.

PARLIAMENT

Parties in parliament

In contrast to American style presidentialism and in further contrast to French semipresidentialism, the Federal Republic of Germany is an example of parliamentary government. And in contrast to Britain, German parliamentary government is republican in nature, not monarchical. The Lower House, upon the proposal of the Federal President, selects the head of the government, the Federal Chancellor. The Chancellor is dependent on the support of the majority of the *Bundestag*. He can be dismissed from office only by a constructive vote of no confidence, that is, by the election of a successor by the majority of the members of the Lower House. The constructive vote of no confidence prevents negative majorities, that is, majorities for voting a chancellor out of office but insufficient to vote in a new head of the executive, such as in the Weimar Republic. The constructive vote of no confidence inhibits major changes in the government within a legislative period, but it does not preclude the possibility of a major change in power, as the successful constructive vote of no confidence against Helmut Schmidt (SPD) and for Helmut Kohl (CDU) on October 1, 1982, showed.

In Germany's parliamentary government, the executive is split between the Chancellor (*Bundeskanzler*), the head of government, and the Federal President (*Bundespräsident*), the head of State. The two are of unequal political weight, though; the distribution of power favours the Chancellor. The Chancellor holds a powerful position *vis-à-vis* both parliament and the President, while the President's role is mainly confined to the exercise of 'dignified' ceremonial functions. An exception is the President's role in periods of major political crisis, for example in the case that a candidate for the post of the Chancellor does not obtain the majority of the votes in the Lower House or when a motion by the Chancellor for a vote of confidence is not carried by the majority of the members of parliament. In such a situation, the Federal President decides upon the dissolution of parliament, such as in 1983 and in 2005. The normal case, however, is marked by the dominance of the Chancellor and the weak role of the President. It is largely for this reason that Germany's parliamentary government has been described as chancellor-dominated parliamentary government or a 'chancellor's democracy' (Niclauss 2004).

As in most other parliamentary democracies, Germany's parliamentary government is based on the strong role of the parties in the selection of political leaders, in policy-making and in patronage. The role of the parties is so powerful that the Federal Republic of Germany has been classified as a prime example of a 'party State' (*Parteienstaat*), that is, a State in which all major political decisions are shaped, if not determined, by political parties. The full applicability of the 'party State' view to Germany is debatable, though, because a larger number of veto players and a powerful Constitutional Court circumscribe the scope for action left to the parties. Nevertheless, the selection of candidates for elections to the Lower House as well as the selection of the Chancellor are almost exclusively controlled by the political parties. While half the total number of seats in the Lower House are available, in theory, to non-partisan candidates, provided they gain a relative majority in their electoral districts, in practice, only party candidates win parliamentary seats. With very few exceptions, delegates have been party members and have been subject to party discipline in parliamentary votes.

Thanks to the high level of proportionality inherent in the electoral system, the distribution of parliamentary seats among the parties tends to closely follow the distribution of votes, although there have been exceptions to the rule, such as in the 2013 election, in which 15.8 per cent of the voters voted for parties which did not surpass the 5 per cent threshold and were therefore not represented in parliament. In all but three sessions of the Lower House (1972–76, 1998–2002 and 2002–2005), the CDU-CSU, comprising the CDU delegates and the CSU representatives, has been the strongest parliamentary group. Social Democratic delegates have formed the second largest parliamentary group, followed by the Liberals and, since the 1980s, the representatives of the Green Party and, since unification, the delegates of the post-communist leftist party. Besides the Liberals, the Greens and the Communist Party, the list of small parties which have held parliamentary seats includes the right-wing German Imperial Party (*Deutsche Reichspartei*) and the Bavarian Party (*Bayernpartei*) in the first legislative period from 1949 to 1953, the Centre Party (*Zentrumspartei*) in the first and second sessions, the German Party (*Deutsche Partei*) until the third session, and after unification the PDS or The Left.

Standard indicators of governability mirror the high level of political stability that has been achieved by Germany's post-1949 democracy. One example is the length of the period required to form a government; the average lifespan of the government can be taken as a further illustration. The mean score for the total number of days required to form a government after an election is thirty-eight, with a minimum of twenty-four (in 1969 and 1983) and a maximum of eighty-six in 2013. Most of the cabinets selected have survived for periods of considerable length; the mean survival score has been between three and four years and thus has been significantly higher than the survival period of cabinets in Belgium, Italy, Japan and the Netherlands, to mention just a few examples. In most cases, the government selected remained in office for the whole legislative period. However, there have been exceptions to the rule: in 1972, 1982 and 2005, when votes of no-confidence and

a vote of confidence, respectively, made way for the dissolution of parliament before the end of the legislative term.

The high survival scores of cabinets in Germany are at least partly attributable to the existence of internal pluralism in the political parties combined with tough discipline and party solidarity in voting in the Lower House. While migration from one parliamentary group to another was a common phenomenon among the smaller parties in the 1950s, the migration rate in parliament rapidly declined, with two exceptions. Measured as the percentage of the total number of delegates migrating between parliamentary groups, the migration rate dropped from 22 per cent in 1949–53 to 16 per cent, 6 per cent and 0.4 per cent in the legislative periods that followed, and then increased, albeit modestly, subsequent to changes in the party composition of government in 1969 and 1982, and during the first post-unification legislative period. The migration rate varies with the size of the political parties: the largest rate of defection from one parliamentary group to another occurred among the smaller parties, except for the Liberals, while the smallest overall migration rate was found in the two major parties in the Federal Republic, the CDU-CSU and the SPD. A noteworthy exception is the 1969–72 period, when defection from the parliamentary groups formed by the SPD and the FDP resulted in the SPD–FDP coalition's loss of the majority in the *Bundestag*.

Voting procedures in the lower chamber

Absolute majority and two-thirds majority rules dominate the voting procedures in the Lower House (*Bundestag*). The selection of the Chancellor, the vote of confidence and the constructive vote of no confidence require the approval of the 'Chancellor's majority', that is, the majority of the members of the Lower House. Legislative changes in the constitution require two-thirds majorities in both the Lower and the Upper Houses. Furthermore, a two-thirds majority in each of the Houses is needed for appointing judges of the Federal Constitutional Court. Finally, a two-thirds majority in either parliament or in the Federal Council is required for a vote on the impeachment of the President for the wilful violation of the Basic Law or any other federal law. Because each of the political parties in Germany regularly gains less than 50 per cent of the votes and seats, a two-thirds majority requires, in practice, the formation of an oversized coalition as well as cooperation between the governing parties and the major opposition party. The two-thirds majority rule thus strengthens the consensus democracy component and the grand coalition component of Germany's polity. The two-thirds majority rule can therefore be regarded as one of the most important institutional causes of Germany's strong consensus democratic structures (Lijphart 2012).

More detailed analysis of the legislative process demonstrates the applicability of the grand coalition view to legislative activity below the threshold of constitutional change as well. The Upper House (*Bundesrat*) has a qualified veto in areas of non-mandatory legislation (*Einspruchsgesetze*), although that veto can be overridden by a majority in the *Bundestag* of a size equivalent to the size of the veto

majority. However, in the case of bills, which are subject to an affirmative vote by the Upper House (*Zustimmungsgesetze*), the Upper House has full veto powers. This is particularly important because, until the reform of federalism in 2006, as many as six out of ten bills and most legislation on major domestic issues have been subject to mandatory approval on the part of the Upper House. But because a larger part of the legislation after 2006 has continued to be liable to mandatory approval by the *Bundesrat* (see Feldkamp 2014a: 12), the governance of the Federal Republic through legislation continues in many cases to require the formation of both a grand coalition of the incumbent parties and the major opposition party and a coalition of the federal government and the majority of the state governments. This is central to a fuller understanding of politics and policy in Germany before and after the reform of federalism in 2006.

These grand coalition requirements are particularly important in a period of divided government, i.e. a period in which the governing parties find themselves confronted in the Upper House with a numerical majority of states ruled by the opposition party. In a divided government, the opposition party is positioned as a de facto co-governing party, as long as the state governments' delegates vote along partisan lines (which is often the practice on issues of major policy importance) and as long as the government and the opposition prefer a compromise to a blockage in the decision-making process.

Legislative performance

In his famous article 'Parliament and Government in the New Germany', Max Weber differentiated between two types of parliament. One is the 'working parliament', the '*Arbeitsparlament*' (Weber 1988: 350), which places a large emphasis on committee work, legislation and control of the executive; the other is a parliament in which attention is focused mainly on parliamentary debates ('*Redeparlament*'). The German Lower House comprises both types of parliament, but the dominant part is the 'working parliament'. For example, studies have revealed the de facto priority of committee work (which is not public in Germany for the most part) over public deliberation in parliament. In the first seventeen legislative periods of the Lower House (1949–2013), for example, a total of 36,482 committee sessions was counted, almost the tenfold of the total number of plenary sessions (Feldkamp 2014a, pp. 9, 11). Other measures of legislative performance support the view that the *Bundestag* is a productive and efficient parliament. For example, the total number of bills introduced in the *Bundestag* in the first seventeen legislative periods came to 11665 (equivalent to an average of 686 bills per legislative period), and the total number of bills passed (7590, or an average of 446 in each legislative period) was not dramatically lower (calculated from Feldkamp 2014a, p. 12, 2014b, p. 466). Legislative activity is also reflected in the duration of the legislative process, measured by the average duration across all legislative periods from the date on which a bill is introduced until the promulgation of an act. According to this measure, legislative

acts in the first twelve sessions of the *Bundestag* span a period of 187 to 266 days (Schindler 1999, Vol. 2, pp. 2413-15).

Most legislation concerns issues and areas below the level of constitutional change. Only a small minority of legislative acts – less than 1 percent of the total number of bills passed in the Lower House – involve changes to the constitution (calculated from Schindler 1999, p. 2961, Feldkamp 2014a, pp. 12-13). Most of the constitutional changes were legislated during the following four periods: first, from 1953 to 1957, i.e. during a period of a two-thirds majority coalition of the Christian Democratic parties, the Liberals and the German Party/Federation of the Expelled and Dispossessed (GP/BHE); second, in the period 1966–69, the period of the first grand coalition of the Christian Democratic parties and the SPD; third, in 1990–94, due to legislation on German unification and on the implementation of the Maastricht Treaty of the European Union; fourth, in 2006, during which a major reform of Germany's federalism demanded a wide variety of changes to the constitution.

The extent to which party differences have an impact on parliamentary legislative activity has been much discussed. The fact that most bills are passed unanimously, one group of observers argues, points to small party differences. Others argue that the relative policy importance of a bill is what matters and that this is what reveals major party differences. Very important bills or important legislative acts, for example, often do not receive opposition party approval. Examples include reform projects by the red-green coalition government that was in power from 1998 to 2005, such as citizenship reform in 1999, and the red-green government's policy of phasing out nuclear energy, which was stopped by the CDU-CSU-FDP coalition in 2010, one year before the Merkel government's dramatic policy change towards finally phasing out nuclear energy. In contrast, unanimous approval or near unanimity is often only achieved with bills of lesser policy relevance. However, the complete picture is more diverse. There have been major bills which have met the approval of the incumbent and the major opposition parties, usually after extended bargaining. Important examples include legislation on German unification, on the privatisation of the telecommunication industry and railways, and practically all legislation on topics related to the European Union, including the substitution of the Euro, the common European currency, for the popular Deutsche Mark.

Generally speaking, however, the data on legislation in the 1980s and in the period after unification indicate declining percentages of bills that were passed unanimously or with large majorities in the Lower House –with the exception of the two sub-periods in which the CDU-CSU and the SPD formed a grand coalition, of course.

However, in order to get a complete picture, we must take into due account the legislative vote in the Joint Mediation Committee of the two chambers. The Joint Mediation Committee has a permanent membership of sixteen delegates from the Upper House (before unification eleven) and sixteen representatives from the Lower House (before unification eleven) whose partisan make-up is in proportion to the

parties' share of seats in the Upper House. The committee considers all legislative disagreements between the two Houses on appeal. The Joint Mediation Committee has become, de facto, a powerful mechanism for compromise seeking and decision-making on the basis of supermajoritarian coalitions between the incumbent parties and the opposition as well as between the federal government and the state governments.

The role of the Joint Mediation Committee was particularly important during the first two sessions of the *Bundestag* (1949–57), during most of the era of the SPD–FDP coalition (1969–82), in the second half of the era Kohl (1990–98), during the period in which the red–green coalition normally could not count on more than a minority of the votes in the Upper House (1999–2005) and in most of the years in which a CDU-CSU-FDP coalition governed Germany (2009–2013). In the first seventeen legislative periods 12 per cent of all bills passed in the *Bundestag* were submitted to the Joint Mediation Committee (calculated from Feldkamp 2014a, p. 12). Most of these bills were settled in the Committee through extended bargaining leading to compromises between all or almost all participants. This is a further indication of the major political actors' tendency to comply with the cooperation requirements inherent in Germany's political institutions. That compliance mirrors a consensus among the political elites on essential norms and values, but it can also be attributed to cost–benefit calculation by the parties, according to which, the benefits deriving from cooperation are higher, and the costs lower, than those that would accrue from non-cooperation and the resulting blockage of political decision-making. However, it must be added that such a blockage cannot always be avoided, as the fate of the Kohl government's tax reform in the thirteenth legislative period (1994–98) demonstrates, to mention only one spectacular example.

GOVERNMENT AND BUREAUCRACY

Party composition of government

During most of the period under investigation (1949–2014), the Christian Democratic parties have been the major player in the process of government formation. However, the Christian Democratic parties' control of the reins of power has been contingent on parliamentary support either from the SPD, such as in 1966–69, 2005–09 and since 2013, or from smaller coalition partners; the only exception was in the aftermath of the national election in 1957, in which the CDU and CSU gained more than 50 per cent of the seats in the national parliament. Among the smaller coalition partners the Liberals have long been strategically positioned. In the period up until the mid-1990s, the Free Democratic Party (FDP) has often been the kingmaker: its coalitional policy determined whether the CDU-CSU or the SPD gained access to the centre of power. The important position of the Liberals in the party system is also reflected in measures of the partisan composition of the national governments. Although the FDP is the smallest of the three established parties, it has participated

in government for almost as long as the Christian Democratic parties. At the federal government level, the Liberals were in office in 1949–56, in 1961–66 with a short interval in 1962, from 1969 until 1998, with another interval in September 1982 due to the breakdown of the SPD–FDP coalition, and from 2009 to 2013. During the period from 1949 until 2013, the FDP participated in the government for 45 years, while the Christian Democratic parties, although with an electoral strength many times greater than the Liberals, have spent 44 years in the government. The SPD has had to content itself in the period from 1949 to 2013 with 27 years in office (1966–82, 1998–2005, 2005–2009 and since December 2013). However, in contrast to the single-party governments of a social democratic complexion in Austria, Britain, France, Spain and Sweden, Germany's Social Democratic Party has never been in a hegemonic position in national government. The SPD has had to share power with the CDU-CSU (from 1966 to 1969, from 2005 to 2009 and since 2013), with the Liberals over a period of thirteen years (1969–82) and with the Green Party (from 1998 to 2005; see Table 3.3).

----- Table 3.3 about here

Compared with other democracies in the post-World War II period, the extent to which leftist parties have participated in national government in Germany, as measured by their share of cabinet seats, is moderate. For example, the extent to which Social Democratic parties have controlled the reins of power in the federal government in Germany (28 percent in 1950–2013) is lower, for example, than in Denmark, Israel, Norway, the United Kingdom and Sweden. In contrast to the left's weak role in government, the centrist and centre-right parties have been a major factor in the partisan composition of the federal government in Germany, similar to the centrist parties in the Benelux countries and in Italy until the decline of the Democrazia Cristiana. On the other hand, secular conservative parties, or 'rightist parties' (Castles 1998) – for example Britain's Conservative Party and the Republican Party in the United States of America – have never participated in the government of the Federal Republic of Germany. This marks a crucial difference between politics in Germany and in the family of English-speaking nations.

Parties have, of course, natural preferences for particular portfolios, depending upon the nature of their political programme and manifestoes, as well as on the preferences of their social constituencies. The overall pattern of the distribution of ministries among the incumbent parties in the Federal Republic has been as follows: The largest party in a coalition normally takes the Ministry of Finance and the Ministry of Defence, frequently also the Ministry of the Interior and the Ministry of Labour and Social Affairs as well as the state-interventionist ministries, such as Transport, Research and Technology, and Housing. But these patterns may differ in the case of a grand coalition. During the second grand coalition (2005–2009), for example, the smaller coalition party, the SPD, took not only the classical welfare state ministries, but also the Ministry of Finance and the Foreign Office. And in the third grand coalition (since 2013), the SPD has taken the Foreign

Office, the Ministry of Employment and Social Security and the Ministry of Economic Affairs, to mention only the most important ones. In both centre-right-liberal coalitions and centre-left-liberal coalitions, the FDP frequently gained control of the cabinet seats for the Ministry of Justice, the Ministry of Economics and the Foreign Office. With the exception of the red-green coalition, the ministries in the domain of law and order have mainly been within the jurisdiction of centre-right or liberal tendencies. In contrast, the ministries at the heart of the welfare state have mostly been allocated to the CDU-CSU and the SPD, thereby restoring the centrist stance that characterized social policy in the Weimar Republic up to 1930.

Political parties play a major role in the Federal Republic of Germany. In contrast to the pre-1949 regimes, the constitution of the Federal Republic and legislation such as the Parties Act spell out the legitimate rights of the parties. These rights include guaranteed participation ‘in forming the political will of the people’ (Article 21 of the Basic Law) – and responsibilities of the parties, such as the requirement for a democratic structure for the parties’ internal organization, and the duty to publicly account for their assets and for the sources and the use of their funds. Germany’s political parties have largely exploited the room for manoeuvring that has been available to them. According to a widely shared view, the outcome has been a ‘party State’ (*Parteienstaat*), in which the parties and their delegates in parliament take many of the posts in public administration and almost all major political decisions.

The ‘party State’ view rightly points to the importance of political parties in a modern parliamentary government, but it tends to neglect the institutional constraints on party behaviour. These constraints are particularly powerful because the total number of veto players and other de facto co-governing actors is particularly large in the Federal Republic of Germany, as cross-national comparisons, such as Lijphart (2012) and Schmidt (2010: 330–4) have demonstrated. Among these constraints, the most noteworthy to mention are the following: 1) a parliamentary government, which is more vulnerable to parliamentary veto-players than presidentialism; 2) government by coalitions, which is normally associated with higher costs of decision-making within government than in the case of single-party government; 3) a federal state in which the state governments play a major role both in federal legislation and in administration, which is largely a function of the states; 4) cooperation requirements stemming from the frequent occurrence of divergent majorities in the Lower and the Upper House; 5) high barriers to constitutional changes, which require a two-third majority both in the *Bundestag* and the *Bundesrat* and hence presuppose the collaboration of the major opposition party; 6) constraints stemming from Germany’s high level of integration in international and supranational organizations; 7) a powerful judiciary with a highly influential and popular Constitutional Court at the top; 8) the delegation of public functions to expertocratic organizations, such as an autonomous central bank; 9) the delegation of most decisions on wages and working conditions to collective bargaining between employers’ associations and trade unions; and 10) a strong tradition of self-

administration in social security, in local government and in the institutions of tertiary education and research.

It is to some of these constraints on the ‘party State’ that attention will now be turned.

Political and administrative structure

A political party that gains access to the reins of power at the national level in Germany governs a central State of modest size, one that is constrained by a highly fragmented state structure. More specifically, few federal ministries have the resources to implement and monitor the policies enacted by the federal government. With few exceptions, such as in the areas of defence and foreign policy, public administration is not a responsibility of the central government but rather of state governments, local governments, experts in institutions such as the German Bundesbank or the European Central Bank, and parapublic institutions of the welfare state, such as the Federal Employment Agency (*Bundesagentur für Arbeit*), the health and social insurance funds, and the trade unions and employers’ associations, who have the right to engage in free collective bargaining on wages and working hours. Due to the advanced degree of ‘europeanization’, monetary policy is governed by the European Central Bank and is therefore beyond the control of Germany’s national government. Thus, the national government in the Federal Republic of Germany reigns without having direct control over the administration of most of its policies and without having direct control over some of the major tools of economic policy.

The consequences of this division are non-trivial. In economic policy, the federal government, although widely regarded as politically responsible for macro-economic outcomes, can only provide limited resources to control macro-economic outcomes. For example, only 30 per cent or less of the total budget for general government is at the disposal of the federal government (while the states, local government and the social insurance funds are in charge of roughly 70 per cent of the budget). Monetary policy has been transferred to the European Central Bank, as already mentioned above. The consequences of delegating administrative responsibility also need to be taken into consideration. The process of implementing legislation gives considerable discretion in applying federal legislation to state-level administration and governments as well as parapublic institutions related to social and labour market policy. Furthermore, the delegation of administrative responsibilities gives state administrations, state governments and parapublic institutions considerable leverage not only in the implementation of the law after the fact, but also early in the legislative process. This creates a strong pressure on the parliamentary majority and the federal government to harmonize legislation at an early stage with the expertise and the preferences of both governments and administrations at the state level and the experts from the various parapublic institutions.

Some scholars, following Max Weber's theory of bureaucracy, have interpreted the administrative structure of the Federal Republic in terms of the hierarchical and monocratic model of public administration, which Weber derived largely from the experience of Prussian and French absolutism. However, a more nuanced perspective on Germany's administrative structure requires differentiation between three models of administrative intermediation of interests: (1) the French model of the institutional isolation of a monocratic and centralized administration from societal interests; (2) a fragmented multi-centre administration characterized by a low degree of isolation from societal tendencies and a large number of access points for organized interests, typified by the US model; and (3) the intermediate category of the Swedish model, defined by a strong tradition of professional bureaucratic administration, similar to that of France, and implementation of policy by autonomous authorities, as in Sweden's labour market policy, rather than by a hierarchical monocratic administration.

The German case approximates the Swedish model of decentralized and delegated public administration. But it must be added that administrative interest intermediation comes closer to the French model in some policy areas, such as in fiscal administration, or the US model, such as in the public administration of agricultural policy, which has largely been captured by interest associations representing German farmers.

Regardless of the degree to which it is formally incorporated into the administrative process, the administration's consultation with relevant interest groups is characteristic of legislation and pre-legislative activity in almost all domestic policy areas in Germany. The federal ministries' rules of procedure even require officials to consult representatives of interest groups when drafting legislation related to the groups' area of concern. Organized interests are therefore expected to speak for their constituencies. Furthermore, the participation of these interest groups is regarded as necessary and legitimate. Due to the fragmented structure of the State, a wide variety of access points are available to interest groups at the national, state and local levels, including parapublic institutions. This is the institutional base of a widespread practice of bilateral consultation and cooperation between the State and private interest organizations in Germany.

Most of the interactions between administrations and interest groups in the German polity are rather sectional; cross-sectoral coordination is almost completely absent from the State–interest group networks. The corporatist linkages in Germany's political economy are also characterized by sectional bias. Unlike fully developed neo-corporatism, as in Austria until the 1990s, Germany's liberal corporatism is confined to a limited number of policy areas, above all in the areas of unemployment insurance, labour market policy and health care. Following the classical view, according to which neo-corporatist intermediation generates better macro-economic performance, it can be argued that economic policy in Germany is constrained to a significant extent by the sectional nature of corporatism in the Federal Republic, which contributes to the absence of the cross-sector coordination of

fiscal policy, wage policy and private investment. Moreover, the moderate strength of corporatism has opened pathways for a policy of liberalizing key institutions in the German labour and product markets (Streeck 2009).

Intergovernmental relations: German-style federalism

The Federal Republic, it has been argued, is a ‘semi-sovereign State’, or a state which is characterized by a high ‘dispersal of power’, that is, a government constrained by powerful formal and informal checks and balances and by co-governing institutions, such as the coalition government, the Federal Constitutional Court and federalism (Katzenstein 1987, Schmidt 2011). Federalism merits additional attention in this context. Public policy in the Federal Republic rests not only on the division of labour between the federal government and the state governments, but also on a high degree of intertwining of policy-making by the federal authorities and the states, which includes assured participation rights of the states and veto powers of the Upper House over major legislation. Moreover, public policy in Germany also resides in joint planning and administration between the federal government and the state governments on a wider variety of matters that require cooperation and shared responsibility. The most important examples from before the reform of federalism in 2006 were in the areas of financial planning, economic development and science and research, and also spending on tertiary education and environmental policy. Policy-making in these sectors has been intergovernmental in character, a feature which is intensified by intergovernmentalism within the political institutions of the European Union. At the same time, policy-making is also shaped within the context of Germany’s party state by party competition. Policy-making is thus driven by two modes of conflict resolution: one is based on bargaining and methods of compromise-seeking as well as consensus formation, similar to the practice of consociational democracy, whereas the other rests upon majority rule, as in a pure majoritarian democracy.

Germany’s federalism is institutionalised in a federal government and sixteen states. In contrast to the pre-unification period, sharp economic disparities mark post-1990 federalism, above all disparities between the poorer states in the east and the wealthier or even rich states in the western part of Germany. Moreover, the accession of the former German Democratic Republic to the Federal Republic on October 3, 1990, shifted the balance of power between the states of the federation in favour of the more northerly and Protestant areas. Furthermore, owing to the high level of secularisation in East Germany, the proportion of religiously unaffiliated voters in Germany as a whole has increased. Last but not least, the party composition of the state governments differs widely, with Christian Democratic dominance in Bavaria and Social Democratic dominance in Bremen as the extreme poles (see Table 3.4).

----- Table 3.4 about here

The heterogeneity of federalism in unified Germany poses a twofold challenge. The economic reconstruction of eastern Germany and the creation of a common standard of living in eastern and western Germany require a massive west-east transfer of public resources equivalent to roughly four to five per cent of gross domestic product per annum over a long period of time. The west-east transfer has intensified conflicts between the political parties, between the federal government and the states, between capital and labour and between the government and the central bank over the distribution of the costs involved, to say nothing of the divisions within the states. The large differences between the states in unified Germany are a particularly heavy burden on federalism, because its institutional set-up and the repertoire of strategies available to its participants at the time of unification were all premised on the assumption of a relatively homogeneous federation.

One outcome of the post-1990 situation is that the states have found it more difficult to form coalitions against the federal government; on the other hand, there is potentially greater room for the federal government to manoeuvre *vis-à-vis* the states, provided that the federal government has sufficient political will, skill and resources to form coalitions with a majority of the states, including states from the political camp of the opposition party.

Germany's federalism has often been misunderstood. In contrast to the American model, political authority is not allocated to any one level of government in German federalism but is shared by the federal government and the state governments. More specifically, the state governments are in charge of most areas of public administration and have a major say in federal legislation. But note that the administration of important parts of the welfare state is largely within the jurisdiction of parapublic institutions, most notably the social insurance institutions and the corporatist Federal Labour Office, and is thus not within the direct reach of state administration. Furthermore, most major federal legislation requires a majority in the popularly elected Lower House and in the Upper House, which is made up of delegates of state government executives who cast their votes en bloc. Moreover the states have a considerable share of responsibility for the planning and formation of public policy through a wide variety of institutions of cooperative federalism and through self-coordination, such as through the conference of the state minister presidents (*Ministerpräsidenten der Länder*) and the quasi-governmental conference of the state Ministries of Education.

Germany's federalism is characterized by a network-like system of interlocking politics which serves to bridge the high level of vertical and horizontal differentiation and fragmentation of the decision-making process. Within these policy networks, participants find themselves in a series of interdependent decision-making structures. This interdependence, together with the willingness and ability of the major political actors to cooperate, has pervaded German federalism to a very

large extent. The result is extended bargaining as the dominant mode of conflict resolution. In most cases, consensus formation techniques have been successfully adopted and have been employed to secure unanimous votes or near unanimity; pure majority rule or minimum winning coalitions, on the other hand, are rare.

Each participant in this interlocking network has considerable veto power. Dramatic effects on policy can result from the combination of this veto power and the impact of a divided government, such as in the period from 1991 to 1998, 1999 to 2005 and from 2010 to 2013. Within this context, bills subject to an affirmative vote by the Upper House (which was standard for more than half of all legislative acts prior to the reform of federalism in 2006 and which continues to be the standard for many important legislative acts since 2006) force the federal government to choose between a blocked decision-making process and compromise with the Upper House majority. However, in a context of a divided government the Upper House majority is controlled by the opposition party. It follows from this that compromises between the federal government and the Upper House majority are de facto compromises of the government with the opposition party.. The choice for the major opposition party is of a similar kind: it is the choice between cooperative co-government or confrontation; the latter, however, results in a blocked decision-making processes. In practice, the governing parties and the major opposition party have chosen a cooperative strategy in most cases, usually after a longer period of negotiation, but there are also exceptions to this rule. These exceptions include the confrontation between the CDU-CSU and the SPD in the thirteenth legislative period (1994–98), which blocked a major tax reform project of the CDU-CSU–FDP-coalition; major conflicts between the red–green Schröder government and the opposition party in the 1998–2005 period; and intense conflicts between the federal government and the state governments over the costs involved in implementing the change in energy policy from nuclear energy and fossil fuel sources to renewable energy since 2011.

The political risk of non-cooperation by the various parties involved is of course large; non-cooperation leads to policy blockages with massive welfare losses. But the political risk of cooperation between government and opposition is also considerable. The governing coalition and the opposition parties will have difficulty ‘selling’ the cooperative strategy to their respective social constituencies, particularly to those activists who demand confrontational rather than cooperative strategies. Thus the choice of cooperation, and the underlying grand coalition structure of these cooperative moves, may well generate political discontent, dissatisfaction and the exit of disappointed voters. The parties involved in this process are therefore naturally inclined to adopt a dual-track strategy: either both cooperation and confrontation in legislation and also in the symbolic presentation of the choices or, alternatively, cooperation in legislation but with a confrontational style in the political rhetoric of partisan struggle. The latter, however, fuels adversarial politics and tends to undermine the potential for cooperation that is required for legislation in the hidden Grand Coalition State in the Federal Republic of Germany.

The Constitutional State

The Federal Republic has been shaped by the process of 'learning from catastrophes' (Schmidt 1987), such as the hyperinflation of 1923, the breakdown of the Weimar Republic, National Socialist rule from 1933 to 1945, and the collapse of the political, economic and social order in 1945. National Socialist rule in the period prior to 1939 was notorious for its 'dual state' (Fraenkel 1941), i.e. the co-existence of the relative predictability of the legal system in most economic affairs and the unpredictability in almost all other aspects of political and social life. That dual structure was increasingly superseded by a totalitarian regime during World War II. The primacy of National Socialist politics over the law stands in stark contrast to the constitutional structure of the Federal Republic. The 'founding fathers' of the Federal Republic's constitution placed a major emphasis on the formation of a constitutional state, the independence of the judiciary, judicial review and the establishment of a powerful Federal Constitutional Court. The effects could not have been more dramatic: National Socialist totalitarianism was replaced by the rule of law, the institutionalisation of the Constitutional Court as the guardian of the constitution, and the development of a law- and court-minded people.

The omnipresence of the law in the Federal Republic is striking. 'There is hardly an area of human relations in Germany untouched by some rule, order or regulation', wrote a leading American expert on German constitutional politics (Kommers 1976: 50). Even more striking is the powerful role of the Federal Constitutional Court in politics and in policy-making. The Constitutional Court is the guardian of the constitution, empowered to review on appeal any alleged violation, including legislative acts, and to void laws that violate the provisions of the Basic Law. The Court is autonomous and independent of any Ministry. As in many other democracies, the political parties participate in the selection of the judges of the court; however, owing to the federal structure of the Federal Republic, the states also play an important role in the process of appointing constitutional judges. Half the sixteen members of the Constitutional Court are selected by a *Bundestag* committee composed of twelve delegates whose partisan make-up is in proportion to the parties' share of seats, and half by the *Bundesrat*, in each case on a two-thirds majority vote. The two-thirds majority threshold is built into the act establishing the Federal Constitutional Court, while the mandatory participation of the two Houses has been made part of the constitution. This method of selecting the judges of the court ensures influential roles for the federal government, the state governments, the governing parties and the opposition party. Furthermore, the twofold two-thirds majority requires the de facto formation of a grand coalition, or an inclusive coalition of all the political parties, and unanimity, or near unanimity, among the state governments and the representatives of the Lower House.

Open access to the process of judicial review is a distinctive feature of the judicial system in the Federal Republic. Constitutional issues usually find their way the agenda of the court via one of three routes. The most common route is via a

complaint initiated by an individual who claims that one of his constitutionally protected rights has been violated by a public authority. A second route is through judicial review of actual court cases that raise constitutional issues, or the review of the compatibility of specific legal norms and constitutional provisions. The third route by which cases come before the Constitutional Court is through the process of abstract judicial review, that is, the review of the constitutionality of legislation as a general legal principle without reference to a specific court case. Abstract judicial review can be requested by the federal government or by state governments, or by one-fourth of the members of the Lower House (one-third prior to 2009), for example by the opposition, provided it is strong enough. In practice, opponents of a bill have used the abstract judicial review procedure as an instrument to continue a political dispute through legal means; this has the potential to be a powerful weapon, especially in the hands of the opposition party.

The court is also the final arbiter in constitutional disputes between different levels of government, such as constitutional conflicts between the states and the federal government. Furthermore, the Constitutional Court is responsible for protecting the constitutional and democratic order against political parties, groups and individuals seeking to overthrow it. Moreover, it is within the authority of the Constitutional Court to decide on presidential impeachment and the impeachment of federal or state judges, and to scrutinize petitions to review the process and outcome of elections.

The German Constitutional Court has been noted for its impressive record of constitutional interpretation in a wide variety of important matters and for its massive conflicts with the government. The topics on which the court has ruled include the treaties inaugurated by the SPD–FDP coalition in 1969 on the foreign policy of détente *vis-à-vis* the eastern European states (*Neue Ostpolitik*), the constitutionality of the route to German unification, the Lisbon Treaty of the European Union, the constitutionality of the Euro-rescuing policies implemented since 2010, the law on *Bundestag* elections, the five percent and three per cent clauses in elections to the European Parliament (which the court classified as unconstitutional), abortion law and co-determination in industry, to mention only a few examples. From a civil rights perspective, the court has been praised for its protection of human rights. From a democratic perspective, much can be said in favour of the court's role as guardian of a constitutional democracy. From a technocratic and systemic point of view, it can be argued that the court has relieved parliament, government and the opposition of responsibility on a wide range of highly controversial issues, such as the reform of public radio and television and the participation of the German army, the *Bundeswehr*, in out-of-NATO-area missions. From a policy-oriented perspective, the Constitutional Court has been criticized for exhibiting a high level of judicial activism and for not exercising sufficient judicial restraint. Some observers characterize the court's policy as conservative while others would call it liberal. Others have pointed to a more pluralist pattern to the decisions taken in the court. It has also been argued that the court's interference with

parliamentary and government prerogatives varies with time, depending at least in part on the scope of the legislative activity of the various cabinets and parliaments.

Although there is considerable disagreement on the details of the Court's stance on policy-making, it is uncontroversial that the Federal Constitutional Court, through its decisions, but also thanks to legislators' anticipation of judicial review, has been a major determinant of the courses of action open to the legislature and government. From the perspective of a top-down model of public policy, a powerful constitutional court such as the German Constitutional Court can be regarded as a major restraint on policy-makers. This restraint is amplified by the impact of powerful courts below the level of the Federal Constitutional Court, for example the Federal Social Court, whose responsibilities are mainly in the area of adjudication on legal aspects of social policy; the Federal Labour Court, the major arbitrator in disputes over federal labour legislation and workers' rights; and the administrative courts, which have become controllers of public administration and also political arenas for the continuation of political disputes over high-technology policy by legal means.

The powerful position held by the judicial system in general, and the Federal Constitutional Court in particular, has resulted in an unprecedented degree of juridification of Germany's polity, economy and society. For these reasons, it is perfectly appropriate to regard the Federal Republic of Germany as a prime example of a polity in which 'governing with judges' (Stone Sweet 2000) and sometimes 'government by judges' plays a major role.

PUBLIC POLICY IN A FEDERALIST 'CONSENSUS DEMOCRACY'

The Federal Republic of Germany is well-known for its high level of institutional fragmentation and dispersal of political power. Moreover, an analysis of the country's constitutional structures reveals a complex mix of 'majoritarian democracy' and 'consensus democracy', to borrow Arend Lijphart's vocabulary (2012). In contrast to unitary majoritarian democracies (like Great Britain), federalist majoritarian democracies (such as the USA) and unitary consensus democracies (such as the northern European countries and the Benelux countries), the Federal Republic of Germany, along with Switzerland and Austria, is a federalist consensus democracy. Furthermore, the alignments of voters, the party system and proportional representation have generated a distribution of power which requires coalitions as the typical form of government. These factors also narrowly circumscribe the federal government's freedom of action and generate an unusually large number of institutional and partisan veto players. It is largely due to the impact of these restrictions on the federal government that policy changes in domestic politics are often gradual and incremental and that major policy changes are particularly difficult to achieve. This does not mean that they are precluded, as demonstrated by the Kohl government's unification policy in 1990 or the decision to join the common European currency, but the decision-making costs of major policy

changes are high. This can be a major obstacle to the preference of centre-left or left wing governments for radical policy change, but it also inhibits efforts on the part of rightist or centre-right governments to achieve radical policy change. However, the potential for policy inertia inherent in a State in which many veto players exist can also be a major hindrance to elastic adjustment in reaction to major shocks, such as the ageing of the population, the declining birth rate and low rates of economic growth after a longer period of dynamic growth in the economy.

Additionally, the reduced short-term elasticity of Germany's political institutions, together with the consensus requirement inherent in the structure of its democracy, can also provoke dissatisfaction, protest or exit of the members of and voters for the incumbent parties and the opposition parties. This is basically due to the gap that exists between the expectations of most voters on the one hand and the political outcomes of German governance on the other. Many voters expect that the party they have chosen will adopt competitive strategies and that the outcomes will resemble those of a single governing party. Many voters thus premise their expectations implicitly on a majoritarian democracy model. However, Germany's polity is not a majoritarian democracy; rather, it is a unique combination of majoritarian and consensus democracy within a federal and 'semi-sovereign' setting, and therefore generates outcomes which can be said to characterize a fragmented consociational democracy. Germany's democracy is precariously positioned midway between effective taming of State power and often insufficient support for, and legitimization of, the policy output produced by the political parties. This may be regarded as the institutional infrastructure spurring the popular criticism of the political parties and the 'party State' and also as an institutional precursor to a relatively large proportion of 'dissatisfied democrats' on the one hand and a decline in voter turnout on the other (Statistisches Bundesamt et al. 2013: 370–7).

Although the 'semi-sovereign' structure of the German State prioritizes incremental policy change, it does not exclude the possibility of minor or major political innovation. Minor innovations are demonstrated by the coexistence of continuity in national institutions and widespread flexibility and experimentation in the less visible arenas of politics (such as the parapublic institutions), in the economy and in the networks of cooperative federalism. Major innovations occurred during the 1953–57 period, that is, during a hegemonic CDU-CSU-led government, including the decision to rearm Germany and to enter the European Community. The 1966–69 experiment of a grand coalition of the CDU-CSU and the SPD was also a major innovation, as was the politics of German unification in 1989–90. Major reforms implemented by the red-green coalition after 1998, such as the phasing out of nuclear energy, and the CDU-CSU-FDP government' change in 2011 from a pro-nuclear energy policy stance to a policy of phasing out atomic energy are further examples. There has also been leeway for expanding the scope of government, measured by general government expenditure as a percentage of gross domestic product (GDP). According to these data, Germany's level of public expenditure (as a percentage of GDP) is positioned midway between the club of 'big government'

countries such as France and Sweden on one side and a group of countries with significantly smaller public budgets, such as the United States, on the other. Most of the increases in public expenditure have been allocated to the expansion and maintenance of a comprehensive welfare state, which has been complemented by a hardly less ambitious network consisting of the co-determination of labour, work safety regulations and labour protection schemes (Schmidt 2012).

The institutional apparatus of the German polity in the post-1949 era has been conducive to a distinctive pattern of public policy. Cooperative federalism may hinder dramatic and radical policy changes, but it facilitates distributive incrementalism and ensures a sufficient level of institutional elasticity. Similarly, the logic of policy-making in centre-left and centre-right quasi-catch-all coalitions is inherently favourable to welfare largesse, particularly so in periods of rapid economic growth. Furthermore, while a decentralized state structure impedes full-fledged Keynesian management led by the central government, it strengthens, along with an autonomous central bank, a policy aiming at controlling inflationary pressure, which is highly popular in Germany. Focusing on the political economy, the aggregate outcome of these institutional factors and others discussed above has been a distinctive public policy pattern in the Federal Republic: “a policy of the middle way” (Schmidt 1987, 2014) between the extremes marked by social democratic welfare capitalism along Swedish lines and North American market-oriented capitalism.

Germany’s ‘policy of the middle way’ is a unique combination of market-oriented liberal economic policy, policy measures of a social democratic nature and policy measures of a Christian Democratic complexion. The policy of the middle way has four constituent parts: firstly, the prioritization of price stability; secondly, the aim to achieve economic efficiency through economic policy *and* social justice by means of an advanced welfare state; thirdly, a public expenditure quota close to the average of the OECD member countries; and fourthly, a state which delegates major public functions to expertocratic institutions, such as the European Central Bank, and to societal associations with parapublic status.

The political and economic outcomes of the Federal Republic, particularly in the pre-unification period, have been widely regarded as a success story. However, at least two caveats must be added to the ‘success story’ view. One concerns the limits of the policy of the middle way, such as the failure to maintain or restore full employment, on the one hand, and the side effect of an expanding public debt which comprises about 80 per cent of GDP in 2014, on the other. The second caveat concerns the winners and losers as a result of the middle way. The core group of winners consists of social classes with capital income from the ownership of firms, shares, monetary assets and land; employed persons in the primary labour market segments; and old-age pensioners with a working life of forty-five years and had wages or salaries above the average and, hence, a relatively high social income. It is important to emphasize – and this must be regarded as the key to an understanding of the political foundations of the middle way policy – that those in the core group of

winners are at the same time members of the core groups in the constituencies of the established political parties.

The losers from the policy of the middle way are mainly to be found among the unemployed – in particular job-seekers with frequent spells of unemployment and the long-term unemployed - and among groups with a short working life and a low income from work and, hence, a low income from social security programmes.

INSTITUTIONAL REFORM

Like many other advanced democratic states, Germany has been confronted with a variety of problems, such as reduced rates of economic growth, unemployment, an increasing level of public debt, the ageing of the population, environmental pollution and political terrorism. Moreover, the Federal Republic has been exposed to unique challenges such as the integration of roughly twelve million refugees and expellees after World War II and the integration of eastern Germany's political, economic and social structure into a unified Germany. Despite the challenges, Germany's polity proved to be relatively successful. For example, when measures of political productivity – such as participation, freedom, stability, health of democracy and social policy effort – are considered, the Federal Republic of Germany, despite its institutional constraints on major policy changes, belongs to the top group of countries (Schmidt 2011, 2012, Wolf 2014, Zohlnhöfer 2009). Indicators of sustainable governance support the view, that Germany belongs to a group of countries which is characterized by a high level of political performance (Schraad-Tischler 2014).

The relatively high level of performance of the country's political institutions and the requirement for cooperative strategies inherent in Germany's democracy have been major determinants of the debate on institutional reforms while also narrowly circumscribing the options available to practically minded reformers. There are proposals for radical reform, of course, which, on the one hand, include recommendations to completely overhaul the constitution, to substitute competitive federalism for unitarian cooperative federalism, to cut welfare state entitlements, and to further liberalize labour-market and product-market institutions, and on the other hand the avowal of a revolutionary breakthrough on the part of the extreme left and the extreme right of the ideological spectrum. However, most such proposals are based on empirically dubious arguments about the high costs of maintaining the status quo, and equally dubious assumptions about the large-scale benefits and low cost of radical or revolutionary change.

More serious proposals for institutional reform have focused mainly on certain aspects of the institutional arrangements. One of these proposals concerns the 'party State' issue. Many critics of what they regard as an overly powerful role for the political parties have raised their voices in favour of imposing more restrictions on party finances, party behaviour and party patronage, and have recommended more citizen participation by adding plebiscitary arrangements to the political

structure. Others have opted to improve the knowledge base and the competence inherent in the national institutions. The nature of these recommendations varies from neo-liberal criticism of interest groups and the State–interest groups nexus, to proposals for genuinely technocratic and meritocratic reform concepts, to full support for creating and maintaining neo-corporatist relations between organized economic interests and the State. Furthermore, partisans of federalism emphasize the potential threat of European integration to the individual states of the Federal Republic and demand low-speed integration or a halt to further integration. Support for this comes, above all, from critics of the policy adopted for and the costs involved in the management of the crisis among economically weak member countries of the Euro zone, such as Scharpf (2014). In contrast, the ‘Europeanists’ advocate accelerated economic and political European integration. There is also considerable disagreement between the ‘federalist’ camp – mainly composed of state-level executives and delegates to state parliaments – and the proponents of radical change in the delimitation of federal territory over the question of whether the states have the size and capacity required to discharge the responsibilities laid upon them. Moreover, there is a potentially explosive debate being conducted by the defenders of the welfare state and proponents of further expansion of social policy (mainly to be found among the unions, the welfare associations, the churches, the left wing of SPD and The Left) on one side, and the critics of ambitious social protection (mainly composed of business interests, the Liberal Party and neoclassical economists) on the other side.

Last but not least, German unification has triggered a debate on the constitutional structure of the country. Protracted parliamentary debate on matters of constitutional design was avoided during the rapid accession of the former German Democratic Republic to the Federal Republic and the almost complete transfer of the West German legal, political and economic institutions to eastern Germany. However, a minority has continued to demand that the Basic Law be radically amended. Politically more important has been the Joint Commission on Constitutional Reform, which was the product of Clause 5 of the Unification Treaty, and which urged the legislature to consider issues of constitutional change raised by the unification of the two Germanies in 1990. The constituent assembly of the Joint Commission took place in January 1992, and the commission’s report was published on 6 November 1993 (Gemeinsame Verfassungskommission 1993). Within the context of the main theme of this chapter, two major characteristics of the Joint Commission must be emphasized: the composition of and the non-decisions by the Commission. The composition of the Joint Commission was unique: half its sixty-four members were delegates selected in the Lower House in proportion to the parties’ share of seats, and half were delegates from the Upper House, including thirteen state minister presidents out of a total of sixteen minister presidents. Thus the political parties and a substantial proportion of the core of Germany’s political class deliberated on constitutional changes in the Joint Commission on Constitutional Reform.

It is therefore not surprising that deliberation in the commission has served mainly to advance the case of the ‘party State’ and the case of the institutional guarantees for the German states. Most other proposals for constitutional reform have been disregarded, though, as being unlikely to attract the two-thirds majority required for constitutional change in the upper and Lower Houses, such as the proposal to add components of referendum democracy to the political constitution of the Federal Republic.

The decisions and non-decisions of the Joint Commission are amenable to explanation. The key to an understanding of the politics and policy of the commission lies in its embodiment of an institution, which is distinctive to the Federal Republic. The Joint Commission was composed of two grand coalitions. One of them was the grand coalition of the major established parties, above all the CDU-CSU and the SPD; the other consisted of a broad coalition of the federal government with its parliamentary majority on the one hand, and a two-thirds majority in the Upper House, and thus a two-thirds majority among the state governments on the other.

This is part of a more general message to be derived from the political institutions in Germany. It is almost impossible in the Federal Republic of Germany not to be governed by a grand coalition of federal government and state governments and a grand coalition of the major established parties – whether hidden or formal. Diverging majorities in the Lower House and the Upper House intensify this requirement. Particularly during periods in which formal coalitions have been formed between the CDU-CSU and the SPD, but also in periods of non-oversized coalitions and diverging majorities in the *Bundestag* and the *Bundesrat*, the Federal Republic of Germany can be regarded as the embodiment of the Grand Coalition State, a German-style consociational democracy.

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Table 3.1 Elections to the German Lower House, 1949–2013

Year	Turnout	Communist	Green	Socialist	Liberal	Christian	Right	Others
		KPD/PDS/Left	Gr/B90	SPD	FDP	CDU-CSU		
1949	79	6	-	29	12	31	2	20
1953	86	2	-	29	10	45	1	13
1957	88	-	-	32	8	50	1	9
1961	88	-	-	36	13	45	1	5
1965	87	-	-	39	10	48	2	2
1969	87	-	-	43	6	46	4	1
1972	91	0	-	46	8	45	1	0
1976	91	0	-	43	8	49	0	0
1980	89	0	2	43	11	45	0	0
1983	89	0	6	38	7	49	0	0
1987	84	0	8	37	9	44	1	1
1990	78	2	5	34	11	44	2	2
1994	79	4	7	36	7	41	2	2
1998	82	5	7	41	6	35	2	4
2002	79	4	9	39	7	39	--	2
2005	78	9	8	34	10	35	1	3
2009	71	12	11	23	15	34	2	4
2013	72	9	8	26	5	42	1	10

Note: Party vote is measured as a percentage of the total second vote. Due to rounding errors the sum of the various party votes may slightly exceed 100 per cent.

Communist and post-communist: KPD (*Kommunistische Partei Deutschlands*): 1949 and 1953 (banned in 1956 by a ruling of the Federal Constitutional Court); DKP: German Communist Party (*Deutsche Kommunistische Partei*), 1972–87; MLPD (*Marxistisch-Leninistische Partei Deutschlands*): Marxist-Leninist Party in Germany, 1987; PDS: Party of Democratic Socialism (*Partei des demokratischen Sozialismus*), 1990–2005; Die Linkspartei. PDS 2005–2007, Die Linke (since 2007).

Greens: Greens (*Die Grünen* and since 1993 *Bündnis 90/Die Grünen*).

Social Democrats: SPD: German Social Democratic Party (*Sozialdemokratische Partei Deutschlands*).

Liberals: FDP: Liberal Democratic Party (*Freie Demokratische Partei*).

Christian Democrats: CDU/CSU: Christian Democratic Union/Christian Social Union (*Christlich Demokratische Union/Christlich Soziale Union*).

Right: DR: German Imperial Party (*Deutsche Reichspartei*), major party of the right, 1949–61; NPD: National Democratic Party (*Nationaldemokratische Partei*), 1965–87; 2005–2013; The Republicans (*Die Republikaner*), 1990–2005.

Others: GB/BHE: Unified Germany Bloc/Bloc of the Expelled and Dispossessed (*Der Gesamtdeutsche Block/Block der Heimatvertriebenen und Entrechteten*); DA: Democratic Coalition (*Demokratische Arbeitsgemeinschaft*); FVP: Free Popular Party (*Freie Volkspartei*).

Table 3.2 Left-right placement of the major parties in Germany prior to the national election in 2013 (pro-welfare state versus market liberalism)

Left	Green	Social Democratic	Christian	Liberal
The Left	Greens	SPD	CDU/CSU	FDP
<hr/>				
Left	Centre-left	Centre	Centre-right	Right

Party names: Left: Left Party (*Die Linke*), Grüne: Greens (*Bündnis 90/Die Grünen*), SPD: German Social Democratic Party (*Sozialdemokratische Partei Deutschlands*), FDP: Liberal Democratic Party (*Freie Demokratische Partei*), CDU/CSU: Christian Democratic Union/Christian Social Union (*Christlich Demokratische Union/Christlich Soziale Union*).

Source: Bianchi et al. 2013, p. 6.

Table 3.3 Federal governments of the Federal Republic of Germany, 1949–2014

Legislative period	Year	Chancellor	Party composition of federal government
1	1949	K. Adenauer	Christian Democrats, Liberals, German Party
2	1953	K. Adenauer	Christian Democrats, Liberals, German
Party,GB/BHE			
2	1955	K. Adenauer	Christian Democrats, Liberals, German Party
2	1956	K. Adenauer	Christian Democrats, German Party, DA(FVP)
2	1957	K. Adenauer	Christian Democrats, German Party
3	1957	K. Adenauer	Christian Democrats, German Party
3	1960	K. Adenauer	Christian Democrats
4	1961	K. Adenauer	Christian Democrats, Liberals
4	1963	L. Erhard	Christian Democrats, Liberals
5	1965	L. Erhard	Christian Democrats, Liberals
5	1966	K.G. Kiesinger	Christian Democrats, Social Democrats
6	1969	W. Brandt	Social Democrats, Liberals
7	1972	W. Brandt	Social Democrats, Liberals
7	1974	H. Schmidt	Social Democrats, Liberals
8	1976	H. Schmidt	Social Democrats, Liberals
9	1980	H. Schmidt	Social Democrats, Liberals
9	1982	H. Kohl	Christian Democrats, Liberals
10	1983	H. Kohl	Christian Democrats, Liberals
11	1987	H. Kohl	Christian Democrats, Liberals
12	1990	H. Kohl	Christian Democrats, Liberals
13	1994	H. Kohl	Christian Democrats, Liberals
14	1998	G. Schröder	Social Democrats, Greens
15	2002	G. Schröder	Social Democrats, Greens
16	2005	A. Merkel	Christian Democrats, Social Democrats
17	2009	A. Merkel	Christian Democrats, Liberals
18	2013	A. Merkel	Christian Democrats, Social Democrats

Notes: The first party indicates the Chancellor's affiliation. GB/BHE: Unified Germany Bloc/Bloc of the Expelled and Dispossessed (*Der Gesamtdeutsche Block/Block der Heimatvertriebenen und Entrechteten*); DA: Democratic Coalition (*Demokratische Arbeitsgemeinschaft*); FVP: Free Popular Party (*Freie Volkspartei*).

Sources: Schindler 1999, vol. 1, 1122-1132, 1439-62, Feldkamp 2011, 548-554, Feldkamp 2014^a.

Table 3.4 Germany's states compared

State	Number of votes in the Bundesrat	Party composition of government, December 2014	Party composition of government 1947/49-2013: overall cabinet seats share
Baden-Württemberg	6	Green-CDU-coalition	CDU (72.7 %)
Bavaria	6	CSU	CSU (89.4 %)
Berlin	4	SPD-CDU coalition	SPD (55.4 %)
Brandenburg	4	SPD-The Left coalition	SPD (66.5 %)
Bremen	3	SPD-Green coalition	SPD (72.6 %)
Hamburg	3	SPD	SPD (67.9 %)
Hesse	5	CDU-Green coalition	SPD (59.5 %)
Mecklenburg-West Pomerania	3	SPD-CDU coalition	SPD (47.3 %)
Lower Saxony	6	SPD-Green coalition	SPD (43.2 %)
North Rhine-Westphalia	6	SPD-Green coalition	SPD (58.6 %)
Rhineland-Palatinate	4	SPD-Green coalition	CDU (54.3 %)
Saarland	3	CDU-SPD coalition	CDU (60.3 %)
Saxony	4	CDU-FDP coalition	CDU (86.0 %)
Saxony-Anhalt	4	CDU-SPD coalition	SPD (43.7 %)
Schleswig-Holstein	4	SPD-Green coalition	CDU (53.3 %)
Thuringia	4	Left+SPD+Green coalition	CDU (79.3 %)

Note: The second column indicates the number of votes in the *Bundesrat* on 31 December 2014. The third column indicates the party composition of the government in the states on 31 December 2014. The data arrayed in the fourth column are indicative of the dominant incumbent party (measured by the share of cabinet seats since the foundation of the state until 2013). CDU/CSU: Christian Democratic Union/Christian Social Union, CSU: Christian Social Union, FDP: Liberals, Green: *Bündnis 90/Die Grünen*, Left: *Die Linke*, SPD: Social Democratic Party.