Josef Schüßlburner*
Suppression of political opposition and critics in the Federal Republic of Germany
with reflection of personal experiences with a peculiar form of democracy

The silent erosion of democracy. German democracy has a distinctly illiberal tendency. Professional bans, party bans, the disenfranchisement: the state has numerous sanctions against dissenters - and it uses them (Headline of the *Neue Zürcher Zeitung* on July 19, 2025, p. 1)

In international comparisons of democracy, the Federal Republic of Germany (FRG) receives far too favourable ratings. For example, according to its 2023 index "Ranking of countries based on the quality of their democracy", the University of Würzburg even ranks Germany second globally, behind the Kingdom of Denmark.

https://www.demokratiematrix.de/ranking

Such an excessively positive assessment reflects the self-image of the political class in the FRG, which constantly professes its commitment to democracy. These emphatically expressed declarations are widely recognized internationally as genuine and are seen as proof of the firm anchoring of democracy in the FRG. What is often overlooked, however, is that the commitment to democracy, as repeatedly proclaimed by representatives of the German political class, very often means combating the political opposition with illiberal means. This opposition is branded as "anti-democratic" because, due to "anti-constitutional" arguments, it could potentially draw votes away from the established "democratic parties".

This methodology was applied in an extreme way in the so-called Deutsche Demokratische Republik (German Democratic Republic, GDR): The leading communists assumed an anti-democratic majority among the people of then Soviet sector of occupation. In order to prevent their "democracy" from being "boycotted" (as the constitutional term went) by this undemocratic majority, the "democrats" - communists, who joined forces with willing Social Democrats like Prime Minister *Otto Grotewohl* to form the Sozialistische Einheitspartei Deutschlands (Socialist Unity Party of Germany, SED), as well as supportive Christian Democrats and Liberals - presented the people with a single "democratic list" of candidates without any "undemocratic opposition". This expertise of these former communists in protecting "democracy", which later manifested itself in the construction of the Berlin Wall and barbed wire, can now, following the gradual integration of these communists as leftists into the "democratic constitutional framework" of reunified Germany, also be used to "protect democracy" in the FRG. This leads to constant calls for a ban on the largest opposition party,

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the Alternative für Deutschland (Alternative for Germany, AfD), to so-called "firewalls" against parliamentarism in Germany, coupled with a multitude of massive discriminatory measures against members and supporters of this opposition party. The rule of the people, which is what democracy means, is thus replaced by the rule of democracy experts. These eloquent experts advise domestic intelligence services on how best to suppress opposition deemed "undemocratic". However, this endeavour must appear democratic: this was already the advice of the later East German dictator *Walter Ulbricht*, a member of the Left Party, then called SED. Constitutional rights are thus overshadowed by democratic values to which one must make a permanent ideological pledge. Such declarations then degenerate into demands for the suppression of political opposition and criticism. Academically, this situation in West Germany was characterized as an expression of "constitutional sovereignty", distinguishing it from popular sovereignty as realized in Switzerland and from parliamentary sovereignty in the sense of the British system.

> See *Heidrun Abromeit*, Volkssouveränität, Parlamentssouveränität, Verfassungssouveränität: Drei Realmodelle der Legitimation staatlichen Handelns (Popular sovereignty, parliamentary sovereignty, constitutional sovereignty: Three real-world models of the legitimacy of state action), in: *Politische Vierteljahreszeitschrift*, 1995, p. 49 et seq.

The Anglo-Saxon West does not really want to acknowledge these very peculiar developments of democracy in the FRG because these suppressive measures of what is termed "wehrhafte Demokratie" ("militant democracy"), aim to protect a German party system that was once established by the occupying powers through a system of party licensing. This system was indeed based, in a way that could be classified as racist, on the assumption that the free formation of political parties and the exercise of free elections among Germans would lead to Nazism. Full democracy in Germany, therefore, means according the assumption of confessing German "democrats" National Socialism. The common German citizen is not considered capable of learning from past political mistakes. This is seen as the exclusive job of democracy experts working for the domestic intelligence service, whose task is to ensure that Germans are prevented from voting for certain political parties. And a person like the author, who advocated in private contribution to magazines for the realization of a "normal democracy" in Germany, was as a professional civil servant then subjected to disciplinary actions because such a demand is supposedly paving the way for "right-wing extremism". The legally irrelevant term "right-wing extremist" stands for "Nazism" but also implicitly or even explicitly refers further to what was also not licensed by the occupying powers: national liberalism and classical conservatism, the major political factions of the German Empire that had helped Germany achieve global prominence and were therefore to be eliminated at least as separate political parties by the occupying powers under the pretext of fighting National Socialism.

Insofar as a right-wing political movement was able to develop in Germany in the immediate post-war period, this can be attributed to the licensing policy in the British occupation zone, which differed somewhat from that of the very specifically democratic Soviet Union, the USA and France. This British deviation allowed, among others, the Deutsche Partei (German Party, DP) to establish itself, which was part of the first two governments of Chancellor Adenauer. The need to prevent a socialist government and to enter for this purpose into a coalition with this right-wing party and with the then predominantly national liberal Freie Demokratische

Partei (Free Democratic Party, FDP) allowed Chancellor *Adenauer* to distance himself from Christian socialism, one of the original cornerstones of his Christlich Demokratische Union (Christian Democratic Union, CDU), into which the DP was eventually integrated (which also clearly demonstrates the CDU`s subsequent shift to the right). The successive German economic miracle is therefore largely thanks to this right-wing party. In many respects, the DP was significantly further to the right than today`s AfD, which faces massive discrimination in today's FRG that does not meet the standards of a normal Western democracy. This exclusion of the AfD, demanded by left-wing politicians and "democracy experts", therefore forces Chancellor *Fritz Merz* to pursue a very left-wing policy, something *Adenauer* was able to avoid by forming a very successful coalition with a right-wing party.

After the abolition of the licensing requirement and the transition to freedom of party formation after the enactment of the Constitution of 1949, termed "Basic Law for the Federal Republic of Germany", the protection of the party system established under the Allied licencing system of military occupation has also been achieved through measures that are not known in ordinary democracies. A recent comprehensive worldwide study on the phenomenon of "militant democracy" has reached the following conclusion: "We have seen that the idea of ´militant democracy` is of German origin… The country reports have shown that the German conception of `militancy` is… an exceptional one. It is neither possible nor desirable to transfer the German model of a `militant democracy` to other countries as it stands."

> See *Markus Thiel* (ed.), The `Militant Democracy` Principle in Modern Democracies, 2009, p. 383

The consequences of a foreign state adopting the FRG`s concept of "militant democracy" can be illustrated by the example of Russia. Russia`s awkward situation regarding political freedom stems from a radicalized adoption of the repressive instruments of "militant democracy" modelled on the FRG. As early as 2007, a publication in a book series with very close ties to the German "Federal Office for the Protection of the Constitution" stated with regard to Russia: "It should not be overlooked that the principle of a militant democracy in a deficient democratic system like that of Russia can itself become an enemy of freedom."

> Thus *Tom Thieme*, Parteipolitischer Extremismus in Rußland (Party-political extremism in Russia), in: *Extremismus & Demokratie*, 2007, p. 181

These special democratic features termed "militant democracy", which Americans and Britons would not tolerate in their own countries, are then accepted as particularly democratic in the case of the Germans, according to the assumptions of the superseded licensing system of the period of military occupation. However, since Western political scientists and most possibly also the leading politicians want to have confirmation that the re-establishment of democracy in Germany by Western authorities as occupying powers was very successful, a positive prejudice has developed towards the democratic situation in the Federal Republic of Germany

> This author has dealt with this problem in a contribution to *Chronicles. A Magazine of American Culture: Democratizing Germany: A Success Story?* https://chroniclesmagazine.org/vital-signs/democratizing-germany-a-success-story/

although some articles in *The Economist* magazine indicate that some knowledgeable Western observers are indeed aware of the peculiarities of democracy in the FRG. Reference can be made to an article on the "German way of Democracy", which emphasised the strange importance of the Verfassungsschutzämter, offices for the "Protection of Constitution", a combination of intelligence services and governmental propaganda offices against unwanted opposition, which were labelled "democracy agencies".

> S. *The Economist* Article of April 29th, 1995 on page 36 regarding „German way of democracy"

In a recent article, *The Economist*, in its piece "Free express in Germany" with the subtitle: "Over-Zealous courts and bad law are undermining free speech", emphatically pointed out the current threats to freedom of expression in the FRG.

> S. *The Economist*, April 19/25, 2025, p. 18: Free express in Germany. Germany´s gag reflex; s. also https://www.economist.com/europe/2025/04/16/the-threat-to-free-speech-in-germany

Nevertheless, it seems to be deliberately overlooked that the specific problems of democracy in the FRG are of a fundamental nature and cannot be explained by recent maldevelopments that could be quickly corrected.

Problems of international democracy comparison

This internationally positive bias towards the state of democracy in the FRG, which is due to the restoration of democracy by the occupying powers, probably also explains why Germany performed very well in the widely respected Democracy Index of the renowned magazine *The Economist* in 2024, landing in 13th place directly behind Taiwan.

https://en.wikipedia.org/wiki/The_Economist_Democracy_Index#cite_note-index2015-6

Three years earlier, Taiwan had ranked 8th, while Germany was only 15th. The Würzburg index had previously ranked Taiwan, which is governed under a constitution modelled on the German Weimar Republic as it has been adopted by the Republic of China, only 31st, and now it is ranked 29th.

> s. with respect to the situation of democracy in Taiwan: Chinesisches Demokratiewunder durch Rezeption der Weimarer Reichsverfassung in Taiwan (Chinese democratic miracle through the reception of the Weimar Constitution in Taiwan) https://links-enttarnt.de/wp-content/uploads/2023/01/VfgDisk12-Taiwan.pdf

As we can see, also in international comparisons, what is termed "democracy" reveals itself to be a highly complex phenomenon, which then has a sometimes remarkable impact on comparative assessments. Such assessments ultimately depend on very subjective factors, particularly regarding their weighting. Democracy, as it has genuinely developed until the end of the 19th century, is a synthetic entity that combines potentially contradictory elements.

See *Walter B. Gallie*, Essentially Contested Concepts, in: *Proceedings of the Aristotelian Society*, No. 56, 1955/1956, in which "democracy" is counted to notoriously controversial broad terms

Depending on which aspect - such as the validity of the parliamentary majority principle or the possibilities of the political opposition, which can certainly be in conflict with each other - is given decisive weight, one can obviously arrive at very different assessments, which for a single state in the same period range from 8th to 31st place. In addition to the general problems of international democracy assessments, political motives also influence the assessment, perhaps only unconsciously, which, for the reasons outlined, may have a much too positive effect on the assessment of democracy in current Germany. Russia`s rather questionable ranking in the Democracy Index, as far as it fares worse than the People`s Republic of China (ranked 151st and 145th respectively), is probably due to the fact that, because of the ongoing conflict in Ukraine, Russia is perceived by Western democracy evaluators as a veritable enemy state, while China is currently only a potential enemy.

With respect to positive aspects of democracy in post-soviet Russia, s. regarding the prohibition of the Communist Party: Rechtsstaat Rußland – Ideologiestaat Deutschland? – Die KPdSU-Verbotsentscheidung als Kontrast zur bundesdeutschen Parteiverbotskonzeption (Rule of law in Russia – Ideological state Germany? – The CPSU ban decision as a contrast to the West German concept of party bans) https://links-enttarnt.de/wp-content/uploads/2020/09/Parteiverbotskritik-Teil-14.pdf

Ultimately, in accordance with the promise of freedom already put forward in favour of democracy in ancient Greece, the decisive factor for international comparisons of democracies as well as other forms of government is the degree of freedom of the political system. Of central importance for free democracy, in contrast to all other political systems, including the so-called "people`s democracy" as it was realized in the GDR under the dictatorship of the left-wing SED, is the guarantee of the right to legally exercise political opposition. This can only be ensured through a comprehensive guarantee of freedom of association and expression, also because only in this way can a responsive parliament be established that approximates representative democracy to the ancient popular assembly democracy. This complex should be the focus of any comparative assessment of democracy: How does the FRG fare in this regard?

Regarding the degree of freedom of political systems, *The Economist*`s index distinguishes between "full democracies", "flawed democracies", "hybrid regimes" and "authoritarian regimes".

In the 2024 index, Germany is classified as a "full democracy" among the 25 countries. In contrast, "flawed democracies" occupy ranks 25 to 71. The latter are characterized as "countries where elections are fair and free and basic civil liberties are honoured, but may have issues (e.g. media freedom infringement and minor suppression of political opposition and critics). These countries can have significant faults in other democratic aspects, including an underdeveloped political culture, low levels of participation in politics, and issues in the functioning of governance."

The Federal Republic of Germany as a "flawed democracy"

In light of the recent ban on the magazine *Compact*, which was implemented as a ban on associations, it cannot be denied that the FRG can be criticized for "media freedom infringement". However, this problem remains unresolved even after the court overturned the ban, based on a legal reasoning that makes the situation regarding press freedom appear quite unpredictable. The court`s main argument for lifting the newspaper ban was that the articles "hostile to constitutional values" were not considered significant enough.

> See press release of the Federal Administrative Court No. 48/2025 of 24 June 2025 https://www.bverwg.de/de/pm/2025/48

This highest administrative court in Germany, acting as a court responsible for banning associations existing nationwide, assumes that the constitutionally provided option of banning an association could also be used to prohibit an entire magazine and thus unavoidably the opinions published therein. And this is not because such a magazine incites violence or demands other illegal measures, but because it promotes "anti-constitutional" ideas, such as the mass deportation of illegally immigrated foreigners. President *Trump*`s policies in this respect could lead to a ban on his Republican Party under German constitutional law!

This leads to the fundamental problem that, despite the guarantee of freedom of expression, articles can apparently exist that are "unconstitutional" and whose expression does not violate the legal order, but rather "constitutional values", which can then be used to justify newspaper bans. This means that numerous publications face the threat of being banned, and in any case, are at risk of being subjected to intelligence surveillance due to their political ideas. Despite the court ruling in favour of the banned magazine *Compact*, what remains unchanged is the court-sanctioned, massive post-censorship of parts of the political press after publication by domestic intelligence services. This censorship is then expressed in official publications, the so-called Verfassungsschutzberichte, "reports on the protection of the constitution". This post-publication censorship, which is as such not prohibited under German constitutional law, nevertheless constitutes a fundamental infringement on freedom of expression, particularly on the pluralism of opinions. The FRG`s domestic intelligence agencies, which target the expression of opinions, are therefore directed against the very foundation of political freedom and this in a permanent manner, and not just in case of a real emergency.

The anti-freedom nature of this post-censorship is evident in the fact that it leads to legal consequences that must be classified as "minor suppression of political opposition and critics". According to the Democracy Index, this type of moderate political suppression is characteristic of "flawed democracies". These suppressive measures include, for example, disciplinary action against civil servants aimed at their dismissal from service because they have privately published in magazines that the domestic intelligence service, without legal violation, classifies as "extremist", or because their statements are accused of "historical revisionism" or advocating a "nationalist / ethnic concept of the state". To arrive at these conclusions, certain terms are exposed as "codes" that supposedly conceal an attitude "hostile to the constitution". For example, the use of the term "Umvolkung" (population replacement by allowing illegal mass immigration) is taken as evidence of an anti-constitutional agenda. Such procedures, selectively

applied against opposition views, have significance beyond the individual case, as they constitute a "covert party ban" that is not recognized as such by German courts: The aim is to deter an opposition party, which is being targeted by the state for purely ideological reasons, from gaining qualified members whom it could offer to voters as suitable candidates. Such "minor suppression" is thus directed against the multi-party system and ultimately against the free right to vote, and therefore against the core tenets of democracy - and this is happening in the Federal Republic of Germany! Enduringly and not just recently!

However, when these effects are to be quantified in a comparison of democracies, it should be clear that, according to the *Economist´*s Democracy Index, Germany can only be classified as a "flawed democracy", and therefore, even with a generous assessment, it might be placed somewhere between 40th and 50th in a global comparison. This classification of Germany as a "flawed democracy" is, of course, directed against the officially celebrated international image of democracy, which possibly represents the real central constitutional value of official Germany. Therefore, a differing assessment, such as the one recently made by the American Vice President, has met with great dismay from the established political class in Germany: such an assessment of the situation of German democracy is said to be directed against "shared values". These "shared values" mean, based on the ideological assumptions of the earlier American occupation policy, that the political right in Germany must be suppressed and that this suppression then means a special kind of "full democracy".

This shared international understanding also explains the so-called European sanction against the Republic of Austria in 2000 because of the participation of the right-wing Freiheitliche Partei Österreichs (Freedom Party of Austria, FPÖ) in the government. A key motive for this international sanction policy was the fear that a similar government formation could occur in the FRG. Somehow, the Austrians had to be seen as Germans in this context, which is generally not something one should say internationally. *Emanuel Todd*, a close advisor to the then French President *Chirac*, the main instigator of European oppressive policy against Austria, declared the "German question" "open again" in the most prominent German daily newspaper *Frankfurter Allgemeine Zeitung* (FAZ) "because of Haider", then chairman of the FPÖ.

See *FAZ* from February 26, 2000, p. 44.

Todd intended to justify the refusal to allow free government formation in Austria, solely at the expense of the Germans, by denying the "German nations" the democratic right to form "far-right governments" "because of their history". "It makes a difference whether the extreme right comes to power in Germany (to which Austria suddenly belongs?, note), Italy, or France." But what exactly did *Todd* accuse the FPÖ of being "far-right"? "Historically, it is the party of Pan-Germanism and represents national liberalism." The emphasis on the German character of Austrians, the party`s historical references to democratic aspirations that encompassed all Germans and were expressed in the Paulskirche Constitution of 1849 (albeit ultimately as the so-called "Lesser German Solution" without Austria), and to German national liberalism should therefore be banned internationally: This seems to be what democracy means in relation to "German nations"!

Although there was no significant right-wing party in the FRG at that time, the prevailing international view of informed observers correctly was that a representation gap existed in the

FRG`s party system, which would sooner or later close under free political conditions. In fact, after several failed attempts, this gap was finally closed by the AfD. Due to the ideological legacy of the occupation period, German "democrats", with international support, cannot accept that a normal party system with full political pluralism appears to be establishing itself in the FRG. This must be prevented, and the recent American criticism of the suppression of political pluralism in Germany therefore seems very strange to these established German "democrats". Until now, they have been accustomed to the opposite: praise for being allowed to suppress aspirations deemed "undemocratic" because they are right-wing.

The US Vice President correctly accused Germany of excessively restricting freedom of expression and undermining the functioning of democracy through "firewalls" - keywords that clearly support the classification of Germany as a "flawed democracy". The only remaining question would then be where exactly the FRG falls between places 26 and 71.

The Federal Republic of Germany as a "new type of democratic constitution"

The starting point for a more fundamental analysis of the situation of democracy in the FRG should be a statement in the most prominent commentary on the Basic Law, according to which this "Basic Law deliberately created a new type of democratic constitution, for which we are still searching for the right term",

s. *Maunz-Dürig*, Grundgesetz-Kommentar, Paragraph 10 to Article 18 of the Basic Law

clearly a special case of democracy, which is therefore difficult to classify comparatively. This type of democracy is directed against what is remarkedly labelled as "fundamental rights terror" ("Grundrechtsterror" or "human rights terror") of German citizens. This means that citizens threaten democracy through the misuse of their fundamental rights, particularly freedom of expression, a fundamental right which can be revoked according to Article 18 of the Basic Law in a special constitutional proceeding. Above all, the exercise of the free right to vote is dangerous for this democracy, and this right can be denied to all eligible voters by banning political parties in accordance with Article 21 of the Basic Law. A banned party can then no longer be elected, and any mandates it has won through free elections are annulled. At least that`s how the German Constitutional Court interpreted the relevant articles of the Basic Law, and therefore banned a party indefinitely for holding incorrect views, such as representing "right-wing radical ideas" that would be "directed against liberalism", stripping it of its parliamentary seats that time without legal basis (which was later included into election laws). The purpose of banning the party was seen as eliminating the ideas represented by the banned party from the process of political decision-making. Furthermore, it is a criminal offense to establish a perhaps more moderate successor organization.

As a counter-model to the freedom established by the democratic Weimar Constitution of 1919 (entirely ignored as irrelevant by the occupying powers after the war), the following must be noted as characteristic of the FRG: "The `anti-democratic` behaviour of certain groups was fortified by stipulating that certain fundamental rights would be forfeited in case of abuse (Article 18) and that certain parties would be unconstitutional (Article 21). The strongest

bastions were erected against the misguided will of the people: no popular initiative, no referendum, no election of the Federal President by the people."

> Thus *Caspar von Schenck-Notzing*: Charakterwäsche. Die Politik der amerikanischen Umerziehung (Character cleansing: The politics of American re-education), p. 218; this is the most prominent book on the political consequences of American occupation policy in Germany

Since Taiwan, which is governed essentially according to a political system adopted from the Weimar Constitution of Germany, possesses and practices these options constitutionally denied to German citizens under the Basic Law, the assessment that places Taiwan ahead of the Federal Republic of Germany in the comparison of democracy is therefore fully justified. However, the gap between the FRG and Taiwan should certainly be assessed as somewhat larger than just one point.

As can be seen from the quoted passage, banning political parties plays a central role in preventing "human rights terrorism" possibly exercised by the Germans; such a ban is quite obviously directed in a fundamental way against the right to freedom of opposition and is thus contrary to political freedom, especially when the justification for such a ban is based on something other than illegality and the legal consequences have far-reaching suppressive effects. Regarding the assessment of a more recent party ban in South Korea, the following comparative statement is made: "In international comparison, Korea, with its historic party ban, ranks among only a few other states such as Egypt, Germany, Spain, Thailand, and Turkey."

> See *Hannes B. Mosler*, Das Verbot der Vereinten Progressiven Partei der Republik Korea (The ban on the United Progressive Party of the Republic of Korea), in: *Zeitschrift für Parlamentsfragen*, 2016, p. 176; as to this party ban s. Parteiverbot in Süd-Korea und Demokratieheuchelei der (deutschen) Linken (Party ban in South Korea and the (German) left's hypocrisy regarding democracy) https://links-enttarnt.de/wp-content/uploads/2020/09/Parteiverbotskritik-Teil-20.pdf

While the index of the *Economist* reasonably places Spain and Korea at 22nd and 32nd respectively, this strongly suggests that Germany should be ranked lower, as the Spanish party ban clearly demonstrates a connection to illegality (political party as the parliamentary arm of a terrorist organization), which was not the case with the German party ban. This places Germany clearly in the category of a "flawed democracy". The situation becomes even more critical when one considers that Thailand, as an "flawed democracy" ranks 63rd, Turkey, a "hybrid regime" ranks 104th, and Egypt an "authoritarian regime", ranks 129th, countries with which the FRG is plausibly compared with respect to prohibition of political parties.

It should be emphasized that banning a political party is probably easier in Turkey (as the concept was applied until the takeover of the Islamists against whom the Turkish party ban concept was always directed) and the Kingdom of Thailand than in Germany, given the necessary conditions the legal consequences of a party ban under German law are far more severe. Neither in Thailand nor in Turkey does a party ban lead to a general revocation of parliamentary mandates, nor is there a ban on the formation of successor parties. Thus, the currently dominant Erdogan party of Turkey emerged from two parties that were banned

successively, and the first ban was even deemed compliant with human rights by the European Court of Human Rights,

> S. on the Turkish party bans before the European Court of Human Rights: TBKP (United Communist Party) ./. Turkey; Socialist Party ./. Turkey, Judg. of 25.5.1998, Complaint No. 21237/93, Repts of Judgments and Decisions 1998-III, 1233, §§ 32,36; Refah Partisi (Welfare Party) ./. Turkey, Judg. of 13.2.2003 (Great Chamber), Complaint Nos. 4 1340/98, 41342/98, 41343/98, 41344/98, Reports of Judgments and Decisions 2003-II, 209 (= EuGRZ 2003, 206 ff.); s. also: Parteiverbot als Diktaturersatz. Kemalistisches Verbotskonzept als deutscher Bezugspunkt? (Banning political parties as a substitute for dictatorship. A Kemalist concept of prohibition as a German point of reference?) https://links-enttarnt.de/wp-content/uploads/2020/09/Parteiverbotskritik-Teil-16.pdf

contrary to German criticism voiced at the time when those official critics themselves were initiating the first of two recent attempts to ban the right-wing Nationaldemokratische Partei Deutschlands (National Democratic Party, NPD) by the Constitutional Court.

In order to avoid a conflict with the European Court of Human Rights, the German Constitutional Court found tricky ways to avoid a formal prohibition of that party. The first attempt failed on procedural grounds. Due to the massive infiltration of the party by intelligence agents, the court`s blocking minority, in deciding on the admissibility of the case, felt unable to determine whether "anti-constitutional statements" - and these were merely expressions of opinion! - could truly be attributed to the party. Rather, these statements "hostile to the Constitution" had to be attributed to the state itself, i.e., the intelligence agents, infiltrated into this party.

In the second case, the court in 2017 rejected the ban because the party was deemed too insignificant to politically implement its unconstitutional agenda, successfully. However, the court recognized this agenda, particularly its rejection of illegal mass immigration and naturalizations based on it, as inimical to the Constitution: the expressions of such opinions by the party were deemed to be directed against the fundamental constitutional value of human dignity.

> s. the further assessment of this judgement: Menschenwürde als Feinderklärung gegen den deutschen Charakter der Bundesrepublik? Bemerkungen zum verfassungsgerichtlichen Nichtverbot mit Verbotswirkung (Human dignity as a declaration of enmity against the German character of the Federal Republic? Remarks on the constitutional court´s refusal to prohibit, even though it has the effect of a prohibition) https://links-enttarnt.de/wp-content/uploads/2022/04/VerbKrit27.pdf

The court`s reasoning for the party`s unconstitutionality, which contradicts the tenor of the judgement (a methodology that law students should not use in exams if they want to avoid a bad grade), has since formed the decisive basis for intelligence and state propaganda actions against the now established opposition party AfD. The judicial and intelligence service justification, which targets an "ethnic concept of the people", is of a kind that would lead to classifying the basic state concept of Israel as the homeland of Jewish people as "hostile to the constitution" under German law. The accusation of anti-Semitism, which in being very quickly

raised in Germany for the purpose of Nazifying and thereby dehumanising the political opponent, thereby hypocritically invoking human dignity, could consequently be used against the main reason for the suppression of political opposition in the FRG! Incidentally, Israel, with which the German political class feels closely connected, ranks 31st in the democracy index. Perhaps Germany`s 13th place ranking is simply due to a transposition of digits?

Regarding the consequences of banning a political party, the degree of freedom in the Federal Republic of Germany lags behind that of the German Reich and, of course, the free Weimar Republic, which certainly represented a "full democracy". The conclusion by a renowned German lawyer: "For example, the party law of the free and democratic constitutional state (meaning: the FRG according to the Basic Law, note) is, from the perspective of political freedom, worse than that of the Anti-Socialist Laws in Bismarck`s Reich... In contrast, the monarchical and authoritarian Bismarckian Reich did not consider, because of the incompatibility of the Social Democratic Party`s political objectives with its own value system, going beyond the prohibition of party associations, their meetings and printed materials, to also abolish the freedom to vote for Social Democratic candidates, their participation in political elections, or even to revoke Reichstag seats they had won."

> See *E.-W. Böckenförde*, Staat, Gesellschaft, Freiheit. Studien zur Staatstheorie und zum Verfassungsrecht (State, Society, Freedom: Studies in Political Theory and Constitutional Law), 1976, p. 91, Fn 77

Additionally, it must also be emphasized that the ban on political parties in the German Empire, according to the concept of Article 30 of the Prussian Constitution of 1850, was inherently temporary, thus linked to the promise of a return to constitutional normalcy and therefore possessing an emergency character. This means that banning of a political party was conceptually geared towards the threat of revolution (whether this prerequisite actually existed in relation to the Social Democratic Party, SPD, at that time is another question). In contrast, the ban on political parties in the FRG is permanent, and the central grounds for prohibition are the promotion of false ideology, such as "right-wing radical ideas" directed "against liberalism". The ban is thus directed centrally, if not exclusively, against freedom of expression, which is rightly considered the foundation of political freedom itself. The German judiciary now claims, as did the court in the case of the ban on the magazine *Compact*, that such bans are not directed against a hostile ideology, but against dangerous political activities. This argument is highly flawed, indeed downright grotesque: If an SPD supporter gives a political speech, this is considered "very democratic", but if an AfD politician does the same - and legally - this party faces surveillance by intelligence agencies! The difference, therefore, lies not in the political activity, but in the content of the message, i.e., in the ideology. This clearly constitutes political inequality and thus political suppression, undeniably.

This suggests that Germany would have to be ranked around 40th in the democracy index. This assumption is further supported by the fact that Germany must be ranked at least lower than Japan (rank 16) with respect to the legal institution of party bans, since leading representatives of Japanese constitutional law have explicitly and decisively rejected the German concept of party bans, a central feature of German democracy: Although Japanese constitutional law had closely followed relevant German law since the Meiji Restoration of 1868, in the post-war period a temporary distancing occurred with regard to the constitutional law of the FRG.

"The bone of contention was the principle of militant democracy. Japanese constitutional scholars were able to understand the background of this principle well. Nevertheless, they interpreted this principle as justification for imposing the values set by the state on the people and for exerting pressure on the conscience of individuals, and were proud that the Japanese constitution did not contain such a problem and did not institutionalize such a principle. The Federal Constitutional Court was viewed from this perspective; it was even seen as the typical expression of this principle, especially since it is endowed with the power to ban political parties. The fact that the Federal Constitutional Court exercised this power twice in the initial period of its operation reinforced the critical stance of Japanese constitutional scholars."

> See *Hisao Kuriki*, Über die Tätigkeit der Japanischen Forschungsgesellschaft für das deutsche Verfassungsrecht (On the activities of the Japanese Research Society for German Constitutional Law), in: *Jahrbuch des öffentlichen Rechts*, 2002, p. 599 et seq., 601

Therefore, unlike in West Germany, there was no ban on the Communist Party in post-war Japan. „Parties against the democratic constitutional order are not, as in West Germany, restricted."

> S. *Lawrence W. Beer*, Freedom of Expression: The Continuing Revolution, in: *Percy R. Luney jr.* / *Kazuyuki Takahashi* (Ed.): Japanese Constitutional Law, 1993, p. 189; for comparison s. also: Gelungene Bewältigung in Japan, Bewältigungsfehlschlag Bundesrepublik Deutschland: Die Situation der Vereinigungsfreiheit (Successful handling of the past in Japan, failure in the Federal Republic of Germany: The situation of freedom of association)
> https://links-enttarnt.de/wp-content/uploads/2020/09/Parteiverbotskritik-Teil-19.pdf

A similar situation exists with Austria and Greece, which are ranked 19th and 25th respectively. The FPÖ`s clearly far better secured legal status in Austria compared to the AfD in the FRG strongly suggests that the FRG should be ranked at least after these countries, i.e., 26th, if not lower.

Covert prohibition of political parties: "Minor Suppression of Political Opposition and Critics"

To maintain the Federal Republic of Germany`s international image as a "full democracy", and thus to uphold the supposedly highest constitutional value of established "democrats," it is frequently emphasized that there have only been two formal party bans by the Federal Constitutional Court, which acts as the court for party bans, and that these occurred decades ago, namely in 1952 and 1956. This appraisal overlooks, among other factors, the fact that there were two party ban proceedings, as mentioned, against a minor party not so long ago, and that threats of party bans are constantly being made against an opposition party with a current vote share of between 20 and 30 percent of the electorate. The reasons put forward why the AfD should be banned and why this party is already officially classified as "extremist" at least are, according to an internal report by the Federal Office for the Protection of the Constitution,

which of course was leaked to the left-wing press, the following political positions, legally expressed in political statements:

- Culturally deterministic interpretation of history / society (for example, analyses suggesting that a so-called multicultural society would develop more negatively than the historically formed composition of the population)
- Gradations of the value of cultures (for example, the assumption that a Voodoo culture is not of the same level as a culture that has developed rocket technology)
- Counterproductive criticism of parliamentarism through massive criticism of opposing (i.e. established) parties (inflammatory criticism by "democrats" against the parliamentary opposition on the other hand appears to "protect democracy")
- Criticism of the way the past is officially dealt with ("Vergangenheitsbewältigung"), especially the "cult of guilt"; very unconstitutional: Comparative classification of the Nazi era as a "bird dropping" in the context of Germany`s more than 1500-year-long positive history
- Doubts about the sovereignty of the FRG (the reference to European sanctions policy against Austria because of a government formation based on democratic election results as indirectly directed against the FRG is then a "conspiracy theory", which is seen "hostile to the constitution")
- Islamophobia (assessment that Islamic cultures have greater difficulties implementing democracy than, for example, Christian-influenced cultures)
- Nationalist / ethnic conception of the state / German nation (emphasizing the German character of the FRG is therefore "hostile to the constitution", while the emphasis on the Jewish character of the State of Israel is obviously not "unconstitutional").

It must be emphasized that such positions, which are protected by freedom of expression even in Germany, can certainly be the subject of opposing criticism in a fully functioning democracy. However, German "protection of democracy" means that such legally expressed opinions can nevertheless lead to a party ban, or at least to intelligence surveillance of the corresponding opposition party and of critics. The official action against the opposition is therefore not limited to illegal activities, which, for example, cannot be attributed to the AfD at all, but according to this concept of the Offices for the Protection of the Constitution, the following activities are dangerous for democracy, in Germany at least:

• Political Statements
• Expressions of opinion
• Political Ideas
• Connections, for example through interviews in the intelligence-monitored press
• Adoption of ideas from other organizations that already are under intelligence surveillance due to their advocacy of false but "compatible" political ideas
• Cultivation of a specific narrative (such as an argumentation like the present one about the German democratic situation as far as this analysis goes back to Allied occupation of Germany).

The specific concept of banning political parties, which is directed against political ideas and whose legal consequences remain in so far below the level of political freedom in the German Empire, is therefore permanently present as a covert form of party banning. This permanent effect of prohibition is possible because the unique aspect of the "protection of democracy",

which is the aim of banning political parties, lies in the fact that the Federal Republic of Germany`s state security apparatus draws a so-called "value threshold", while ordinary democracies aim for a "violence threshold".

> this is convincingly outlined by *Gregor Paul Boventer*, Grenzen der politischen Freiheit im demokratischen Verfassungsstaat. Das Konzept der streitbaren Demokratie in einem internationalen Vergleich (Limits of political freedom in a democratic constitutional state: The concept of militant democracy in an international comparison), Berlin 1984

The Federal Constitutional Court has, through the ban on political parties, defined this value threshold, at least against the right, in such a way that the purpose of the ban also includes eliminating the ideas represented by the party from the political decision-making process. By defining the party ban as a ban on ideas, and thus as being centrally directed against freedom of expression, the reason for party prohibition become detached from the organization itself, which may have been banned for understandable reasons, such as being the parliamentary arm of political terrorism, as in the case of a party prohibition in Spain. This is because ideas are also represented by individuals and organizations that have no organizational connection to the party: The next candidate for banning is in Germany thus created even before its founding. And before and instead of a formal prohibition the covert party ban can then be applied after the formation of a new right-wing party or similar association.

The question then becomes how this prohibitive effect prevails even without a formal ban, in order to be classified as suppressive. The answer lies in creating a substitute for a party ban, a covert party prohibition which, in order to maintain the international image of a "full democracy" in the FRG, largely avoids a formal party ban as an authoritarian elimination of political opposition, but achieves an effect that at least approximates such a ban. This effect can only be achieved through the central element that, according to the Democracy Index, primarily distinguishes "flawed democracy" from "full democracy": "minor suppression of political opposition and critics." "Minor suppression" means that a critic is not killed or imprisoned, as this would constitute an "authoritarian regime", ranking at least 108th or lower, or at least, if politically motivated criminal law serving political interests is only occasionally applied, a "hybrid regime", ranking 72nd or lower.

The term "minor suppression" refers to politically motivated discrimination such as job loss due to political activities that are legal in themselves but deemed undesirable by the state, such as expressing specific political opinions. In Germany, however, sentences of up to six years in prison are occasionally handed down for violating a historical truth protected by criminal law due to political interests.

> For example: Volksverhetzung - Horst Mahler zu sechs Jahren Haft verurteilt - Politik - SZ.de

The Constitutional Court of the Kingdom of Spain, moreover, has declared such a penal provision unconstitutional, which in turn suggests again that the FRG should be ranked below Spain in comparison anyway.

The German equivalent of a party ban, the covert prohibition of a political party, is primarily formed by the following: police ministries list not fully as legitimate recognised but legal opposition parties and opposition magazine projects in so-called "reports on the protection of the constitution" (Verfassungsschutzberichte), which are based on alleged findings from domestic intelligence services in which relevant opposition is portrayed as "hostile to the constitution", not because of politically motivated crime or respective intentions at least, but above all because of activities such as "historical revisionism": this would constitute a state-shattering delegitimization of the state, for example, if "Germany`s sole guilt" for the outbreak of World War II were denied or "relativized". While this type of "relativization" is principally protected by freedom of expression, this legal exercise of freedom is nevertheless considered "human rights terrorism" - that is, an "abuse of freedom" - which, as such, is not to be tolerated without legal sanctions. It becomes clear that the definition of a threat to public security is not based on the criterion of violence or mere illegality, at least, but rather on an ideological threat to the state posed by a correspondingly defined "enemy of the constitution". Such definition is not common even in other "flawed democracies", including the USA, which ranks 28th in the index, but rather characterizes "hybrid systems" if not "authoritarian regimes", at least with regard to its prerequisites, even if the legal consequences in Germany are not as far-reaching as is often, if not predominantly, the case in such political systems.

This would even suggest that Germany should be classified just above the category of the "hybrid systems", roughly at 70th place. Sri Lanka is ranked there in the 2023 index (67th in 2024), a state that, apart from problems with Tamil separatism, respects political pluralism in a way unimaginable for Germany and only practices emergency-based party bans, meaning that even a party involved in a civil war is permitted to re-establish itself if it behaves legally in the future. This can be illustrated by the example of the Leninist-right-wing extremist JVP, which is how the German Federal Office for the Protection of the Constitution would likely had to classify this group. Since the "ideology of the JVP is a strange mixture of aggressive, ethnically coloured nationalism and a Marxist-influenced social philosophy"

> thus the assessment of probably the best German-language daily newspaper, namely the Neue Zürcher Zeitung, on September 4, 2001; s. to the practise of party prohibition in Sri Lanka compared to the FRG: „Notwendigkeit" von Parteiverboten „in einer demokratischen Gesellschaft": Der Fall der leninistischen – oder doch eher rechtsextremen? – JVP in Sri Lanka und die bundesdeutsche Parteiverbotskonzeption im Demokratievergleich (The "necessity" of party bans "in a democratic society": The case of the Leninist - or rather far-right? - JVP in Sri Lanka and the German concept of party bans in a comparison of democracies)
> https://links-enttarnt.de/wp-content/uploads/2025/10/VerbKrit18.pdf

in Germany this party would not be allowed even if it acts fully legally, not because of its Marxism but because of its supposed nationalism. This would mean that German democracy protection measures would be directed against a constitutionally amending majority of eligible voters. In fact, the left-wing alliance led by the JVP, that was prohibited twice by emergency rule, won almost 70% of the seats in the recent parliamentary elections in Sri Lanka on November 14, 2024, following the election of JVP party chairman *Anura Kumara Dissanayake* as president of the country in the preceding presidential elections on September 23, 2024. This is an indication of the extremist nature of the German concept of banning political parties, which

even makes the prohibition of voting for a party with a 2/3 majority appear "democratic". That this is not an exaggerated conclusion can be seen from the reasoning of the German Constitutional Court for the revocation of the parliamentary seats of a banned party. According to this view, the rights of voters of an unconstitutional party would not be affected by the revocation of its parliamentary mandates, because the voters` desire to be represented in parliament by such a party would itself be against the constitution. Germans therefore have no right to vote for such a party, and if they are formally prohibited from doing so, this does not constitute an unlawful interference with their right to vote! Thus, the government of a minority of democrats, which prohibits the future parliamentary majority in time, can still be considered "democratic": this is the logic of "people`s democracy" indeed, towards which "militant democracy" inevitably tends when there is a majority of alleged "enemies of democracy". If there weren`t other factors relevant to assessing democracy, such as corruption, one might even be tempted to rate Germany`s democratic situation worse than that of Sri Lanka.

However, in order to function as a substitute for formal party prohibition, these state reports, which have actually once been declared legally irrelevant by the Constitutional Court, must nevertheless have legal consequences aimed at suppression. These consequences manifest themselves, alongside numerous other factors such as the discriminatory withdrawal of the right for affected political organizations to issue donation receipts, which have a favourable tax effect, the withdrawal of firearms licenses, and the denial of participation in military training due to expressing wrong opinions

> See as an example: BON-P40-EG-20171221064258

or legitimate party membership, primarily in public service law. This is achieved by initiating disciplinary measures, if possible with the aim of dismissal, against civil servants who publish in magazines listed as "right-wing extremist" according to the state`s ideological classification or who actively participate in corresponding parties acting entirely in a legal way. Legitimate conduct, such as the exercise of freedom of expression is thus supposed to constitute a breach of professional duty. Sanctions such as dismissal for expressing opinions or for actively belonging to legally acting parties with perhaps flawed ideas must be classified as "minor suppression" according to the Democracy Index of the *Economist*. This is true even if the individual affected does not perceive it as "minor." However, such persons must acknowledge that they are not in mortal danger or at risk of being imprisoned, but are "only" jeopardizing their income or standard of living.

Violent anti-fascist actions, however, do not entirely preclude the possibility of physical harm, although such actions cannot yet be attributed to the political system itself, as this would truly imply a "hybrid regime" then. The extent of the threat to freedom of assembly in Germany can be seen in the fact that no publicly known AfD party conference can be held without massive police protection. Representatives of the political class usually show great understanding for these violent "counter-demonstrators". Thus, the leader of the communists, who are now appearing as Left Party, which is considered "democratic" according to the standards of the FRG, finds violent blockades of AfD events very acceptable. This raises the question of whether these attempted, and sometimes successful, preventions of opposition assemblies should ultimately be attributed to the political system itself, with inevitable consequences for Germany`s ranking in the Democracy Index. It must also be taken into account that restaurant

owners are threatened by anti-fascist groups, some of which are indirectly state-funded, to prevent them from allowing political rallies of right-wing organizations. Newspaper vendors are threatened if they offer respective opposition newspapers for sale. And these are not isolated incidents, but such "private" anti-fascist measures against opposition groups are taking place constantly. Opposition meetings must therefore be held as private events; this impairs their public impact. Moreover, this allows the domestic intelligence service to allege "conspiracies".

Especially the relevant discrimination against civil servants amounts to a covert ban on political parties, because the central purpose of this practice is to deny qualified personnel to a corresponding opposition party - personnel that such a party could offer to voters as candidates for elected office. By preventing qualified civil servants from applying for parliamentary candidacy with parties listed as such, because they do not want to become unemployed, the freedom of parliamentary elections is ultimately impaired, even if proving this is not so easy, since it cannot be said with certainty who would run for the federal parliament, the Bundestag, for example, if such intelligence reports did not exist and who would therefore refrain from running because of these reports and the associated risk of disciplinary action under civil service law: a situation that indeed poses considerable problems in international comparisons of democracies, i.e., in determining the specific situation of political freedom. The recent case in Mannheim, in which the AfD mayoral candidate was formally denied the right to run, should be known internationally. The denial was based on the principles of civil service law.

> https://www.swr.de/swraktuell/rheinland-pfalz/ludwigshafen/ludwigshafen-afd-kandidat-nicht-zur-oberbuergermeisterwahl-zugelassen-102.html

These legal principles also apply to local councils, even though they are ultimately elected and not appointed officials. Not considered here can be the voluntary refrainment of candidates for state parliaments and the Bundestag, where candidacy cannot be prevented under civil service law. However, the political activity that necessarily precedes a candidacy to a parliament can be subject to disciplinary proceedings according to civil service law, as the candidate would be violating not directly the law, but "constitutional values" by being an active member of an unwanted party, which then becomes unlawful under civil service law as applied as instrument of a covert party ban. Therefore, it is difficult to determine how many qualified individuals refrain from running for parliament, a situation, which impairs freedom of elections.

The weaknesses in the performance of the opposition party AfD, which can certainly be identified, can undoubtedly be attributed to the mechanisms of a *de facto* party ban. Above all, there is a lack of sufficiently qualified personnel, as numerous individuals who would become active party members under free political conditions are deterred by the fear of "minor suppression" in the not entirely free Federal Republic of Germany.

It should be clear from the outset that, with regard to a democratic system, it would be completely unproblematic if it were generally stipulated by law that civil servants are not allowed to engage in party politics at all, as is the case, for example, under British law. The occupying powers in West Germany actually wanted to impose such a British system in Germany when the Basic Law was drafted. However, the parties they had licensed strongly rejected this, arguing that political parties in Germany had been unthinkable without the

membership of civil servants since around 1830, when the first political associations were formally established.

> See *Dieter Johannes Blum*, Das passive Wahlrecht der Angehörigen des öffentlichen Dienstes in Deutschland nach 1945 im Widerstreit britisch-amerikanischer und deutscher Vorstellungen und Interessen. Ein alliierter Versuch zur Reform des deutschen Beamtenwesens (The right of civil servants in Germany to be electoral candidates after 1945 in the context of conflicting British-American and German ideas and interests. An Allied attempt to reform the German civil service system), Göppingen 1972

Therefore, according to the Basic Law there is a fundamental right of civil servants to engage as private citizens in party-political activity. And this without discrimination based on political and ideological convictions, at least according to the relevant articles as written down on paper in the Basic Law. Nevertheless, ways have been found to "modify" these constitutional provisions in practice. For example, a civil servant may join the SPD, but not actively support the AfD, because the latter is subject to intelligence surveillance due to its perceived threat to "constitutional values", even though no legal violations have been committed by the party. A civil servant actively involved with the AfD is therefore subject to disciplinary action, i.e., "minor suppression".

> See also: Weltanschaulich-politische Diskriminierung im öffentlichen Dienst (Ideological and political discrimination in the public service)
> https://links-enttarnt.de/wp-content/uploads/2021/03/Surrog4-Beamtdiskr.pdf

Regarding the instrumentalization of civil service law as a substitute for banning political parties, there are two comparative legal studies from the time of the so-called "radicals decree" (which was not a formal decree, but rather a declaration of a common understanding regarding the application of civil service law at the levels of the Länder and the federation) under Chancellor *Willy Brandt*, namely

> *Doehring* / *Bleckmann* / *Schiedermair* (Ed.): Verfassungstreue im öffentlichen Dienst europäischer Staaten (Constitutional loyalty in the public service of European States), 1980

> *Böckenförde* / *Tomuschat* / *Umbach* (Ed.): Extremisten und öffentlicher Dienst, Rechtslage und Praxis des Zugangs zum und der Entlassung aus dem öffentlichen Dienst in Westeuropa, USA, Jugoslawien und EG (Extremists and the civil service: legal situation and practice of access to and dismissal from the civil service in Western Europe, the USA, Yugoslavia and the EC), 1981

Even the study, which is rather apologetic towards the FRG, concludes with Doehring's introductory conclusion that, for the question of whether a civil servant`s membership in an association is a reason for being denied access to the civil service, and then subject to disciplinary action under civil service law, the criterion of violence is the decisive factor in determining whether someone qualifies for civil service status. The Japanese legal situation, not discussed in either of these works, can be cited as an example, as expressed in Section 27

in conjunction with Section 38 (5) of the Civil Service Law of October 21, 1947: "Anyone who, after the Japanese Constitution came into force, founded or joined a political party or other association that advocates the violent abolition of the constitution or the violent overthrow of a government formed under it, is ineligible to become a civil servant."

> *Matthias Scheer*, Grundzüge des Rechts des öffentlichen Dienstes in Japan (Basic principles of public service law in Japan), 1977, p. 65

It follows that a civil servant can belong to an association and thus privately express the opinion that the constitution should be fundamentally amended through the prescribed procedures. Similarly, in Norway, for example, a civil servant`s oath of allegiance to the king is not interpreted as prohibiting a civil servant from privately as a politically active citizen belonging to a legally acting party that seeks to abolish the monarchy or transform the form of government into a communist or national socialist one.

> See *Henning Jakhelln* / *Axel Berg*, in: *Böckenförde et al*., op. cit., p. 383; the explanation given is:

"The crucial point here is that Norway's form of government recognizes all political orientations - including those that aim to change the form of government - provided that this change is to be achieved through democratic means… This also means that in Norway a distinction is made between fulfilling one's duty to serve - in obedience and loyalty - and one's personal political views and activities." The "democrats" in the FRG, especially the judiciary, cannot accept such a distinction for the purpose of suppressing certain opposition groups, even if this distinction should be mandatory according to the concept of rule of law, i.e., if the FRG were a "full democracy". Therefore, it is understandable that with such comprehensively guaranteed political freedom, the Kingdom of Norway rightfully occupies first place in the Democracy Index.

Put simply, while the specific details of civil service duties may vary - for example, the duty of restraint or the prohibition of political activity altogether, as in the British and since some time also in the American civil service system - the principle of legality applies as fundamental. This means that civil servants must comply with applicable law and may not behave outside of work in a way that could call into question the legality of their official duties. In contrast, the FRG operates under the so-called "principle of loyalty", which, while implying the principle of legality, also encompasses something more: loyalty to the constitution not in the sense of obeying this constitution as the central law, but rather that the constitution represents a central value that must ultimately be revered, thus bordering on the realm of an imposed civil religion (incidentally, this concept as such introduced by the Nazi regime). Therefore, in practice, a formal violation of the law by a civil servant while on duty is more readily tolerated than a "violation of values" through the private exercise of freedom of expression.

> To a full international comparison see: Ideologie-politische Beamtendiskriminierung der BRD im internationalen Vergleich (Ideological-political discrimination against civil servants in the Federal Republic of Germany in international comparison)
> https://links-enttarnt.de/wp-content/uploads/2021/03/Surrog26-Beamtdiskrint.pdf

In the second of three disciplinary proceedings concerning the exercise of freedom of expression outside of official duties, the author succeeded in having the investigating officer removed due to bias, as he had repeatedly and clearly violated the applicable procedural law, which was clearly to the detriment of the author of this article. The author`s request to initiate disciplinary proceedings against the investigating officer, who had acted unlawfully in the performance of his duties, was rejected by the responsible ministry. However, this same ministry had already initiated such disciplinary proceedings against the author himself because he had exercised his right to freedom of expression outside of his official duties, as he had allegedly violated "constitutional values" in this private exercise of that right. The author therefore saw no other option than to file a criminal complaint against the dismissed investigating officer for perversion of justice under Section 339 of the Criminal Code. The indictment then had to be enforced against the unwilling competent court in Cologne through two successful constitutional complaints to the Federal Constitutional Court.

> https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2008/09/rk20080904_2bvr096707.html and
>
> https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2010/09/rk20100916_2bvr239408.html

The resulting public accusation against the removed investigator ultimately led to his acquittal, as an official is apparently not required to know the applicable law so precisely (at least in a case against the political right?) that a violation can be classified as "intentional" which is the basic requirement of this penal provision. On the other hand, the author should have known without any doubt that as a civil servant exercising his right to freedom of expression outside of his official duties, would be forbidden to classify the anti-Semitism of leading representatives of the Nazi regime, such as Hitler and Goebbels, as part of the socialist tradition, only at the risk of being subjected to disciplinary proceedings. This disciplinary charge by the ministry was based on an "analysis" by the Federal Office for the Protection of the Constitution, which, with the authoritarian claim to truth of this intelligence agency, judged it to be "an inaccurate and National Socialist apologetic analogy" if it were claimed that "Hitler's anti-Semitism was not racially but socialistically motivated."

> The author`s opinion, which appears to be incompatible with "constitutional values" of the FRG and is therefore prohibited for a civil servant in the exercise of freedom of expression outside of his official duties, is based, among other things, on the book by *Edmund Silberner*, Sozialisten zur Judenfrage - ein Beitrag zur Geschichte des Sozialismus vom Anfang des 19. Jahrhunderts bis 1914 (Socialists on the Jewish Question - a contribution to the history of socialism from the beginning of the 19th century to 1914), Berlin 1962.
> The leading representative of socialist antisemitism in Germany was *Eugen Dühring*, who once had a large following among the Social Democrats especially in Berlin, which prompted *Friedrich Engels* to write his famous work "Anti-Dühring" to combat his "revisionist views". *Dühring* expressed his extremist anti-Semitism (which *Engels* in his criticism only very marginally addressed) in the following works:
> Die Judenfrage als Racen-, Sitten- und Culturfrage. Mit einer weltgeschichtlichen Antwort (The Jewish Question as a Question of Race, Morals, and Culture. With a World-Historical Answer), Karlsruhe / Leipzig, 1881, and

> Die Judenfrage als Frage des Rassencharakters und seiner Schändlichkeiten für Völkerexistenz, Sitte und Cultur. Mit einer denkerisch freiheitlichen und praktisch abschließenden Antwort (The Jewish Question as a Question of Racial Character and its Disgraces for National Existence, Morals, and Culture. With a Thoughtfully Liberal and Practically Concluding Answer), Revised 5th Edition, Berlin 1901

Furthermore, officials are according to the allegations by the Federal Ministry of Transport against the author prohibited from identifying the strongest affinity between the Nazi movement of the Third Reich and the socialist liberation nationalisms of the so-called Third World.

> The author has comprehensively addressed such questions later in his book: Roter, brauner und grüner Sozialismus. Bewältigung ideologischer Übergänge von SPD bis NSDAP und darüber hinaus (Red, Brown and Green Socialism. Dealing with ideological transitions from the SPD to the NSDAP and beyond)
> https://www.amazon.de/Roter-brauner-gr%C3%BCner-Sozialismus-ideologischer/dp/3939562254

This, too, constitutes a "violation of values" or at least a breach of other official duties such as restraint, neutrality, or respect; one of these duties certainly applies, and can, especially if published in the wrong context, lead to disciplinary action against such an official if possible with the aim of removal from service.

This makes it clear: The self-assessment of Social Democrats and Communits that their socialism has nothing to do with the ideology and the emergence of German National Socialism is declared a "constitutional value", and anyone who then holds even a slightly different view is an "enemy of the constitution" who, as such, must be removed from service as a civil servant.

The author`s experiences as a civil servant in the very peculiar democracy of the Federal Republic of Germany are described in his recently published political biography:

> **As a Right-Wing Dissenter in the Ministry: Interviews about Unique Experiences of Democracy**
> It includes a foreword by former Federal Minister Professor Ortleb, which begins with the statement: "The German system of protection of the constitution (meaning "militant democracy", note) is unsuitable for a liberal democracy - it is high time to abolish it."
> https://www.gerhard-hess-verlag.de/produkt/als-rechtsabweichler-im-ministerium/

The book offers an eyewitness account of the specific democratic situation in the Federal Republic of Germany, as described in the present text, and presents a strong argument against classifying today`s Federal Republic of Germany as a "full democracy", as the Democracy Index of the *Economist* does.

In addition to the disciplinary proceedings and other discriminatory measures described in the book for exercising his freedom of expression outside of official duty, the author was also subjected to three parliamentary inquiries from the former East German dictatorship party. In the second of three inquiries from these communists, the former SED represented in the Bundestag as The Left Party, the author was accused of the following: "In an article in the

magazine ‘eigentümlich frei’ (No. 53/2005) entitled ‘The National Socialism of the ’68ers,’ in which J. S. describes the term ‘right-wing extremist’ as a ‘rubbish term,’ he provides a series of arguments to justify or defend National Socialism.” He suggests, among other things, a “continuity between Nazi policies” and “Third World socialism”, claiming that “with the downfall of National Socialism in the Third Reich, the political breakthrough of Third World National Socialism began.”

As can be seen, the official disciplinary charges and political accusations from the communist side closely resemble the findings of the domestic intelligence service regarding the accusation of “anti-constitutionalism”. Any assessment of the connection between socialism and German National Socialism that deviates from the official line is labelled as “trivializing” or even “justifying” this National Socialism, sometimes even as “anti-Semitic”, which is of course - regardless of the legal basis - “unconstitutional” and should result in the dismissal of any civil servant who expresses such views privately.

According to the parliamentary group of the former SED in the German Bundestag, disciplinary proceedings, criminal proceedings and forfeiture of fundamental rights should be considered in light of such statements: The former dictatorial party of the GDR and current self-proclaimed leading party for the protection of the constitution in reunified Germany “against the right” apparently wants to catapult the FRG to 142nd place on the democracy index, where Venezuela currently is, for whose socialist regime this former SED has shown a very positive inclination.

When creating an international democracy index, it is certainly a difficult question how to assess the fact that a former dictatorship party has such far-reaching power to enforce its repressive agenda against opposition figures, because it is supported in this by established media outlets that, for example, take it for granted that one can be dismissed as a civil servant for privately criticizing a section of the penal code, the infamous Section 130 of the German Criminal Code on “Incitement to hatred” (Volksverhetzung), which leads to imprisonment for not acknowledging sufficiently a historical truth. This threat to dissenting opinions clearly impairs the degree of freedom in a political order, even though it may be difficult to quantify

this comparatively. However, it can at least be stated that the central position of a former dictatorship party as a "defender of democracy" has the potential to catapult Germany quite quickly towards at least 70th place. So how should this potential for a renewed and this time all-German "people`s democracy" be considered in the assessment in the international democracy index?

As mention already, due to these circumstances, I myself, as a civil servant in the Federal Ministry of Transport, was subjected to three disciplinary proceedings for publications in journals that the Federal Office for the Protection of the Constitution had "listed" for state-sanctioned ideological reasons. Furthermore, there were numerous related cases of discrimination, which ultimately fall under the category of "civil-religious" discrimination, which can be classified for sure as "minor suppression of critics" according to the Democracy Index. This classification as being, in a sense, state-religious is also based on the fact that it was never entirely clear what I was actually accused of. The second proceeding, which can be considered the main proceeding in this regard, was therefore dismissed by the competent court, the Düsseldorf Administrative Court, by judgment.

> This judgment on the discontinuation of proceedings can be seen here:
> https://links-enttarnt.de/wp-content/uploads/2025/04/UrteilEinstllg.pdf

The fact that disciplinary proceedings were averted by a court after more than four years, as in the case of the magazine *Compact* the banning of a political magazine, is not sufficient proof, with regard to the democracy index, that the rule of law functions without problems in the FRG. Already the mere fact that disciplinary measures were taken based on oppositional political and historical views only argues against classifying the FRG as a "full democracy". Furthermore, I won this decisive second case primarily on the procedural grounds as outlined in my biography. Had the proceedings been conducted properly and in accordance with applicable procedural law, this would most likely have resulted in dismissal from service for political "misconceptions", privately expressed. Since the independence of the German judiciary is not entirely secure - especially the promotion of judges is decided upon by the respective Ministry of Justice -,

> The statement, allegedly made by the Prussian Minister of Justice during the drafting of the still (with amendments) valid Gerichtsverfassungsgesetz (Courts Constitution Act) of 1877, is still applicable to the court system of the FRG today: "As long as I decide on promotions, I am happy to grant the judges their so-called independence."

procedural argumentation, if possible, makes it easier for judges to reach a favourable verdict in an ideological trial against a right-wing person or organisation. If a "right-wing extremist" is acquitted on substantive grounds of ideological persecution, judges risk at least in very politicised cases the public demand that a special constitutional removal procedure should be made. The case of Judge *Orlet* is a prime example of this. He was the rapporteur in the trial against the NPD politician *Günter Deckert* for Holocaust denial. Because Judge *Orlet* also took favourable aspects of the defendant into consideration, which resulted in "only" a one-year prison sentence with suspension for denial of historical truth, Judge *Orlet* became the target of a massive political attack, which he was only able to escape by taking early retirement.

See this article, which is rather inimical to this judge:
https://www.marchivum.de/de/geschichte/blog/das-mannheimer-skandal-urteil-von-1994-gegen-guenther-deckert
After a complex legal proceeding, opposition politician *Deckert* was eventually sentenced by another court to two years in prison without probation for "denial"!

Ultimately, the reason for the harassment was that I had published articles in journals that the police ministries, without alleging any unlawful intent, labelled with the unlawful, or at least legally alien, term "extremism." However, the publication alone cannot be considered sufficient grounds, or at least this is not so clear-cut legally, so the published articles themselves must have played some role. The central accusation in the second procedure, which ended in a Court trial was that the defendant espoused a "collectivist image of man" ("kollektivistisches Menschenbild")

See the text of the introductory order following the dismissal ruling:
https://links-enttarnt.de/wp-content/uploads/2025/04/UrteilEinstllg.pdf

most possibly because of my statement that democracy, even according to the Basic Law, means rule by the people and not by the population. This was then expressed indirectly in the in the official indictment submitted to the court, for example, by claiming that it would be a breach of duty to have classified antisemitism of leading figures of the Nazi regime as primarily socialistically motivated. Support for abolishing the five percent threshold in electoral law, abolishing the practice of "Bewältigung" (coming in terms with the past) as a state act with implications for illegally establishing a state religion, and for rescinding questionable penal provisions such as section 130 of the German Criminal Code, was therefore seen as a breach of duty, at least a violation of the duty of respect, since each of these measures allegedly aimed to promote "right-wing extremism": To demand "full democracy" in Germany thus means right-wing extremism!

In the third case, the accusation was limited to having given a speech at a "right-wing scene", even though the accusing office was unaware of the content of my speech. It was claimed that a private speech at such an event violated the principle of political neutrality for civil servants. The "right-wing scene" in question, namely the private Institut für Staatspolitik (Institute for State Policy), was not yet on the domestic intelligence service`s list at that time (this was later "rectified", of course for ideological reasons). Under British civil service law, the accusation would be legally valid, but in the context of the German law allowing private political activities of civil servant, it constitutes political suppression, since such an accusation would not have been made if the speech had been given at a left-wing scene, even a communist one, and especially not in connection with a lecture within CDU or SPD circles.

In the first case, a preliminary investigation conducted under the legal provisions then in force, the rather vague accusations can probably be classified primarily as "historical revisionism" even if the term was not used in this sense at the time, in 1997. The danger to the "constitutional values" of the Federal Republic of Germany perhaps lay in the fact that, in my analysis of the Pacific War in an article for the newspaper *Junge Freiheit*, I had relied too heavily - without explicitly mentioning it - on the dissenting opinion of the Indian judge *Radhabinod B. Pal* in the Tokyo war crimes trials.

Although the first and third proceedings had to be discontinued ex officio and the second proceeding, as already explained, was terminated by court order due to the invalidity of the ministerial initiation order, this confirms the practice described in the Democracy Index as "minor suppression of critics".

Even if there was no party-political connection, these repressive measures must be classified as part of the system of covert party prohibition. These measures against the author, based on publications in magazines deemed undesirable by the intelligence service, can be explained by the fact that the German government wanted to take preventive measures very early on against a potential right-wing party, which would of course be "extremist", by using civil service law to combat magazines that it considered precursors of such a party, which, however, hardly existed at that time. The right-wing party Die Republikaner (The Republicans, REP) was politically finished not least by the measures of the covert party ban, even though the courts ultimately confirmed its "loyalty to the constitution" and the civil servants privately involved with this party largely survived the disciplinary proceedings initiated against them more or less successfully, in the end. The AfD was then still a long way off, and it was clear to anyone familiar with the specific features of German democracy from the outset that it was only a matter of time before this party would irrespective of any illegal intentions be categorized as ideologically "right-wing extremist". At least, that`s the case if such a party were to overcome the five-percent electoral threshold and decisively siphon off votes from the "democrats" in elections, which would then be classified as a threat to democracy: That`s how democracy works in the FRG. This doesn`t exactly speak to a "full democracy" in the Federal Republic of Germany. Or does it?

It is therefore not surprising that the European Court of Human Rights, in its judgment of September 25, 1995, in the case of the communist teacher *Dorothea Vogt*, classified the application of German civil service law in this case as a violation of human rights.

"The dismissal of a French and German language teacher on the grounds of her membership in a party hostile to the constitution is not required in a democratic society within the meaning of Article 10, paragraph 2, and Article 11, paragraph 2, of the European Convention on Human Rights, provided that the teacher has not demonstrated an anti-constitutional attitude either in her teaching or in her private life"

> https://publishup.uni-potsdam.de/opus4-ubp/frontdoor/deliver/index/docId/4219/file/mrm97_h4_S12_20.pdf

thus, the landmark judgment.

The general validity of this ruling by the European Court of Human Rights is not really recognized in the FRG, but is usually dismissed as an "isolated case". Since the suppression of communism is a thing of the past, German politicians hope for international understanding when they now take a much tougher stance "against the right" than they once did against communists. According to the relevant ruling of the Federal Constitutional Court, the so-called "Radikalenentscheidung" ("Radicals Decision"), civil servants are permitted to hold and express a political opinion in conflict with constitutional values in some form. However, they

are prohibited from acting on this opinion. This restriction applies as soon as they become active members of a political party that is under secret service surveillance due to its dangerous political views. With this ruling, the Federal Constitutional Court has "returned to a position that, with regard to state tolerance of religious convictions, represented the first (minimal) starting point for freedom of belief and conscience in the Peace of Augsburg of 1555".

> Thus *Böckenförde*, in: *Böckenförde et al*., op. O., p. 28, fn. 30

The consequence of the mentioned parliamentary inquiry by the Bundestag communists against the author was not, however, a procedure for the revocation of fundamental rights, as demanded by the Bundestag communists in the form of a question to the German government, but rather forced leave of absence for three months and then forced transfer to a subordinated office, ultimately because of criticism of the GDR, which the ministry naturally did not justify in this way, but rather as disrespect of a part of the Bundestag, which, mind you, as a defence against this inquiry by means of a petition to parliament. In this petition, I accused the parliamentary group of the Left Party of wanting to practice on me what they had once achieved as SED against 17 million people with their "general socialist prison", namely to generally deny freedom of expression. The term "general socialist prison" originates with Chancellor *Bismarck*, who predicted this would happen if the Social Democrats of that time were to seize power. As is well known, communism emerged from this SPD after World War I. So much for the historical origin of certain German "democrats", which should prohibit them from acting as a defender of democracy to suppress the opposition.

To summarize these personal experiences for classification according to the Democracy Index: If, in cases involving such allegations, at least in the second instance, the sanction of dismissal is at least threatened, then this will certainly have to be classified, according to the Democracy Index, as "minor suppression of political opposition and critics". This then applies to further discriminatory measures such as forced leave followed by forced transfer, ultimately due to criticism of the GDR and end of a career despite excellent performance reviews.

> it should suffice to point out that the author passed the entrance examination, which the UN conducted in 1985 for West German applicants, as one of only four out of a total of 166 applicants; furthermore, it is probably no coincidence that the author was proposed to the aviation department of the EU Commission as a seconded national expert

Additionally, the author`s wife was also affected, as the Federal Ministry for Economic Affairs, acting as the security authority for the private sector, refused her a security certificate for work at an airport. "Your husband is known to be a member of the intellectual right-extremist scene. In the subsequent questioning by the Federal Office for the Protection of the Constitution based on this information, you stated that you were familiar with your husband`s revisionist, right-extremist theories and you would agree with these theories", such the main justification.

> This decision can be seen here:
> https://links-enttarnt.de/wp-content/uploads/2025/10/VollzugZivilrlg.pdf

However, if the classification of such measures as "minor suppression" is accurate and it is, then the FRG must consequently be classified as a "flawed democracy" according to the

Democracy Index of the *Economist*. If one takes the political freedom of a civil servant as a benchmark, then Germany certainly ranks lower than Belgium and Italy, which are assigned positions 34 and 38 in the index, respectively. Since this ideological discrimination against civil servants, directed against political opposition, impacts the freedom of the vote, it must be placed at the centre of any comparative assessment of democracy, and then Germany must necessarily be ranked 40th or even lower. How could it be otherwise, given what international comparisons of "militant democracy" have revealed.

This in the end casts even doubt on Hungary's ranking of 55th in the Democracy Index. Apparently, there are no sustained calls for a ban on the political opposition, no comparable reports to those of the German Federal Office for the Protection of the Constitution, and no such legalized surveillance of the political opposition by intelligence services, which the numerous critics of the "Orban regime" would otherwise surely have pointed out. Should the Federal Republic of Germany, therefore, actually be ranked below 55th?

Serious threat to democracy in the Federal Republic of Germany due to "protection of the constitution"

The author`s personal experience with "minor suppression of critics" is not an isolated incident that might occur sporadically due to human fallibility, even in an ideal democracy. Rather, it reflects the general threat to political freedom in the Federal Republic of Germany, which is justified by the need to "protect democracy" from "human rights terrorism", to which Germans - as it is constitutionally assumed - have a strong propensity. Had the author been subjected to only one of the aforementioned disciplinary measures, he would have considered it an isolated incident to which no undue general significance should be attached. However, the repeated politically motivated acts of discrimination dealt with in the aforementioned biography show that, according to the Democracy Index, this can only be a "flawed democracy".

And here is a general summary of the results of what has been outlined: Democracy in the FRG is seriously endangered, indeed. Established political interests delegitimize the results of free parliamentary elections, make the opposition contemptible through Nazification and endanger the functioning of parliamentarism by erecting ideological "firewalls". In the vocabulary of the constitutional protection offices, the so-called "democracy agencies", a term once used by the *Economist*, one would have to speak of a fundamental disregard for democracy, which is primarily directed against fundamental right to legally exercise political opposition. The main instrument for this threat to democracy, which should classify as "extremist" in the official language, is the so-called "Verfassungsschutz", a state institution with the powers of a domestic secret service, which, however, also operates as a state propaganda office, in particular by issuing annual reports targeting ideologically undesirable political opposition. This is mixed with the portrayal of politically motivated criminal organizations, in order to make it clear that organizations with a "false" ideology are just as dangerous to the constitution as criminal organizations. This implied equation of criminal organisation with legal opposition at the level of constitutional values is then even pursued under the banner of "human dignity"! A rather deceitful system!

These very questionable reports, issued by the respective Ministry of Interior are termed "Verfassungsschutzberichte". According to the then President of the Federal Office for the Protection of the Constitution, these offices also feel responsible for "lowering the poll numbers" of an officially unwanted opposition party.

> See also a relevant parliamentary inquiry by the AfD:
> https://dip.bundestag.de/vorgang/aussage-des-pr%C3%A4sidenten-des-bundesverfassungsschutzes-bzgl-der-umfragewerte-der-afd/301949?f.deskriptor=Alternative%20f%C3%BCr%20Deutschland&start=25&rows=25&pos=28

This clearly means that the share of the vote for this opposition party is to be reduced using state resources. This intended state control of the election results is also to be achieved through state surveillance of the social and ideological environment of the respective opposition party, or what is officially considered to be such. This police-like surveillance of the political opposition has serious negative consequences for freedom of association and expression: The principle of human dignity is massively violated by the fact that opposition views, expressed legally, are branded as "nazistic" or "fascist" through the official use of the ideological term "right extremism". An official radicalization can be observed in order to consider the desire of established political forces to use methods that are extremely questionable in terms of democratic theory against the opposition party AfD, which is currently rising in favour with voters.

Accordingly, the State Office for the Protection of the Constitution of the Free and Hanseatic City of Hamburg, acting as a thought police has now in a radicalizing way, to mention only one recent example, labelled the Staats- und Wirtschaftspolitische Gesellschaft (SWG, State and Economic Policy Society), a registered association, within four years, in the period from 2019 to 2023, from a "test case" via a "suspected case" to a "secure extremist aspiration".

> For further details, see the author`s legal opinion on that case
> https://www.swg-mobil.de/wp-content/uploads/2024/01/SWG-Gutachten-Digital.pdf
> with an English Summary:
> https://www.swg-mobil.de/wp-content/uploads/2024/01/Einfuehrungengl.pdf

To justify the allegation of so-called (ideological) "extremism", the association in question is not accused of any legal violations or at least preparatory actions or consideration, but rather of merely expressing political opinions. Ideology, ideas, language style, political worldview, proximity to a certain worldview and the use of certain terms in some opinion pieces such as "Islamization," "party cartel," and "Umvolkung" (substituting the population by tolerating illegal mass immigration) are officially accused of being "hostile to the constitution" or "extremist". The association`s magazine, namely the Deutschland-Journal, but also statements on the SWG website https://www.swg-mobil.de/ are subject to subsequent post-censorship by the secret service as a state propaganda agency.

This approach of the Hamburg authority to view legally expressed opinions, based on an ideological classification ("right-wing", "conservative-bourgeois"), as a problem of state protection, leads back to the central problem of the very specific German concept of the

“protection of the constitution”, as already outlined, which is increasingly becoming a serious threat to the rule of law, democracy and, in particular, diversity of opinion. The “liberal democracies of the West” (a term used by the Federal Constitutional Court when classifying the German concept of party bans in comparison to “normal” democracies) draw a line under criminal law when assessing the threat to the state and the constitutional order; in particular, the willingness to use violence is decisive. In Germany, however, a so-called “value threshold” applies primarily. This official definition of a threat to the constitution more or less inevitably leads to an ideological limit, i.e. ultimately to an ideological definition of a threat to the state and thus to a “thought police” in the sense of the relevant Japanese law of 1925. However, if not criminal law with regulations on high treason (section 81 of the Penal Code) as a violent attempt to overthrow the political order, but rather “values” determine the enemy of the state or the constitution, then this inevitably leads to a state ideology, as the alternative to constitutional democratic justification of political power is the return to the religious or ideological justification of power as a historical norm in human history.

In contrast to the concept of the rule of law with the requirement of legal equality and the principle of legality, as conceptually applied in criminal law, such an ideological “protection of democracy” is only directed against oppositional efforts. This attitude of the German governments delegitimizes precisely that part of the constitutional order through state authorities that distinguishes a “full democracy” from other forms of exercising political power, namely the constitutionally guaranteed right to exercise political opposition in a legal manner. This right to opposition is delegitimized in a decisive way as the German “constitutional protection authorities” construct “enmity to democracy” out of criticism of established politicians, who are regarded as “the democrats”, while the official fight against the opposition, which aims to establish an ideological apartheid (“Brandmauer”), is officially completely ignored. With this kind of accusation of “enmity to democracy”, “democracy” can only mean an idea of democracy that goes in the direction of a totalitarian “people`s democracy”, where the criticism of “democratic politicians” (a term unknown in the Basic Law but contained in the GDR-constitution of 1949), i.e. socialists, is considered un-democratic as this was the case according to Article 6 of the GDR constitution of 1949 defined as “boycott incitement” (“Boykotthetze”).

With the central accusation of historical and other “revisionism”, the offices for the protection of the constitution are at least methodically already adopting a category of accusations from the socialist movement of ideas, which translated into massive political persecution after the communist seizure of power.

> s. also: Der Vorwurf des „Revisionismus“ durch den bundesdeutschen „Verfassungsschutz“ und in kommunistischen Regimes (The accusation of “revisionism” by the German Federal Office for the Protection of the Constitution and in communist regimes)
> https://links-enttarnt.de/wp-content/uploads/2021/11/Surrog30-Revisionismusverbot.pdf

The accusation of “revisionism” was one of the poisonous words of the left-wing GDR dictatorship. With the accusation of “historical revisionism” and similar allegations, the reference to the constitution that those offices for the protection of the constitution are supposed

to protect is completely dissolved and only argued based on mere state ideology. Which constitutional principle should be jeopardized by a different theory about the causes of the world war? Perhaps the constitutional principle of judicial independence?

The concrete threat to democracy in Germany posed by the specific concept of party bans within the framework of a "militant democracy", primarily implemented as a permanently applied covert form of party banning, contradicts the classification of the FRG as a "full democracy" according to the Democracy Index. Germany can therefore only be described as an "flawed democracy", even though its precise classification within the group of "flawed democracies" is ultimately left open in this article. Sufficient reasons have been presented that could even justify placing Germany at number 70 in the Democracy Index or at least to 55th place. Since it is not possible to evaluate all relevant reasons for a final valuation here, only the general assessment of classifying Germany as an "flawed democracy" will be maintained. However, this general classification seems entirely unavoidable.

Establishing a Full Democracy in Germany: The task of the supressed political right in the FRG

It is certainly not the author´s intention to criticize his country unjustifiably. On the contrary, he would be very happy if Germany`s 13th place ranking in the Democracy Index were really justified. However, he cannot bring himself to acknowledge this ranking as legitimate at present. The question the author is asking himself is rather: What would need to be done for Germany to be justifiably awarded at least this 13th place?

Naturally, achieving this rank, or even a better one, should be the task of the Germans themselves. Foreign countries are only expected not to counteract the necessary improvement of the democratic situation in the FRG by continuing to support the existing political class, which is responsible for the inadequacies of democracy in the FRG, as if the existence of democracy would be depended on the guaranteed exercise of political power by this political class regardless of the election decision of the German voters. To the contrary: the improvement of democracy will most likely depend on the political forces that are victims of the shortcomings of this peculiar German path of democracy. These discriminated-against political forces will, in their legitimate self-interest, strive to improve the democratic situation. In Germany, this is the political right wing, which has always been sooner or later, depending on how much they challenge the 5% electoral threshold at the expense of established "democrats", classified as "right-wing extremist" by the German intelligence regime for state-ideological reasons.

A "full democracy" in Germany would be achieved, and only then could Germany`s 13th place ranking be considered justified or a better ranking would be conceivable if the motto of the afore-mentioned SWG were realized:

"The SWG maintains that a pluralistic, free society can only function if, in addition to a left wing and a centre-left, it also has a democratic right wing, as is the case with all our European neighbours."

This is the SWG`s (self-)assessment summarized in the article by *Hans-Joachim von Leesen*.
https://www.swg-mobil.de/deutschland-journal/07Die_bewegten_Jahre_der_Staats_und_Wirtschaftspolitischen_Gesellschaft_e.V.pdf

Germany is still quite a way from this standard of a "liberal democracy of the West", a term once used by the Federal Constitutional Court as a distinction between the German "militant democracy" and the normal standard of a democracy in the West. As already mentioned, the SWG has now also been classified as "right-wing extremist" due to its stance of advocating for comprehensive political pluralism in the Federal Republic of Germany. Nothing illustrates the problematic current state of democracy in the FRG better than this fact.

Therefore, those who advocate for political freedom are more likely to be found, in their own legitimate self-interest, on the right side of the political spectrum. It is therefore understandable why the German Party (DP), the only right-wing party recognized as legitimate in post-war Germany, has spoken out against at least with respect to some aspects what was later to be dubbed "militant democracy". To improve Germany`s standing in international comparisons of democracies, or rather, to make the demonstrably overly positive assessments of its democratic situation in these comparisons appear accurate, it makes sense to adopt this position. Of course, politicians on the political left are not prevented from participating in and advocating for the realization of a "full democracy" in the Federal Republic of Germany.

This desired improvement of democracy in the FRG should nevertheless also be of international significance. If democracy in Germany is truly of concern to the American leading power, even if this does not automatically lead to a pro-American party leadership (as was achieved through the occupation policy towards the established "democratic parties"), then the USA must strongly advocate for the attainment and then preservation of the equally legal status of a right-wing party in Germany, which currently operates as the AfD.

Indeed, West Germany had faced criticism in the past from Western states for its application of the so-called "Radicals Decree", which at the time was largely directed against communists. At that time, Federal President *Walter Scheel* felt compelled, in the context of Franco-German understanding, to reject the criticism from French politicians of this so-called "Radicals Decree", calling it a "cultivated cliché of German democracy", since the Federal Republic was "the freest state in German history." He stated that "the guarantee of human and civil rights in West Germany was second to none in any other European state."

Quote in *Dirk Petter*: Auf dem Weg zur Normalität. Konflikt und Verständigung in den deutsch-französischen Beziehungen der 1970iger Jahre (On the Path to Normality: Conflict and Understanding in Franco-German Relations of the 1970s), 2014, p. 251

The legend of the "freest state in German history", which is constantly preached by established German politicians, can easily be refuted by pointing out that neither the occupying powers nor the German politicians involved in the creation of the Basic Law with the Parliamentary Council wanted this:

> "We have to organize everything in such a way that the people don`t have much say; in case of doubt, they`ll all vote for Nazis anyway."

This is how one of the "leading thinker of the SPD", its former Federal Managing Director *Peter Glotz*, once categorized the motivation of this Parliamentary Council

> S.https://www.focus.de/politik/deutschland/kennen-sie-den-begriff-globalisierungsekel-sagen-sie-mal-peter-glotz_id_1874263.html

consisting of very indirectly elected representatives belonging to parties that had been licensed as "democratic" by occupying powers four years earlier with the exclusion of "anti-democratic" parties. At the heart of the restrictions on political freedom deemed necessary to ward off "human rights terrorism" of German citizens is the "protection of the constitution", and the core of this protection is the ban on political parties on ideological reasons and what has developed from it as a permanently effective substitute for a party ban in a state of permanent ideological emergency, resulting in continuous "minor suppression of opposition and critics".

It was, in fact, the founding fathers of the Weimar Republic who seriously strove to lead Germany back to the forefront of political freedom: they wanted to establish the "most democratic democracy in the world", as Reich Interior Minister Eduard David (SPD) then explicitly declared.

> https://www.weimarer-republik.net/jubilaeum/revolution-und-gruendung-der-republik-tag-fuer-tag/juli-1919/die-demokratischste-demokratie-der-welt/

The fathers of the free Weimar Constitution were fully aware that before the devastating Thirty Years` War, Germany had once been rightly considered the freest country of the world, as the Venetian *Traiano Boccalini* noted in 1610 with his characteristic irony, but not without admiration: by making use of the privileges unwisely granted to them, the Germans had, after many futile attempts, achieved the equality and freedom of which the ancient legislators and philosophers had dreamed.

> See *Thomas Maissen*, Die Geburt der Republik. Staatsverständnis und Repräsentation in der frühneuzeitlichen Eidgenossenschaft (The Birth of the Republic: Understanding of the State and Representation in the Early Modern Swiss Confederation), 2006, p. 162

This can be demonstrated, among other things, by the fact that Protestantism in Germany arose within its free (republican) imperial cities and alliances such as the Hanseatic League and the Swiss Confederation (which separated from Germany after the Thirty Years` War in order to preserve its German-origin freedom and develop it independently) and was able to prevail due to these conditions of freedom. Little of this historical awareness remains in Germany today; instead, the prevailing view seems to be that democracy in Germany was an American invention that inevitably had to be imposed by American military force.

> Such a strange comprehension of German democracy has recently been expansively rejected by *Hedwig Richter*, Demokratie. Eine deutsche Affaire. Vom 18. Jahrhundert bis zur Gegenwart (Democracy. A German Affair. From the 18th Century to the Present), 2023

Even some leading American experts are apparently sharing this view, which explains why certain leading US politicians believed it would be so easy to introduce democracy in Afghanistan or Iraq through a violent regime change of a democratic power, since this has already been achieved so smoothly in Germany and Japan. This assumption is refuted, in particular, by the case of the Philippines, which ranks 51st in the Democracy Index, even though this should be considerably much better given the significantly longer time the US had there to democratize compared to Germany. The positioning of democracies in Latin America also argues against this assumption. The US is said to have intervened there several times to support democracy, for example in Guatemala, which currently ranks only 97th in the Democracy Index. If democracy in Germany were indeed an American invention, then the FRG would probably rank around 127th place or even last place, 167th, where the last American attempts to introduce democracy, namely Iraq and Afghanistan, are currently ranked in the Democracy Index.

Despite President *Scheel*`s conciliatory statement regarding the "Radicals Decree", the German political class felt compelled to end the political repression based on it, even though the respective repressive measures had been largely upheld as lawful by German courts. Foreign criticism most likely played a significant role in this political decision on reversing the application of this "Radicals Degree", and this occurred even before the aforementioned ruling by the European Court of Human Rights in the *Vogt* case (this teacher had also already been reinstated in the teaching profession before the ruling of the European Court of Human Rights was issued). The integration of communists, the Kommunistische Partei Deutschlands (Communist Party of Germany, KPD) into the democratic process was in line with the past Allied occupation policy. Therefore, the ban on the Communist Party, imposed by the Federal Constitutional Court in 1956 only very reluctantly (in strong contrast to the quick ban of a right-wing party in 1952), was then declared a mistake by a sitting president of the same court.

> In an interview with the green-left newspaper *taz*:
> https://taz.de/quotIch-haette-den-KPD-Verbotsantrag-abgelehntquot/!1442157/

Previously, the KPD, which had actually been banned "forever" by the Constitutional Court, had been re-legalized as the DKP (German Communist Party) with legally questionable official support, as instructions to prosecutors not to assess the violation of the criminal offense that prohibits the formation of a banned party "too narrowly" (such support would not have been granted to the far-right party banned in 1952). However, there was ultimately no willingness to grant the DKP full legal status, which then led to the "Radicals Decree" as a substitute for the party`s ban, as the SPD in particular feared infiltration by the far-left.

The final postponement of the Radical Degree against the left also due to international expectations ultimately led to the gradual integration of East German communists (which would legally have to be regarded as a prohibited continuation of the banned KPD) into the democratic system of the FRG after reunification. Despite its dictatorial past, this party no longer needs to fear party bans or covert party bans, even if it approves of illegal blockades against AfD meetings. In doing so, they are according to the established German practise of democracy merely opposing legal regulations, but not "democratic values", which they share with Chancellor *Fritz Merz*`s CDU as his party already did as a so-called "bloc party" of the GDR dictatorship or democracy, respectively. In contrast, the AfD`s legal behaviour, such as

exercising freedom of expression, are directed against "constitutional values", so this opposition party must at least be subject to demands for a ban. Doesn`t this somehow remind you of the "democracy" as it was practiced in the GDR? Certainly, there is not only a factual but also a conceptual difference: In the German Democratic Republic, the "protection of democracy" was directed against the assumed actual majority of "enemies of democracy", while the protection of West German democracy aims only at a potential majority of such "enemies of democracy".

Previously, the "Greens" had already been integrated as "democratic" as the only successful political party that until then had not received an Allied democracy license. These Greens had strong communist roots and consisted of admirers of *Mao* and *Pol Pot*. The most prominent member "*Joschka*" *Fischer* had once been close to the milieu of left-wing terrorism. As foreign minister, *Fischer* then secured a prominent position in the Foreign Office for a former leader of a Maoist party, *Joscha Schmierer*, who had not only ideologically supported the *Pol Pot* regime in Cambodia, but served in 1975 two-thirds of an eight-month prison sentence in prison for serious disturbance of the public peace during a demonstration in 1970.

https://de.wikipedia.org/wiki/Joscha_Schmierer

This, however, apparently posed no obstacle to the security clearance required for employment at the Foreign Office. At the time of the appointment of the "democrat" *Schmierer* as an expert on European policy, a position he continued under Foreign Minister *Steinmeier* of the SPD (the current Federal President), the author of this essay was denied a position in the transport Unit of the German representation to the European Commission in Brussels due to his previous lawful exercise of his right to freedom of expression. He had been selected for this position following a successful internal selection process by the ministry, he was employed. In contrast to this selection process, he was denied the position at the Foreign Office under the "democrat" *Fischer*, as such an appointment could lead to a loss of prestige for the FRG, which, of course, would not be the case if *Fischer* and *Schmierer* were to assume their prominent positions: This is how democracy works in the Federal Republic of Germany!

The unspoken reason for accepting the Greens as "democrats" was likely the tacit assumption that these Greens would have received a party license by the American occupation regime in post-war Germany and therefore had to be recognized as "democrats". In contrast, it seems doubtful whether a party like the AfD would have received such a license; perhaps from the British, but hardly from the American occupying forces, at least not as long as the US pursued a common policy of occupation with the particularly democratic Soviet Union. Only after the break with the Soviet Union was the regionally conservative Bayernpartei (Bavarian Party, BP) able to obtain such an American license in 1947 (too late to participate in drafting the Basic Law, which would then have led to more dissenting votes).

Therefore, the political class of the FRG expects international understanding for its suppression of the AfD and hopes that the European Court of Human Rights might approve this political suppression - unlike in the case of a communist - of civil servant supporters of the AfD. However, the decisions of the Federal Constitutional Court regarding the planned ban on the NPD show that at least this court wanted to avoid a review of such a formal ban by the European Court of Human Rights. The prevailing opinion among legal experts was that the European

Court would classify such a ban as incompatible with the European Convention on Human Rights.

The German model of party bans and the conclusions drawn from it regarding the permanent "minor suppression of the political opposition and critics" contradict, in any case, the recommendations of the Venice Commission of the Council or Europe, the GUIDELINES ON PROHIBITION AND DISSOLUTION OF POLITICAL PARTIES AND ANALOGOUS MEASURES of 10/11 December 1999.

> https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-INF(2000)001-e

These recommendations, based on a comprehensive comparative analysis of the party ban systems of the Council of Europe member states, clearly presuppose the principle of illegality (especially violence), and not, as in the FRG, political illegitimacy ("values"), as a prerequisite for banning a political party. This applies not only to formal party bans but also to analogous measures, including the described covert party ban with permanent "minor suppression of the political opposition and critics".

The concept of a democratically justified party ban, in accordance with the aforementioned guidelines, finds its best expression in Article 78 of the Constitution of the Kingdom of Denmark: "Associations that engage in violence or seek to achieve their goals through the use of violence, incitement to violence, or similar criminal influencing of those with differing opinions will be dissolved by court order."

This focus on the criterion of violence in state security would be of central importance for the German offices for the protection of the constitution and thus also for the complex of measures that can be classified as a substitute for banning political parties. Neither the AfD nor the SWG would then have the problems they face under the ideologically and politically driven concept of state security in the FRG, termed "protection of the constitution". I can hardly imagine that I myself would have experienced the problems described in the aforementioned political biography, and much more, under such a concept of state security that corresponds for sure to the proper understanding of political freedom. The "minor suppression" of critics would then have to end. If this suppression were eliminated, i.e., if a "full democracy" were realized in Germany through the abolition of this specific constitutional protection system geared towards safeguarding ideological values, it would be guaranteed that the FRG could achieve at least seventh place in the international democracy index, a position currently held by the exemplary Kingdom of Denmark.

If the further political possibilities that are denied to Germans by the Basic Law, with its implicit distinction from the democratic freedom under the Weimar Constitution, were guaranteed, first place could certainly be realistically attained.

> See to the free Weimar Constitution as a counter-proposal to the so-called "liberal minded" ("freiheitlichen") Basic Law the following contribution: Die Weimarer Reichsverfassung (WRV) – Verfassung einer freien Demokratie in Deutschland (The Weimar Constitution (WRV) – Constitution of a free democracy in Germany)

https://links-enttarnt.de/wp-content/uploads/2020/09/Verfassungsdiskussion_Teil-2.pdf

This would entail the introduction of referendums and plebiscites, or even the direct election of the head of state, which, however, would only be practical if it were linked to significant state powers for this office. And such a position of power for the head of state could be urgently needed to find a democratically sound solution to Germany`s fundamental economic and financial problems. Necessary reform measures, such as those currently being implemented by Argentine President *Javier Milei*, seem hardly possible under the Basic Law for the Federal Republic of Germany. The Weimar constitutional model represents in any case a central benchmark and point of reference for the realization of political freedom also in the FRG. This constitutional system could also be understood as an approximation of the American constitutional system, which even the established political class of the FRG would have to view favourably.

See the endorsement of adopting the American constitutional model as a positive alternative to the German Basic Law: Eine (weitere) rechte und liberale Verfassungsoption: Rezeption der Verfassung der USA (Another right-wing and liberal constitutional option: Reception of the US Constitution)
https://links-enttarnt.de/wp-content/uploads/2022/09/VfgDisk10-USVfg.pdf

However, this positive assessment of American democracy by German "democrats" is likely to fail because, in their view, Germans should not be granted so much political freedom. The premises of the American occupation regime in Germany, to which the German "democrats" feel bound although probably mostly unconsciously now, deny Germans the freedom they admire in the case of the Americans.

With regard to the ban on political parties, the author of this treatise is convinced that the Basic Law for the Federal Republic of Germany could have been interpreted in a manner similar to that expressly provided for in the Danish Constitution. However, since the Federal Constitutional Court ruled differently, and this jurisprudence has become so central to the self-understanding of the FRG as (flawed) democracy that it can no longer be significantly altered by the judiciary, only an amendment to the Basic Law can now realize a "full democracy" in the FRG. Furthermore, the German judicial system is too closely intertwined with the system of established "democratic parties", and therefore no solution to the central problems of democracy in the FRG can be expected from the justice system. A solution can only be achieved politically.

As long as such a fundamental change to constitutional law and practice does not occur, the FRG can only qualify as a "flawed democracy". The realization of a "full democracy" is then the task of the political right, which should not be hindered internationally by the fact that too much credibility is attributed to the demonization of the opposition by the established German political class. This should then also lead to a realistic classification of the Federal Republic of Germany in future international democracy indices. A realistic international assessment of the democratic situation in the Federal Republic of Germany would be crucial for the realization of a full democracy in Germany.