SOCIAL HISTORY, POPULAR CULTURE, AND POLITICS IN GERMANY

TECHNOLOGICAL DEMOCRACY

Bureaucracy and Citizenry in the German Energy Debate

Carol J. Hager



MICHIGAN

What are the prospects for democratic participation in the modern technological state? Is technology a force of emancipation or enslavement? Intellectuals such as Max Weber have prophesied that issues that were complex would be decided by technical experts instead of by the affected populace—politics would give way to technocracy. The issue has been reintroduced in the past two decades in many Western democracies by grassroots environmental movements, particularly in Germany, where the debate has been especially lively.

Taking as its reference point the development of citizens' participation in energy politics in West Berlin from 1970 to the present, *Technological Democracy: Bureaucracy and Citizenry in the German Energy Debate* examines the connection between environmental and democratizing concerns in Germany. Carol Hager illuminates what tentative answers environmental groups provide to the question of the citizen's role in technological society. The book explores the ways in which lay citizens can participate in policy decisions of a technical nature and whether in doing so they can repoliticize and democratize those policy areas that have become the territory of experts.

Technological Democracy takes an interdisciplinary approach to the questions it addresses. It will be of interest to students and scholars of political science, environmental studies, sociology, and modern German history.

Errata

Page

35, footnote 43: For "The more unrestrained communication," read "The more unrestrained the communication,"

91, line 38: For "this could require" read "this might require"

164, footnote 47, item 4: For "5 mg, respectively," read "5 mg/m^3, respectively,"

176, line 29: For "BI goals: where individual" read "BI goals: individual"

192, line 23: For "dimension" read "dimensions"

197, line 17: For "in dismissing of their" read "in dismissing their"

211, line 5: For "technical and legalistic methods," read "technical and legalistic methods–"

233, line 29: For "BI's" read "BIs'"

234, last line: For "a broader discussion" read "a wider discussion"

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Ann Arbor

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To my parents, Jean and Warren Hager

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Unless otherwise noted, all translations are my own.

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Abbreviations

AL	Alternative Liste (Alternative List) Berlin
BBauG	Bundesbaugesetz (Federal Construction Law)
BDI	Bund Deutscher Industrie (Association of German Industry)
BEWAG	Berliner Kraft- und Licht-AG (Berlin Power and Light Corporation)
BI	Bürgerinitiative (Citizen Initiative)
BImSchG	Bundesimmissionsschutzgesetz (Federal Immission Control Law)
CDU	Christlich-Demokratische Union (Christian Democratic Union)
CSU	Christlich-Soziale Union (Christian Social Union)
FDP	Freie Demokratische Partei (Free Democratic Party)
GASAG	Berliner Gaswerke (Berlin Gas Works)
GFAVO	Großfeuerungsanlagenverordnung (Executive Order on the Reduction of Emissions from Large Combustion Facilities)
GWO	Reichsgewerbeordnung (Imperial Business Regulations)
KPD	Kommunistische Partei Deutschlands (Communist Party of Germany)
LafA	Landesamt für Arbeitsschutz und technische Sicherheit (Land Office for Worker Protection and Technical Safety)
SenGesU	Senator für Gesundheit und Umweltschutz (Senator for Health and Environmental Protection)
SPD	Sozialdemokratische Partei Deutschlands (Social Democratic Party of Germany)
TA-Luft	Technische Anleitung zur Reinhaltung der Luft (Technical Instructions for Air Quality Control)

TÜV	Technischer Überwachungsverein (Technical Inspection Association)
VIAG	Vereinigte Industrieunternehmungen AG (United Industrial Enterprises Corporation)
VwGO	Verwaltungsgerichtsordnung (Administrative Court Regulations)
WUB	Wählergemeinschaft unabhängiger Bürger (Voters' Association of Independent Citizens), Zehlendorf

Introduction

What are the prospects for citizen participation in the modern technological state? The question of whether technology would be a tool of emancipation or enslavement has preoccupied scholars and interested lay persons since the industrial revolution. The question reentered public discussion in the past several decades in Western Europe and the United States, as the long period of stability after World War II gave way to new societal unrest. Technological development inspired heated public debate during the "environmental decades." Environmental groups proliferated, ushering in an era of mass mobilization and grassroots protest. My purpose in writing this book is to explore the connection between environmental and democratizing concerns, to see what tentative answers environmental citizen groups provide to the question of the citizen's role in the modern technological state.

Nowhere has environmental controversy been more lively than in Germany. In the former West Germany, grassroots "citizen initiative" groups sprang up around environmental issues. These were local or neighborhood groups formed at first to procure some service for the community but then increasingly to protest government-sponsored industrial projects. By the mid-1970s, participants in citizen initiative groups numbered in the millions. The debate reached its high point during the energy protests of the 1970s and 1980s. I first came to West Berlin to research environmental policy making in 1984. Instead of the lively legislative process I had expected, I found that much of the action was in the streets—many people rejected parliamentary politics in favor of direct, demonstrative action. What struck me was that the scope of the citizen groups' concerns clearly transcended any one particular issue. Protesters had begun to aim their critique at the broader political system. After decades of state-promoted industrial expansion, many began to question the environmental and human costs of continued growth and to view environmental destruction as inherent in the project of the postwar welfare state. Some questioned the entire direction of West German development, seeing the state itself as a threat to the quality of life

of the populace. It was this broader dimension that I wanted to capture in my study.

The protests of the 1970s and 1980s centered largely on energy projects, which seemed for many people to symbolize the clash between technological development and environmental quality of life. Energy projects symbolized as well the march of bureaucracy against the self-determination of the populace, for they were planned and implemented by state bureaucracies and utilities without substantial public input. Parliaments, the institutional avenues for citizen participation, lacked expertise and access to crucial policy decisions. There was no means of forcing government policymakers to take citizen environmental values into account in their choices. Consequently, not only large technological projects, but the legitimacy of political institutions themselves, came under fire.

The new citizen groups connected environment with democracy; to them, destruction of the natural environment was linked to the nonparticipatory form of decision making. These groups wanted a substantive policy discussion as opposed to closed, expert-oriented bureaucratic procedure. They began to mobilize outside of political institutions in order to challenge policymakers directly, generally pursuing a dual strategy of mass mobilization and legal action. Environmentalists had more on their agendas than protest, however. They were also trying to put into practice alternative forms of decision making that would empower ordinary citizens and give them substantially more responsibility for the future of their communities. Far from a purely defensive phenomenon, citizen initiatives were becoming innovators in citizen participation.

These groups experimented with direct democracy within their own organizations and eventually attempted to transfer their decision-making forms to the political system by means of alternative parties and voting lists. But aside from its potential political effectiveness, participants seemed to find something intrinsically important in the experience of grassroots mobilization. Many were attracted to environmental causes by the opportunity to learn to take personal responsibility for the well-being of society. Through grassroots activities, participants viewed themselves as taking charge of their own lives, of practicing democracy in a new, deeper way. They were not only challenging the legitimacy of existing politics, but also trying to develop a new politics. Thus, while the protests had to do with particular energy projects or environmental destruction in specific areas, they also had this transcendent quality—rejecting conventional politics, they addressed themselves to the questions of what kind of society was most desirable and what the citizen's role in such a society would be.

I find both of these dimensions, the policy dimension and the legitimation dimension, crucial to interpreting the origins and goals of citizen protest

groups and to assessing the long-term implications of their activities for democratic politics. But environmental politics as a legitimation issue is seldom discussed in the public policy or interest group literature in political science. While this literature is useful for analyzing the policy aspects of environmental politics, a broader perspective is needed to capture the connection between environmentalism and democracy.

I analyze German energy politics from the perspective of critical theory. This is a rather unusual combination; critical theory is generally quite abstract and removed from empirical analysis. Critical theory is, however, by definition two-dimensional; it contains both an analysis and a critique of existing political reality and can thereby interpret meaning in ways that standard theories cannot. Some critical theorists also share with environmental activists an interest in questions of technological development and democracy. I believe the theory of Jürgen Habermas best articulates the concerns that prompted grassroots citizen protest. It does this by focusing on developments in state and economy in advanced Western societies that appear threatening to citizens. Unlike theorists who propose state or market as an organizing principle for all of society, Habermas sees state and economy together as a "system" that stands opposite the "lifeworld" or cultural milieu of ordinary citizens, where experiences are shared and knowledge passed on through speech. The structure and logic of the system are different from the structure and logic of the lifeworld.

Environmental issues tend to bring out in particularly sharp relief the contrast between the emerging environmental values of the citizenry and the imperatives of industrial expansion. Large technological projects such as power plants appear as an intrusion of the economic and administrative system into the private lives of citizens. At the same time, as Claus Offe explains, the very technical complexity of these projects is used to justify their removal from popular influence. They are considered the territory of experts, removed from politics. Thus, as the state intervenes ever more into the lives of the populace, it appears to recede at the same time from popular influence. This prompts critical citizens to complain that the state does not fulfill its democratic promise and consequently to challenge its legitimacy. These critics tend to organize their protest outside state institutions in order to avoid co-optation by the very system they are protesting. Critical theory thus addresses the legitimation problem that prompted the rise of citizen protest movements. By juxtaposing system and lifeworld, Habermas allows us to see how the bureaucratic-economic system is experienced by many citizens.

Habermas attempts to both analyze existing reality and to critique it, to offer an analysis and a program of action. In this way his aim is similar to the mission of the citizen initiative groups themselves. They attempt both

to operate within the institutional system and to critique it, to participate in the policy process while at the same time pursuing their broader goal of democratizing that process. A study of these groups thus provides a test of Habermas's critical theory in action. Many theoretically based critiques exist, but this book offers an empirical critique based on the claims of the theory itself. I have chosen to analyze the development of one issue in a single city during the period from 1970 to the present. This is perhaps the most effective way to illustrate how ordinary citizens attempt to come to grips with technological issues in their daily lives. In keeping with its goals, the book is two-dimensional in form; it is simultaneously an analysis of an empirical case and a theoretical critique, in which the theory and the case enlighten each other.

The book tells the story of an energy controversy that took center stage in (then) West Berlin for more than a decade. I arrived in West Berlin during the final phase of the controversy, and I have tried to bring to life in the book the political atmosphere of the time. The West Berlin controversy was one of many then occurring in West Germany. I have cited examples from other major controversies throughout the text. In West Berlin, objections arose over construction of a large coal-fired power plant in a forested area. Concerned residents formed their own citizen initiative group in order to fight the plant. During the long debate, it became clear that more was at stake than the construction of a power plant. Here as elsewhere, people began to question the whole direction of state-led growth. Statements by activists and policymakers, information flyers, court transcripts, parliamentary records, and public discussions revealed the energy debate to be a legitimation issue as well.

The West Berlin case study illustrates the difficulties citizen groups encounter in acting simultaneously on the public policy and legitimation dimensions. In order to stop the power plant project, citizens were often forced to collaborate in a technical debate that compromised their goal of developing a broad, democratic discussion of energy policy. Nevertheless, the West Berlin case provides a tentatively optimistic assessment of the chances for democracy in technical issue areas such as energy. The grassroots movement succeeded in raising the level of societal discussion and information. On the policy dimension, the group lost its fight against the power plant, but as a result of the controversy the plant was scaled down, relocated, and equipped with the latest pollution control devices. On the legitimation dimension, the legacy of the controversy is a more skeptical, activist, informed populace and an everyday political discussion of environmental matters previously reserved for technical experts. Bureaucratic encapsulation is no longer possible. The political debate has not, however, found an institutional home acceptable to all participants and thus recurs periodi-

cally as grassroots protest. Green parties and voting lists have become staples on the political scene, in the former East Germany as well as in the West. But parties and parliaments continue to experience legitimacy problems. These problems were exacerbated by the process of German unification and seem to some to have become chronic.

The experience of citizen groups in Germany also highlights strengths and weaknesses of the critical theory approach. The theory helps articulate the problems that prompt grassroots protest against technocratic decision making. At the same time, the experience of citizen groups points out ways in which critical theory becomes rigid and technicized, falling short of offering a program for action. Only in transcending Habermasian theory, I argue, does citizen action represent a truly new, democratizing, alternative politics.

The first two chapters of the book provide the theoretical and historical background for the empirical study to follow. Chapter 1 explains in more detail what I mean by the public policy and legitimation dimensions and sets up the theoretical framework of the book. The framework consists of the theories of Max Weber, Claus Offe, and Jürgen Habermas, respectively. Weber provides the basis for the critical analysis of society; he discusses how the growth of bureaucracy in modern democratic societies threatens to marginalize politics. Offe and Habermas pick up and expand this theme in their analyses of legitimation problems in contemporary society. Chapter 1 describes Habermas's central concepts of system and lifeworld and explains how the system/lifeworld distinction helps clarify the legitimation concerns of citizen protest groups.

The West Berlin citizen group was one of many that arose in the 1970s around large energy projects. Chapter 2 places the West Berlin empirical study in historical and political context. It describes the history of energy policy making and environmental citizen action in Germany. The closed structure of energy policy making and the tight industry-state relationship that have recently come under citizen fire have a long tradition there. Likewise, citizen environmental concern is rooted in earlier German history. In some respects, however, today's grassroots groups are a profoundly new political phenomenon. This chapter points out those areas in which the new movements draw on tradition and those in which they are historically unique. It also locates the West Berlin controversy in the universe of new social movements that arose during the same period around a variety of issues.

The next four chapters comprise the empirical study. Chapter 3 introduces the West Berlin case while addressing at the same time the general question of how and why grassroots environmental protest movements form. It sets out the policy and legitimation dimensions of the energy controversy

in West Berlin. Interpreting the energy problem from the perspectives of the various government policymakers and of critical citizens, it explains why protest against the proposed power plant took the form of an extraparliamentary mass movement.

Chapter 4 analyzes the internal politics of the citizen group. On the basis of the West Berlin case, it explores the strategies and dilemmas of grassroots democratic organizations. The group tried to reach decisions by consensus while pursuing a strategy of mass mobilization and public information in order to halt plant construction. In general, such groups struggle to develop and maintain internal democracy while at the same time interacting with bureaucratically organized authorities. Their status as critical participants in policy making means that they balance rather precariously between institutionalized and noninstitutionalized action. Part of their mission is to develop within their own organizations alternatives to bureaucratic or parliamentary decision making, to demonstrate that alternatives are possible. The West Berlin group's actions illustrate the benefits and pitfalls of direct democracy.

Eventually the energy debate shifted from the West Berlin streets to the administrative courts, where protesters filed objections in the context of the permit processes for the facility. The permit processes offered the best possibility of stopping the construction by legal means. At the same time, the legal appeals revolved around technical and procedural points and thus worked against the broad societal discussion the citizen group wanted to introduce. Chapter 5 discusses the difficulties that participation in technical debate poses for would-be democratizing movements. How can these movements achieve their policy goals without compromising their broader democratizing goals? The protesters chose to attack bureaucratic policymakers on their seemingly least assailable point—technical expertise. Although this strategy was rewarded with various concessions and delays in the construction, the legal appeals did nothing to change the form of policy making that the protesters opposed. To pursue the legal arguments was to submit to a form and language of decision making that was essentially illegitimate to the activists. It also kept them on the defensive, trying to delay plant construction instead of formulating a program for political change.

One possible solution to this dilemma would be to find an institutional forum where a broader discussion of energy policy and democracy could take place on a continuing basis. Chapter 6 analyzes the citizen group's attempt to activate parliament as such a forum—to create a parliamentary liaison between bureaucracy and citizenry. This chapter assesses the possibilities for a participatory politics within the framework of established political institutions. Can grassroots groups retain their critical perspective while working within the institutional structure? By founding the Alternative List

as the parliamentary arm of the grassroots citizen movement and winning seats in the Land Parliament, activists attempted to achieve a program for political change while maintaining their footing both inside and outside political institutions. Once in parliament, the AL established temporary commissions on energy policy, which for the first time drew all concerned participants together in a discussion of both short-term choices and the long-term goals of energy policy. No permanent institutional forum was created, however, and many activists remain skeptical of parliamentary participation.

Chapter 7 returns to critical theory in order to evaluate the results of citizen action in West Berlin and elsewhere. While it is difficult to sustain the claim that the lifeworld has won back much territory from the system, one can argue that grassroots groups guided citizen discontent in the direction of informed political action, a path toward "technological democracy," in which policymakers and lay citizens interact more openly. The case study raises the question, however, of what happens if citizen unrest is not eventually channeled into support for political institutions. The old decision-making forms have lost much of their legitimacy without having been replaced by new forms. Citizens tend to take to the streets in order to express their political views. The legitimation problem remains unresolved and continues to resurface periodically.

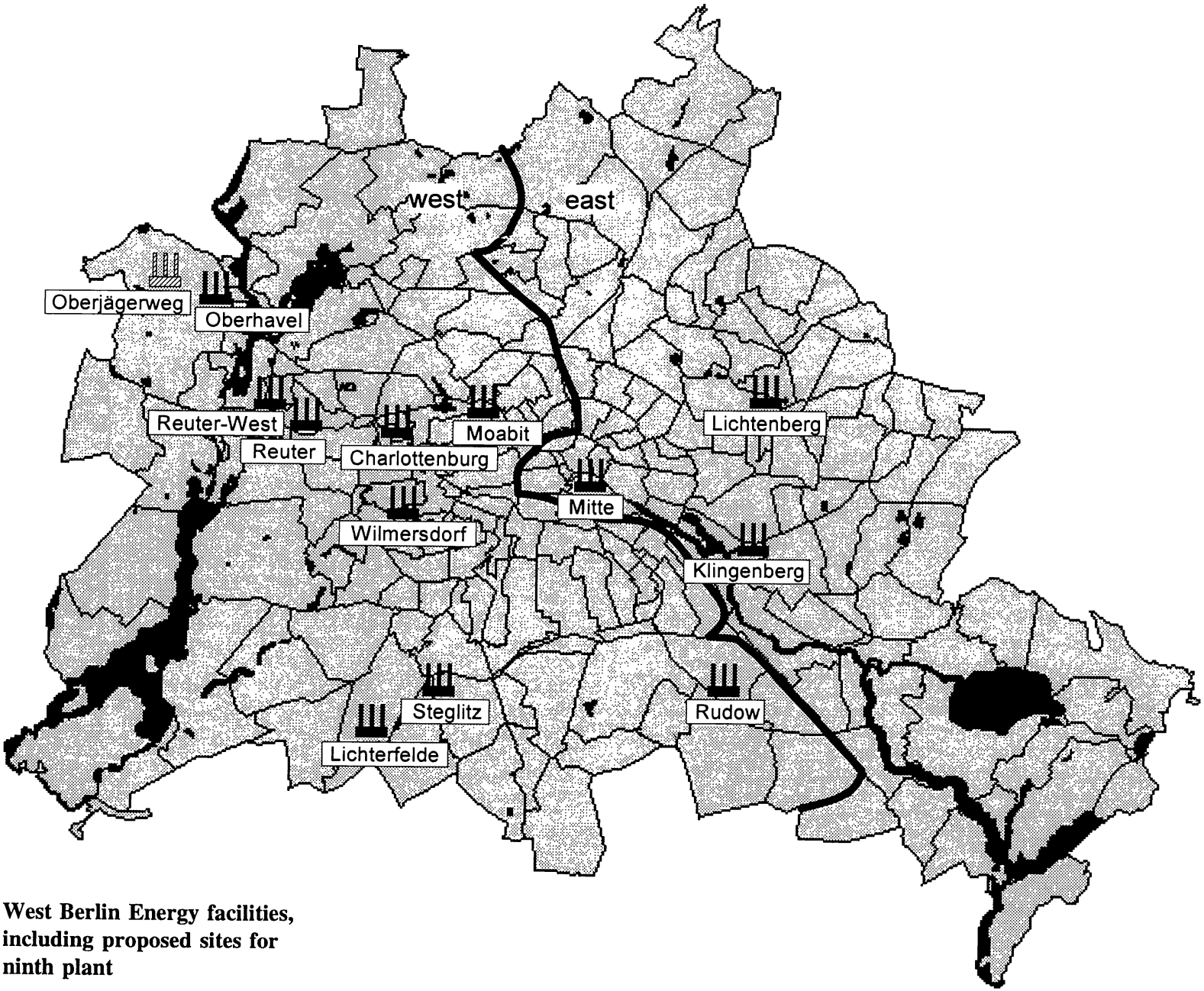
Chapter 7 then turns the tables and evaluates Habermasian theory in the light of the West Berlin case. To the extent that the citizen group embodies Habermas's vision, it reveals that vision as problematic; the case study shows how the notion that legitimate solutions will emerge from unfettered political dialogue can lead to the very rigidities and domination that such dialogue is designed to avoid. Habermas also overemphasizes the defensive aspect of citizen protest. Only in transcending his vision does grassroots citizen politics truly fulfill its potential as an active, democratizing force in advanced technological society. The book closes with an assessment of the implications of citizen activism for the development of post-unification German politics. The promise of political empowerment that attracted people to grassroots politics during the environmental decades may be needed as united Germany faces the problems of the 1990s. At any rate, I believe that by exploring the way one particular controversy changed participants' interpretations of their role in the polity we will travel some distance toward understanding political developments on a broader scale.

CHAPTER 1

Technocracy, Critical Theory, and the New Social Movements

The 1970s and 1980s can justifiably be referred to as the "environmental decades" in many Western countries. Environment rose rather suddenly to the top of the political agenda and has remained an important and potentially volatile issue. In the Federal Republic of Germany the issue has been particularly powerful, altering that country's political landscape over its twenty-year course. Environmental concerns prompted the rise of the citizen initiative movement in the early 1970s and the founding of the national Greens party in 1980. Issues such as the nuclear power controversy, the creeping death of the German forests (*Waldsterben*), the Chernobyl nuclear accident, the chemical poisoning of the Rhine, and, more recently, environmental devastation in the former East Germany have kept environment in the public eye and on the political agenda. The impact of the environmental decades continues to be felt in united Germany in the 1990s.

In part, the story of the environmental decades in West Germany is the tale of a halting technical and political learning process. Policymakers had to redefine their goals to meet new environmental criteria. They were responsible for collecting and interpreting voluminous technical data. Policymakers also had to contend with new political participants, both inside and outside official channels. A strong grassroots protest movement arose, culminating in the creation of green and alternative parties and voting lists. Environmental legislation shifted the distribution of bureaucratic expertise and power and also created new opportunities for citizen participation. For their part, citizen groups had to try to muster enough expertise to contribute to the technical debate. The study of environmental politics thus affords political scientists the opportunity to analyze the development of an area of public policy making at the interface of technology and politics. Examining a policy area in flux reveals much about the process of "politics as usual" as well as the possibilities for change.



West Berlin Energy facilities, including proposed sites for ninth plant

The environmental problem contains another dimension, however, with arguably more far-reaching implications for the future of German politics. Environment has also posed a legitimation problem. The growth in environmental awareness produced a wave of public protest unprecedented in the Federal Republic, which called into question not only state policies themselves, but also the conventional *forms* of political decision making that had produced them.[1] Bureaucratically reached energy decisions failed to incorporate citizen environmental values. Their ideological claim to neutrality and technical superiority drew fire from citizen groups, which countered that technocratic ideology masked the bureaucracy's pursuit of particularistic interests. Only a deliberative, expressly democratic form of policy making, claimed activists, could produce decisions that would reconcile economic and ecological aspects of the energy problem and enjoy the support of the populace.

The new environmental movement attempted to develop such a form in its own organizations and activities. The units of action were extraparliamentary "citizen initiative" groups (*Bürgerinitiativen,* or BIs). These groups developed internal, grassroots democratic decision-making structures. Claiming that traditional representative institutions had lost their policy-making relevance and democratic potential, these groups attempted to create new modes of citizen participation. Their aims were not limited to blocking or changing specific policy choices. Their ultimate aim was to change the form of political decision making that produced those choices, to force a political dialogue between policymakers and citizens, through which the goals and means of public policy could be recast and its legitimacy restored.

The legacy of the environmental decades in West Germany is twofold. They produced major substantive changes in public policy. At the same time, they brought on a subtle but important shift in public perception of the role of the citizen in the democratic state. This change is more difficult to measure but has important implications for the legitimacy of political institutions. The policy and legitimation dimensions overlap; I separate them largely for purposes of explication. The policy problem requires a discussion of systemic aspects of policy change, that is, the institutional constraints and incentives, the changing array of participants and their reflection in public policies themselves. The legitimation problem requires an analysis of the ideological claim of bureaucratic policy making and its clash with emerging citizen values and political self-perceptions.

This book explores environmental politics by means of an empirical study of energy policy making in Berlin from 1970 (West Berlin) to the

1. Michael Bühnemann, Michael Wendt, and Jürgen Wituschek, eds., *Die Alternative Liste Berlin: Entstehung, Entwicklung, Positionen* (Berlin: LitPol, 1984), 52.

present (united Berlin). West Berlin shared some similarities with the Federal Republic in general. It faced serious pollution problems not primarily of its own creation. Here, as in the Federal Republic as a whole, environment arose as a political issue with the advent of citizen initiative groups in the 1970s. Here also, citizen concerns about the environmental costs of economic growth crystallized around the issue of energy policy. The debate over a new power plant project became the forum for expression of broader citizen concerns about economy and ecology, technocracy and democracy.

Although representative in some respects of the West German energy situation, West Berlin is in other respects an extreme case. Geographically isolated from West Germany and constrained spatially by the infamous Berlin Wall, West Berlin developed the problems of other inner-city areas without the flexibility that would facilitate their solution. The "economy/ecology conflict" that prompted the rise of the environmental movement nationwide was particularly acute here. That is, the environmental costs of continued economic expansion became especially apparent where industry and populace were forced to coexist in a very limited space. Several of the city's eight power plants, for example, lay within half a mile of densely populated residential areas. West Berlin developed one of the most serious air pollution problems in Western Europe, largely as a result of power plant and industry emissions.

West Berlin's social and economic situation also departed somewhat from the West German norm. The city attracted a large population of university students and other young people, in part because of the exemption from military service granted to its residents. West Berlin became a seat of student activism in the 1960s and a center of alternative culture. The city suffered economically from its postwar isolation from Western markets. It recovered more slowly from the oil crisis of the 1970s than did West Germany as a whole, but a new law in 1978 providing federal assistance to local industries bolstered the sagging economy.[2]

Against this backdrop, the story of West Berlin's ninth and largest coal-fired power plant, Reuter-West, unfolded. A number of factors combined to place this project at the center of the developing economy/ecology debate. The timing of the project coincided with the general rise in environmental awareness, the new federal air pollution control legislation, and the slow economic decline from the boom years of the 1960s.

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2. 11 January 1978, Senat Förderungsprogramm für Arbeitsplätze und Berliner Wirtschaft (cited in West Berlin Senat, *Kurzgefaßt Berlin,* 1984, 47).

The Reuter-West Project as a Public Policy Problem

In the mid-1970s, Berlin Power and Light (BEWAG) announced its most ambitious project to date, a 1,200 megawatt (MW) coal-fired plant to be built in a forested area of the city. Rising demand, the utility claimed, mandated immediate expansion if the city were to avert an energy shortage. The subsequent debate over the construction revealed a conflict between the policy goal of revitalizing West Berlin's lagging industrial sector, a goal to which a plentiful and secure energy supply could contribute, and the goal of reversing the deterioration of the natural environment, whose accomplishment the project could hinder. The former goal clearly took priority among policymakers, the latter among much of the citizenry.

Energy policy was the responsibility of the *Land* (state) bureaucracy, the *Senat*. Until the passage of the Federal Immission Control Law (*Bundesimmissionsschutzgesetz* or BImSchG; *Immission* means "ambient air quality") in 1974, the senator (minister) for economy of Land Berlin made energy decisions in conjunction with the utility. The new federal law was passed in response to growing public pressure to do something for the environment.[3] Accompanying the Federal Immission Control Law were the Technical Instructions for Air Quality, or *TA-Luft,* an executive order that set specific ambient air quality standards and instructions for their measurement. The law dispersed bureaucratic policy-making powers by requiring projects to be licensed and monitored by environmental authorities. This shift in licensing criteria (environmental as well as economic factors had to be considered) as well as procedure (new administrative branches had to be consulted) caused much initial confusion among Senat authorities. Informational requirements had suddenly increased; many of the environmental data now required for legal approval of energy projects simply did not exist. Entrenched bureaucratic elites in the Senat Administration for Economy hesitated to make these data a priority. The shift in criteria and responsibilities threatened to delay the new project and upset power relationships within the Land government. Moreover, the new environmental laws threatened the viability of all future energy projects in West Berlin. Air pollution levels in the city already violated legal standards. It would be difficult to increase energy capacity while improving ambient air quality.

Policymakers also faced stiff environmentalist opposition to the project. In West Berlin, as in the Federal Republic as a whole, growing environmental awareness had brought concern about the human health effects of

3. See chapter 2 for a description of the circumstances surrounding the passage of federal air pollution legislation.

industrial expansion. A grassroots citizen protest movement arose against the project. Mass opposition blocked implementation first at one site, then at another. The Federal Immission Control Law also afforded citizens expanded opportunities to raise legal and technical objections. Because policy-making authority for energy was centered in the Land bureaucracy, and because citizen access opportunities were limited largely to the administrative permit process, the political debate over the project evolved from a mass movement into a protracted administrative court battle between bureaucratic and citizen experts.

The citizen movement objected not only to the environmental dangers of the project, but also to the very limited arena in which energy matters could be discussed. The courts restricted state-citizen interaction to argument over narrow technical points. Activists turned to parliament as a possible stage for general discussion of energy and other policy topics. They formed a new political party, the Alternative List (AL), as a parliamentary mouthpiece for the citizen initiative movement. The AL won seats in the West Berlin Land Parliament in 1981. Through its efforts, parliament became the first forum in which all interested participants—lay citizens, bureaucrats, elected officials, and utility representatives—could engage in policy debate. The AL thus helped reactivate the legislature as a liaison between citizens and the Land administration.

In the course of the decade-long legal battle between activists and planning bureaucracy, technical means for energy saving and environmental protection, as well as patterns of cooperation between actors, were developed. Although neither side had entered the controversy with much environmental information, the citizen movement had naturally faced greater barriers to collecting it. The case shows, however, that lay citizens did not shrink from a technical debate with bureaucratic experts, who had justified their dominance of energy policy making in terms of their monopoly of technical expertise. The activists often beat the bureaucracy at its own information game and, in so doing, forced it to develop the expertise to meet environmental law requirements.

The Reuter-West controversy resulted in an economy/ecology compromise that permitted energy expansion but also required compliance with environmental law. Citizen opposition forced the utility to commit to the most advanced pollution control technologies available in West Berlin and to abandon its plans to sacrifice recreational areas to future energy projects. Further, through the efforts of the Alternative List, parliament and Senat formulated a long-range modernization and environmental plan for all of the city's power plants, something the utility had resisted for years. The citizen movement's accomplishments in the area of institutional change, however, were meager. They were unable to create a permanent political forum for

the energy discussion.[4] It is thus unclear to what extent the Reuter-West controversy has helped to democratize policy making at the level of institutional structure. On this issue, the controversy has not been resolved.

The Reuter-West Project as a Legitimation Problem

The above point is also important on the legitimation dimension because in a real sense the battle was as much about democracy as it was about the Reuter-West project. To the protesters, the opponent was a technocratic decision-making system that pursued policy ends destructive to the environment of its citizens. Technical expertise, citizens claimed, had served as a smokescreen behind which bureaucrats and BEWAG could legitimately pursue the goal of untrammeled economic growth without consulting the affected public. The citizen challenge to Reuter-West was thus simultaneously a challenge to the legitimacy of technocratic decision making. According to the activists, the undemocratic form of the planning process resulted in policies both substantively (environmentally) and politically unacceptable. Only through a deliberative process involving all interested citizens, they claimed, could the goals of energy policy be legitimately set and the means agreed upon by which to achieve those goals.

The protesters accused the bureaucracy of blindly serving the interests of the utility. They pointed to the bureaucracy's lack of independent informational sources, its verbatim acceptance of utility proposals and claims. What were sold to the public as neutral, purely technical decision criteria, claimed the protesters, were actually the political and economic interests of an elite group. Parliament drew citizen fire as well. The parliamentary mode of participation, activists claimed, failed to offer real opportunities for political dialogue. It is significant that the group retained its extraparliamentary base even after forming the Alternative List. The AL entered parliament in order to alter it, not merely to participate in "politics as usual."

The citizen initiative group tried to offer in its own organization an alternative to the hierarchical, expert-dominated form of the West Berlin government. The group adhered to the principles of grassroots democracy, refusing to exclude anyone from participating and attempting to reach decisions consensually rather than hierarchically or by majority vote. In this

4. A Land-level Energy Division (Energieleitstelle) was created in October 1989, under the short-lived SPD (Social Democratic Party)-AL Land government, for the purpose of coordinating energy policy activities among the various administrative branches. It has, however, served a largely symbolic function in policy making, lacking the staff and funding to force changes in policy-making structure (Maria Rosaria Di Nucci Pearce, Energieleitstelle Berlin, interview by author, 19 July 1991).

way, within its own organization, the group tried to redefine the terms of political interaction. It would later attempt to transfer these to the political system at large.

After protesters had successfully blocked the government's plan to build the plant in a forest recreational area, the conflict moved from the streets to the West Berlin administrative courts and the licensing process under the Federal Immission Control Law. The activists took up the technical battle. Through their own expertise, they weakened the bureaucracy's claim that the technicality of the issue required a form of decision making that excluded citizen participation. The activists won some of the legal battles, forcing substantial changes in provisions for environmental protection, but they failed to prevent the construction. Eventually the project conformed to all licensing requirements.

By entering the parliamentary as well as the legal and extraparliamentary arenas, the group attempted to create a broad political discussion of energy planning. This discussion has not been institutionalized in a form that would ensure a permanent citizen voice in energy policy making. The long battle against Reuter-West has, however, affected the way West Berlin citizens perceive their political role. Grassroots organization in pursuit of mutual goals has become commonplace. Citizens no longer accept government decisions automatically; in many cases they choose instead to research policy problems themselves before deciding whether to support or oppose such decisions. A much more informed, skeptical, activist citizenry confronts planners today.

In sum, the energy problem has not been resolved on the legitimation dimension. State planners have not found a legitimating ideology to replace that of technocracy, and citizen groups have not been absorbed into the political system. Indeed, from the standpoint of the grassroots movement, the desirability of institutionalizing citizen action remains an open question. Some activists claim that their continued role in policy making cannot be guaranteed without it. Others counter that institutionalization is tantamount to co-optation. Exactly *because* their alternative politics remains outside the channels of institutional politics, they claim, it stands as a critique and a corrective to the public policy process.

German politics of the past two decades displays a pattern similar to that of the West Berlin case. Citizen initiative movements opposing specific government projects developed an overarching *Systemkritik* by which they assailed the undemocratic form of decision making that produced these projects. New parties and voting lists have arisen in every *Bundesland,* including the five former East German Länder, and although the national-level Greens dropped in voting strength in the early 1990s, they continue to draw headlines with their attempts to introduce new forms of politics and

new substantive debates into the German political system.[5] In a sense the results have been impressive. Germany now has some of the most stringent environmental laws in Europe. The level of information of the average citizen is also quite high. Although grassroots activists failed in many of their protests against specific projects, their influence is evident in the central place environmental policy now occupies on the national political agenda. At the same time, the continued presence of grassroots protest, the fluctuation between mass mobilization and "retreat into privatism" characteristic of German politics today, indicate that the legitimation problems that arose during the environmental decades have yet to be resolved.

New Social Movements as a Theoretical Problem

Environmental citizen initiative groups are among a variety of "new social movements" that have proliferated since the 1970s. New social movements are those movements that lack a traditional class base and organize instead around nondistributive, quality-of-life issues such as environmental protection and peace.[6] Just as the rise of citizen initiative groups presented a

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5. For a comparative analysis of the rise of the environmental movements in East and West Germany and their attempts at cooperation since unification, see Carol J. Hager, "Environmentalism and Democracy in the Two Germanies," *German Politics* 1, no. 1 (spring 1992): 95–118.

6. Offe defines new social movements on the dimensions of issues, values, modes of action, and actors. Dominant issues addressed by new social movements involve concern with human physical space or what he calls the life-world: health; sexual identity; neighborhood; cultural, ethnic, national, and linguistic heritage and identity; physical conditions of life; and survival of humankind in general. These seemingly diverse issues are rooted in values such as autonomy and identity, which correspond with organizational forms emphasizing decentralization and self-help. Offe divides modes of action into two categories, internal and external. Internal organization is egalitarian, nonhierarchical, and largely undifferentiated. External modes of action tend to be noninstitutional and unconventional; demonstrations are an example. Further, movement concerns, such as banning nuclear power, tend to be nonnegotiable. The participants do not identify themselves along left-right or income axes. Instead, they identify themselves along issue lines or claim to represent the human race as a whole. In fact, members tend to be of the middle classes—service sector or public servants, teachers, and so on, and people peripheral to the labor market, such as students, housewives, and retirees. See Claus Offe, "New Social Movements: Challenging the Boundaries of Institutional Politics," *Social Research* 52, no. 4 (winter 1985): 828–32.

Other works on new social movements that address points relevant to this study include: Roland Roth and Dieter Rucht, eds., *Neue soziale Bewegungen in der Bundesrepublik Deutschland* (Frankfurt a.M.: Campus, 1987); Karl-Werner Brand, ed., *Neue soziale Bewegungen in Westeuropa und den USA: Ein internationaler Vergleich* (Frankfurt a.M.: Campus, 1985); Bernd Guggenberger and Udo Kempf, eds., *Bürgerinitiativen und repräsentatives System,* rev. ed. (Opladen: Westdeutscher Verlag, 1984); Joachim Raschke, ed., *Bürger und Parteien: Ansichten und Analysen einer schwierigen Beziehung* (Opladen: Westdeutscher Verlag, 1982), and *Soziale*

problem for West German policymakers, their rise and persistence at the periphery of institutional politics present a problem for social science theory. The challenge for the activists has been to work within the political system for their goals while retaining a critical perspective on that system. The challenge for the researcher is similar: to understand citizen action within the framework of a general theory of politics without robbing it of its critical element, of its self-conscious vantage point outside the realm of institutional politics.

A critical social theory, according to one analyst, "frames its research program and its conceptual framework with an eye to the aims and activities of those oppositional social movements with which it has a partisan though not uncritical identification."[7] In other words, it analyzes political developments in the light of the aims and interpretations of social movements. In this way, critical theory differs from other current approaches to the study of politics that conceive of social interaction, including grassroots politics, as structured by either the market or the state. Market-centered approaches view politics as a process of conflict and compromise among individual interests.[8] State-centered approaches concentrate more on the power of the state to shape societal action.[9] State and market approaches are often considered opposites, proposing two different organizing principles for society.

Bewegungen: Ein historisch-systematischer Grundriß (Frankfurt a.M.: Campus, 1985); Dorothy Nelkin and Michael Pollak, *The Atom Besieged* (Cambridge: MIT Press, 1982); and Suzanne Berger, "Politics and Antipolitics in Western Europe in the Seventies," *Daedalus* 108, no. 1 (winter 1979): 27– 49.

7. Nancy Fraser, "What's Critical about Critical Theory? The Case of Habermas and Gender," in *Feminism as Critique,* ed. Seyla Benhabib and Drucilla Cornell (Minneapolis: University of Minnesota Press, 1987), 31.

8. Most prominent among recent market-centered approaches is resource mobilization theory, which posits that mobilization of societal groups has to do with opportunities and constraints the groups face rather than with the nature of grievances, ideology, and so on. This approach assumes that individuals faced with resource management decisions make rational choices based upon their individual interests and available information. Successful mobilization depends on availability and use of organizational resources. Some important works in resource mobilization theory are William Gamson, *The Strategy of Social Protest* (Chicago: Dorsey Press, 1975); Anthony Oberschall, *Social Conflict and Social Movements* (Englewood Cliffs, N.J.: Prentice-Hall, 1973); and Mayer Zald and John McCarthy, *Social Movements in an Organizational Society* (New Brunswick, N.J.: Transaction Books, 1987). Mancur Olson, *The Logic of Collective Action* (Cambridge, Mass.: Harvard University Press, 1965); Doug McAdam, *Political Process and the Development of Black Insurgency, 1930–1970* (Chicago: University of Chicago Press, 1982); and Charles Tilly, "Revolution and Collective Violence," in Fred Greenstein and Nelson Polsby, *Macro Political Theory,* vol. 3, 1975, 483–555, also address the issue of mobilization.

9. For a review of recent statist theories, see Stephen Krasner, "Approaches to the State: Alternative Conceptions and Historical Dynamics," *Comparative Politics* 16, no. 2 (January 1984): 223–46. An example of a theory in which the state is a major shaper of societal activity is Peter J. Katzenstein, *Policy and Politics in West Germany: The Growth of a Semisovereign*

Recent work in political science has sought to reconcile these two.[10] But this reconciliation would not produce an adequate understanding of the project of the new social movements. Both approaches ignore the sphere of activity most central to the movements, that sphere of societal activity structured by personal interaction and communication that is controlled neither by the state nor by the market and in some respects opposes both. This is

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State (Philadelphia: Temple University Press, 1987). The literature on corporatism also conceives of the state as an active shaper of societal activity, often through tripartite arrangements between labor, capital, and the state. Major works on West European corporatism include Philippe Schmitter, "Still the Century of Corporatism?" in *The New Corporatism,* ed. Fredrick Pike and Thomas Stritch (Notre Dame, Ind.: University of Notre Dame Press, 1974), 85–131; Gerhard Lehmbruch and Philippe Schmitter, eds., *Patterns of Corporatist Policy-Making* (London: Sage, 1982); Claus Offe, "The Attribution of Public Status to Interest Groups: Observations on the West German Case," in *Organizing Interests in Western Europe,* ed. Suzanne Berger (Cambridge: MIT Press, 1981), 123–58; and Kenneth Dyson, "West Germany: The Search for a Rationalist Consensus," in *Policy Styles in Western Europe,* ed. Jeremy Richardson (London: Allen and Unwin, 1982), 16–47. Works on corporatism in developing countries include Alfred Stepan, *The State and Society: Peru in Comparative Perspective* (Princeton: Princeton University Press, 1978).

Neo-Marxist approaches also note that the state is differentiated, that capitalists are not a unified class, and that the state will act against the interests of particular groups of capitalists in the interest of perpetuating the capitalist system in general. For a summary of this approach to public policy making, see Richard J. Samuels, *The Business of the Japanese State: Energy Markets in Comparative and Historical Perspective* (Ithaca: Cornell University Press, 1987), chap. 1. See also Theda Skocpol, "Bringing the State Back In: Strategies of Analysis in Current Research," in *Bringing the State Back In,* ed. Peter Evans et al. (New York: Cambridge University Press, 1985), 5. Neo-Marxist approaches that accord the state a more autonomous role include Nicos Poulantzas, *Political Power and Social Classes,* trans. Timothy O'Hagen (London: New Left Books, 1973); and Fred Block, "The Ruling Class Does Not Rule: Notes on the Marxist Theory of the State," *Socialist Revolution* 7 (1977): 6–28. See also Skocpol, "Political Response to Capitalist Crisis: Neo-Marxist Theories of the State and the Case of the New Deal," *Politics and Society* 10 (1980): 155–201.

10. See Thomas Rochon, *Mobilizing for Peace* (Princeton: Princeton University Press, 1988). Rochon tries to reconcile resource mobilization theory and "new social movement theory," which includes Habermasian approaches to the study of social movements. To him, resource mobilization theory explains the political aspects of the movements' action, while new social movement theory explains the ideological aspects. This classification seems to me too simplistic. I will argue that Habermas's theory contains both a structural component and a component of movement self-understanding that is not reducible to ideology. Keane also cautions that combining these two competing schools will not compensate for their omissions: "sociological approaches which attempt to synthesize economy and state-centered perspectives . . . are important. But they require correction with a more generous (that is to say, more complex) view of the organizing principles of the non-state sphere" (John Keane, ed., *Civil Society and the State* [London: Verso, 1988], 19). See also Bert Klandermans and Sidney Tarrow, "Mobilization into Social Movements: Synthesizing European and American Approaches," in *From Structure to Action: Comparing Movement Participation across Cultures,* ed. Bert Klandermans, Hanspeter Kriesi, and Sidney Tarrow (Greenwich, Conn: JAI Press, 1988), 1–38.

where the legitimation problem unfolds. Much of the activity of new social movements is oriented toward developing and expanding this communicative sphere, pushing back the boundaries of the economic and bureaucratic "system." It is this sphere that new social movements claim is necessary for democracy. Critical theory, because it proceeds from participants' own perceptions, is able to critically examine the differences between the organizing principle of the new social movements and that of state or market. Instead of assuming a single organizing principle, or what Habermas calls a single rationality, for all of society, critical theory makes rationality itself an object of analysis.

New social movements self-consciously fall outside the realm of normal organization and critique it. This *Systemkritik* is an important mobilizing factor. In the West Berlin case, Land policymakers and grassroots activists defined the energy problem in different and incommensurate ways. The activists challenged institutional policymakers' very conception of politics.

Land policymakers defined the problem in terms of conflict management. Their goal was energy expansion. Energy policy, they maintained, was a matter for technical experts. Broadened citizen participation would delay and disrupt the planning process. They sought to expedite the process by restricting citizen access to energy decisions, or channeling it in ways that would not hamper the policy-making capacity of state institutions. In the course of the Reuter-West project, they increasingly oriented their activity toward conflict management and away from substantive policy discussion. Citizen activists, on the other hand, defined the problem in terms of participation. They pursued two sets of goals. First, they sought to halt the project and ensure general compliance with environmental laws. To this end, they exploited the available institutional and noninstitutional means of citizen influence. Second, the activists sought to reshape the nature of political participation itself, that is, to depart from the means-oriented, conflictual decision-making mode and to reorient participation toward a general discussion of the goals of public policy as well as means.

Underlying the conflict between bureaucracy and citizenry was a basic disagreement on the nature of politics. Government officials conceived of politics as a process of bargaining and compromise between participants with conflicting interests. This conceptualization assumes a certain narrowly self-interested, instrumental rationality on the part of participants. Proceeding from these assumptions, the officials treated the energy problem as a matter of structuring access to policy decisions in order to restrict the inevitable political conflict to manageable proportions. The citizen group, on the other hand, developed a conception of politics as a deliberative, consensual process between participants with compatible interests. This conception assumes collectively oriented behavior and a more substantive, or cultural,

rationality.[11] In their alternative vision of democracy, the citizen (rather than the state) stood as guardian of the public good, as a functioning, responsible member of a community that collectively solved problems affecting its members. Such a community spirit could not be achieved, the activists claimed, within the framework of existing political institutions. Neither bureaucracy nor parliament offered the political forum the group demanded. Neither functioned in a way that would allow substantive, deliberative discussion. Protesters objected to bureaucratic decision making for its nonparticipatory, rule-bound nature, which displaced purpose with procedure. They objected to parliamentary decision making for its conflictual nature, which substituted bargaining and compromise for deliberation.[12] Neither bureaucracy nor parliament, technocratic nor pluralistic decision making, could give adequate attention to the setting of political goals. And neither required the substantive discussion without which the citizen group would not accept government decisions as legitimate.

The development of alternative forms of organization corresponding to their different rationality is central to the project of new social movements. Group organization is not simply the means to an end, but is as important to participants as their policy achievements. It is part of their self-defined mission to expand that realm of societal activity that is not organized along the lines of market or state.[13] In the West Berlin case, the citizen challenge to the BEWAG project was simultaneously a challenge to the legitimacy of technocratic policy making. Activists blamed the unpopular project on the undemocratic form of government policy making. In seeking a remedy, they

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11. Habermas discusses this conception. Habermas recognizes that people act strategically. But to him, strategic action is a fallback when communicative action breaks down. The important point is his claim that human beings have the *capacity* to reach consensus in all cases, despite often failing in practice to do so (Habermas, *The Theory of Communicative Action,* trans. Thomas McCarthy [Boston: Beacon Press, 1981–87], 2:150).

12. In writing about democracy, Joseph Tussman states the difference between bargaining and deliberation this way: "to approach decision in the bargaining spirit is to confuse 'solving' with 'getting'" (Joseph Tussman, *Obligation and the Body Politic* [New York: Oxford University Press, 1960], 117). On the policy dimension, the citizens were concerned with "getting"—that is, with preventing the plant construction. On the legitimation dimension, however, they were concerned with substantive democracy, "solving," which to them was a matter of communal responsibility, rather than acquisition or technical mandate. Tussman continues: "each person should participate in the deliberative forum and share the responsibilities of sovereignty. Why? Not simply in order to get more, but primarily in order to develop his deliberative and moral character and achieve the dignity of being a ruler of the society of which he is a member. For this is the genuine democratic urge" (105).

13. Keane, *Civil Society,* intro. Keane notes that the market and the state have not taken over the organization of every facet of societal existence; class conflict and possessive individualism are not everything. The organizing principle of new social movements is self-consciously different from either of these.

refused to rely on the institutional channels for citizen participation. Instead, citizen initiatives sought to organize a strong grassroots network to influence government actors from without. Even their eventual foray into parliamentary politics bypassed the established political parties. Instead, the Alternative List was organized as a parliamentary arm of the citizen initiative movement. Citizens rejected the established institutional channels of participation not simply because they lost out in the policy conflict or because of restricted access opportunities, but rather because their goals on the legitimation dimension could not be satisfied with the rewards the system was structured to give.

While participating in the institutionalized policy-making process (as defined by state authorities), the activists operated as critics of that process, informed by a different rationality and a correspondingly different conception of politics. Critical citizens became theorists of their own actions in a way that state policymakers did not. One sees in the internal structure and action of citizen initiative groups and green and alternative political parties their commitment to an alternative vision of democracy. The West Berlin group practiced consensual decision making, condemning both hierarchical decision making and majority rule as undemocratic. The result was often chaotic and interminable discussions, but they remained steadfast in their view that values should be weighed not by market-type conflict or structural access opportunities, but by dialogue in which "the force of the better argument" would prevail.[14]

A focus on the self-understanding of grassroots groups helps explain the origins of the legitimation problem and the goals of these groups. It also reveals potentially far-reaching effects of citizen action that are not otherwise obvious. Intragroup activity is often neglected by theories that concentrate on the more visible political activities of social movements. But as Melucci explains, social movements, besides acting on the broader political system, also act on a prepolitical, or private, level, connecting people through interaction within the group.[15] Social movements integrate these two dimensions of collective action. Within the groups, new forms of communication and interaction are developed that provide the basis for overt political action. By the same token, many of the results of new social movements are difficult to judge by normal standards of political success; they often involve subtle changes in the way citizens think of their role in

14. This is Habermas's term. Problems associated with this concept are discussed in chapter 7.

15. Alberto Melucci, *Nomads of the Present,* ed. John Keane and Paul Mier (Philadelphia: Temple University Press, 1989), 206.

democratic politics.[16] They demonstrate that alternatives are possible, and they expand the communicative, as opposed to the bureaucratic or market, realms of societal activity.

Critical theory provides a two-dimensional framework for addressing the central problems of this study. By juxtaposing state and economy to the communicative domain of the new social movements, Habermas in particular allows us to analyze the workings of the bureaucratic-economic system as they are experienced by critical citizens. The empirical study of a new social movement in turn provides an opportunity to critique and amend critical theory on its own terms. To the extent that critical theory articulates the concerns of new social movements and provides a framework for their analysis, the actions of these groups can reveal areas in which the theory falls short. The theory and the case can mutually enlighten each other. Habermas explains, for example, the defensive elements of the new citizen protest, the way these groups see themselves as protecting their community against encroachment by the bureaucratic-economic system. The empirical analysis leads us to supplement this portrayal with a more proactive one. Rather than being merely defensive, new social movements also create new forms of political interaction. The empirical study also illustrates the pitfalls of Habermas's emphasis on political deliberation as a cooperative search for truth. Underlying this search is often the idea that there is a technically best solution to political problems; instead of promoting dialogue, it tends to lead to the very rigidity and stalemate that grassroots groups formed to overcome. Citizen groups create something new politically only when they transcend Habermasian theory.

Max Weber: Democracy and the Primacy of Expertise

The legitimation problem is articulated within the theoretical tradition, central to German political thought, that focuses on the problems of modernity identified by Max Weber. Weber describes the historical decoupling of bureaucracy and politics and the contraction of the substantive realm of politics. Claus Offe and Jürgen Habermas advance Weber's discussion in developing theories that address both public policy and legitimation dimensions of current societal unrest. Offe, taking up where Weber left off, analyzes the rise of new social movements as a symptom of the separation of state and societal activity that results from the decay of the political realm. Traditional institutions of representative democracy become illegitimate to both state and societal actors. Habermas returns to Weber's discussion of

16. Alberto Melucci, "Social Movements and the Democratization of Everyday Life," in Keane, *Civil Society,* 248.

modernization in explaining the origins of the legitimation problems Offe observes. Focusing on the conflict between the self-understanding of citizen actors and the activity of the administrative-economic system, Habermas explains where and why grassroots citizen protest arises. He offers a possible solution to the Weberian problem in the form of a revival of politics in the grassroots sense—an activist politics based upon reaching consensus through dialogue rather than conflict. His theory also helps explain the difficulties citizen groups encounter in organizing such alternatives while simultaneously participating in institutionalized politics.

Citizen initiative groups react against the perceived irrelevance of traditional institutions for political participation in the face of technocratic policy making. They claim that the realm of politics has been usurped by bureaucratic experts acting in collusion with industry. And without politics, there can be no democracy. Weber's theory addresses the problem of bureaucracy versus politics that has motivated citizen protest in West Germany. He ironically juxtaposes bureaucratization and democratization, showing how the separation of bureaucracy and politics, which is designed to serve the end of democracy, tends to strangle politics, and thus democracy, instead.

The separation of bureaucratic and political functions comes about as part of the modernization process in democratic states. A leveling of economic and social differences leads to societal demands for democratization. Advocates of democratization demand both equality (decisions should be based on objective criteria) and political responsibility (decision makers should be able to respond to special societal needs and particular circumstances). These conflicting demands are reflected in the distinct roles of the bureaucratic expert and the elected politician.

Emerging public demands for equality in the face of increasing societal and economic complexity require that new decision procedures be devised. Bureaucracy presents the "optimum possibility for carrying through the principle of specializing administrative functions according to purely objective considerations (without regard for persons)."[17] Its rationality is instrumental rationality, aimed at achieving the most efficient means to a particular end. It knows no decision calculus outside of the rational, knowable, reconstructible. Bureaucracy thus separates official activity from the sphere of private life, freeing many decisions affecting the public from the whim of individuals.

The politician satisfies societal demands for political responsibility and

17. *From Max Weber: Essays in Sociology,* ed. and trans. H. H. Gerth and C. Wright Mills (New York: Oxford University Press, 1946), 215–16. Weber writes: "the more complicated and specialized modern culture becomes, the more its external supporting apparatus demands the personally detached and strictly 'objective' expert, in lieu of the master of older social structures."

flexibility. (S)he is the guardian of private interests. Unlike the bureaucrat, the politician can respond to the needs of individuals in a particular case. But the politician's ties to the populace defeat her importance in a system that, with modernization, increasingly relies on technical expertise. The bureaucrat is chosen and promoted on the basis of technical competence. The popularly elected politician, on the other hand, is less qualified for rational decision making. Bureaucracy enjoys advantages over parties and parliaments in its technical superiority, speed, and objectivity. The bureaucratic expert operates beyond the reach of public influence. Democracy thus tries to increase the public hold on the politician by subjecting him to frequent reelection and not binding him to any specific expertise. Consequently, the politician stands as a "dilettante" opposite the trained expert.

In this situation technical expertise becomes a tool of power. The bureaucracy seeks to secure its position through secrecy. It opposes every attempt by parliament to gain knowledge through its own experts or interest groups. According to Weber, only the expert knowledge of private economic interest groups in business is superior to the expert knowledge of the bureaucracy.[18] Parliament is reduced to making acclamations with little technical content in order to secure public support for bureaucratic policies. To the extent that expertise delivers power (a bureaucratized system places a premium on expertise), industry occupies a position of great potential influence over policy making.

Although bureaucratization eliminates arbitrariness, in a sense it does not serve the goal of equality at all. It freezes and legitimates existing societal relations: "the propertyless masses especially are not served by a formal 'equality before the law' and a 'calculable' adjudication and administration, as demanded by 'bourgeois' interests."[19] The "masses" want justice and administration to compensate for their disadvantaged economic position. But bureaucracy cannot perform a substantively ethical function. Likewise, bureaucracy is unable to follow changes in public opinion:

> Every sort of "popular justice"—which usually does not ask for reasons and norms—as well as every sort of intensive influence on the administration by so-called public opinion, crosses the rational course of justice and administration just as strongly, and under certain conditions far more so, as the "star chamber" proceedings of an "absolute" ruler has been able to do. In this connection, that is, under the conditions of mass democracy, public opinion is communal conduct born of irrational

18. Ibid., 235. These groups' continued existence depends on their making the "right" (profitable) choices; thus their advantage in expertise.

19. Ibid., 221.

> "sentiments." Normally it is staged or directed by party leaders and the press.[20]

The upshot of these developments is the subordination of the political realm. Bureaucracy is designed to ensure equal treatment of citizens, but it accomplishes this by severing the political link between citizenry and state. It thus ultimately defeats democracy by eliminating the role of the autonomous individual, nullifying the populace's ability to act politically, rendering irrelevant the realm of choice.[21]

Weber explains the ideological justification for bureaucratization—its supposed neutrality and technical correctness.[22] He also explains how it defeats democracy by ultimately eliminating the substantive role of the citizen in her or his own governance. For Weber, as for the citizen initiatives today, technocratic policy making does not constitute politics. And it is the

20. Ibid.

21. Weber's antidote is the charismatic leader. Weber's theory allows only two options: the instrumental rationality of bureaucracy is opposed only by "hedonism" or "sensualism." Habermas proposes a more complex set of possibilities, in which lifeworld or cultural rationality can counter instrumental rationality. Habermas will propose citizen action as an antidote to the problem.

22. If the administration is "neutral" and pursues a purely technical interest, it will produce "proper" policy (if we accept the Enlightenment claim that there is an objectively proper decision that in every case can be discovered and produced). If the state is not neutral, bureaucratic rationalization gives it great potential for domination—or at least reinforces the domination already present in economic class relationships. By elevating the importance of technical expertise, it *legitimates* bureaucratic dominance. Subsequent authors have expounded on the potential for domination that Weber identified. In Herbert Marcuse's work, administrative rationality becomes the legitimating ideology for an all-encompassing system of technocratic domination. The supposed neutrality and technical correctness of decision procedures legitimate technocratic practice. Marcuse warns, however, that technocratic ideology disguises elite domination. Indeed, he goes further; technology itself, he claims, is domination:

> The very concept of technical reason is perhaps ideological . . . Specific purposes and interests of domination are not foisted upon technology "subsequently" and from the outside; they enter the very construction of the technical apparatus. Technology is always a historical-social *project:* in it is projected what a society and its ruling interests intend to do with men and things. Such a "purpose" of domination is "substantive" and to this extent belongs to the very form of technical reason. (Herbert Marcuse, "Industrialism and Capitalism in the Work of Max Weber," in *Negations: Essays in Critical Theory,* trans. Jeremy J. Shapiro [Boston: Beacon Press, 1968], 224)

If domination is inherent in the structure of technical reason itself, it is pervasive. Indeed, Marcuse claims that as the technological project progresses, "it shapes the entire universe of discourse and action, intellectual and material culture" (Marcuse, *One-Dimensional Man* [Boston: Beacon Press, 1964], xvi). Alternatives become impossible to recognize. Politics and culture are swallowed up in an omnipresent system of technological control. It is precisely the realm of politics and culture, however, that must be preserved if democracy is to exist in any meaningful sense.

political realm that must persist if substantive, rather than merely formal, democracy is to be preserved. The West Berlin citizen initiative perceived a problem similar to the one Weber addresses: the planning bureaucracy dominated energy policy making, restricting citizen participation to nonsubstantive areas.

Citizen activists in a variety of groups throughout Germany identify in the political system the problems Weber diagnosed. The separation of bureaucratic and political institutions, they claim, has resulted in technocratic dominance. It is not that avenues for democratic participation, for political responsibility, do not exist; rather, it is that legislatures appear to have little influence on public policy making. The modern political system lacks opportunities for substantive citizen participation. The West Berlin citizen initiative formed in reaction to developments of the type Weber noted. Observing the symbiotic relationship between the energy utility and the Senat, the group feared that the bureaucracy's claims to neutrality disguised its alignment with utility interests.[23]

Claus Offe takes up the problems Weber discussed for the case of the modern welfare state. Offe begins his analysis where Weber ends—with a political system consisting of an encapsulated bureaucracy and a moribund legislature. He focuses on the internal workings of the state and economy. Offe analyzes the contradictions inherent in welfare-state capitalism that lead to legitimation problems. Democratic political institutions cannot smooth over these problems because they fail to link the articulation of societal concerns with state policy-making requirements. One result has been the rise of new forms of citizen protest. Offe analyzes the problem from the dual perspective of state policymakers and lay citizens, addressing both its public policy-making and legitimation dimensions.

Claus Offe: State, Society, and Democratic Politics

Offe describes a deterioration of traditional institutions linking state and society. According to democratic theory, democratic politics is the "bridge" linking the individual to the state.[24] The bridge functions in two ways. From the individual's point of view, institutions for conflict *articulation* bring

23. A Citizen Initiative (BI) Oberhavel/Oberjägerweg document celebrating the first anniversary of the group echoed this fear in its complaint against the West Berlin government's "ruthless promotion of BEWAG and industry interests." The document continues: "political mandate does not mean legitimation on the grounds of some predictions given by technicians and experts who cannot separate their own expert knowledge from economic and industrial interests" (BI Oberhavel/Oberjägerweg, *Festschrift,* February 1977).

24. Offe, *Contradictions of the Welfare State,* ed. John Keane (Cambridge: MIT Press, 1984), 163.

citizen demands to the state. From the state's point of view, institutions for conflict *resolution* enable it to make policy. Offe explains that in the modern state, both of these sets of institutions are restricted in their ability to perform their functions.

According to Offe, as the scope of state intervention in the economy expands, the goals of state activity come into conflict with each other. On the one hand, the state guarantees and perpetuates capitalist economic activity, and, on the other, it supposedly remedies the pathologies, such as unemployment and environmental pollution, created by that economic activity. By intervening in many spheres of social and economic life, the welfare state promises a lot. It is bound to come up short, having set an impossible task for itself. The imperatives of the capitalist economy often conflict with the interests of societal groups. This problem, along with fragmentation of planning responsibilities between several bureaucratic authorities, lack of coordination between these authorities, and conflicts between bureaucratic agencies and parliaments, lead to "clumsy and fluctuating patterns of intervention, withdrawal and compromise."[25] The perceived "anarchy and incompetence" in state planning threaten the legitimacy of welfare-state institutions.

The state has attempted to enhance its policy-making effectiveness by restricting the scope of conflict in neocorporatist fashion. That is, it practices informal bargaining between government actors and representatives of key societal groups, generally those groups (capital and labor) with information resources and potential to block implementation of policies they find distasteful. These consultations often transpire behind closed doors. They present a problem for participatory democracy:

> The consensus that underlies major state policies is a consensus that does not result from a democratic process as formally provided for by democratic institutions, but a consensus resulting from informal, highly inaccessible negotiations among poorly legitimized representatives of functional groups. It is a *substitute* consensus replacing a democratic mechanism, the potential of which for creating unity has become highly doubtful.[26]

The use of scientific experts provides legitimacy for such arrangements, while further insulating state actors from societal demands. Offe cites the example of councils of economic advisors—trade unions complain that such councils are formed to screen out union input. Whether intentionally or not,

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25. Ibid., 21. See also Offe, "The Attribution of Public Status."

26. Offe, *Contradictions,* 167–68.

"they serve the function of rejecting potential claims of 'non-experts' to be heard; for as soon as an issue is institutionally defined as requiring *scientific* advice and expertise, the scope of legitimate participants is drastically reduced."[27] Such methods, claims Offe, exemplify the state's attempts to avoid the official policy-making institutions by developing nonpolitical forms of decision making.[28]

The use of scientific experts recalls Weber's theory, in which substantive decisions were increasingly relegated to the bureaucratic realm. For Weber, however, bureaucratization was a retreat from politics, a response to societal demands for fairness and equality, which were compromised by politics. For Offe, it is the state's way of *selectively* screening out certain potential societal demands, in itself a profoundly political act. Faced with conflicting demands from interest groups, the state finds it impossible to formulate policy according to synoptic or technical criteria. Increasingly, policy making becomes an exercise in limiting conflict potential rather than substantive problem solving. The issue has been redefined.[29] The results, however, are the same for both Offe and Weber: a loss of political ends and a domination of means. The state bargains, trading privileged access for cooperation of key societal groups. Attempting to avoid conflict that would arise with greater contact between state and society, state actors withdraw from legislative institutions.

We can observe in the West Berlin Land officials the behaviors Offe describes. Government actors defined the issue in terms of conflict manage-

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27. Ibid.

28. The West Berlin case supports Offe's analysis. In a 1986 interview, for example, a member of one Land-level administrative licensing authority stated:

> A politician as a rule doesn't want facts; he wants to shine politically . . . we give advice . . . to anyone who comes to us. But we cannot think politically. That is not our job. We are supposed to decide objectively, on the basis of facts . . . especially in permit processes, one has to watch carefully that one remains within the law with the permit, and politics doesn't suddenly appear in [the deliberations].

With regard to industry being questioned in parliamentary committee meetings, he continues: "What business does a corporation even have in parliament or in the committees? BEWAG is a joint stock corporation, and [as such] is controlled neither by the Senat [Land-level bureaucracy] nor by parliament" (Jürgen Wichmann, Land Office for Worker Protection and Technical Safety, interview by author, 24 June 1986).

29. Dyson ("West Germany") discusses the redefinition of issues for the case of West German nuclear policy. In the 1950s securing the nation's energy future was the issue. In the 1960s and 1970s it changed to limiting conflict over nuclear power. Bureaucracy and industry could handle the first task, but the second is better addressed by including in state decision making some client groups other than industry.

ment, directing their efforts toward screening out citizen demands that could hamper the permit process. Land officials insisted that energy policy was a matter for technical experts from the bureaucracy and utility. They used various means, among them a declaration of "energy emergency," to thwart citizen and parliamentary attempts at greater substantive participation in the project's early stages. Senat licensing authorities claimed that parliamentarians had no business "politicizing" bureaucratic decision making. Several officials expressed a preference for meeting directly with citizens rather than being subjected to parliamentary oversight.[30]

Offe claims that citizens, too, increasingly avoid the institutions of democratic participation because of the widespread perception that these institutions—political parties—have ceased to perform their interest-articulating function. According to Offe, "non-conventional methods of expressing one's political will and fighting for one's interests are both considered to be more effective and practised more often than membership in political parties."[31] Political parties have absorbed the programs of citizen initiative groups often only in part and with much delay. One explanation for the failure to capture and articulate societal concerns is that the catchall party has been overextended to the point where it contains so many competing factions that intraparty conflicts exceed interparty ones.[32] When voters perceive greater differences within parties than between them, party identification and loyalty drop. In addition, party leadership has become increasingly unrepresentative of constituencies, widening the perceived distance between the voter and representative institutions.[33]

In short, citizens no longer consider political parties an effective bridge between the individual and the state. Instead of overseeing the government, parties seem instead to function "as some kind of public relations agencies working for the particular government which they only nominally 'con-

30. Wichmann, interview, and interviews with Reinhard Schröder, Senat Administration for Urban Development and Environmental Protection (SenStadtU), 1 July 1986, and Ingo Volland, Director, Senat Energy Department, 23 June 1986.

31. Offe, *Contradictions,* 168.

32. See Thomas Koelble, "Trade Unionists, Party Activists, and Politicians," *Comparative Politics* 19, no. 3 (April 1987): 253–68. Koelble analyzes the conflict between old and new politics factions within the SPD. Also within the Greens, "fundamentalist" and "realist" wings split over the question of whether political parties can function as effective instruments of societal interest articulation.

33. Offe, *Contradictions,* 169. This I find a rather weak explanation for the decline in legitimacy of political parties and parliaments. I offer an alternative explanation in "The West German Citizen Initiative Movement as a Critique of Party Politics" (paper presented at the annual meeting of the American Political Science Association, Washington, D.C., 1–4 September 1988). The decline in the legitimacy of political parties and parliaments in Germany, I claim, has to do with their structurally based irrelevance to the policy-making process. The marginal

trol.'"[34] The action and rhetoric of the West Berlin citizen initiative supports Offe's claims. The group attacked legislative institutions as mere defenders of policies they had nothing to do with formulating: "elected officials become caricatures because they must defend decisions made by their administrations by rote, whose contents, let alone whose consequences, they do not understand."[35] These citizens wanted substantive, goal-oriented public discussion of energy policy, which the institutionalized channels of participation could not provide. That is, in their view access to legislative institutions did not constitute political participation, as long as those institutions had little substantive decision-making function.

According to Offe, both citizen and state retreat from the bridge of democratic institutions that is supposed to link them: "politics as the *struggle over substantive issues* and politics as the *institutional form of conflict resolution* degenerates into informal and mutually disconnected modes of struggle and decision."[36] Extrapolated into the future, the result is utter alienation, a complete break between the citizen and the state, which occurs not as "an open challenge to the official institutions of the democratic polity, but as an *inconspicuous loss of function and relevance* of these institutions which are increasingly bypassed rather than destroyed by both sides."[37]

Offe's thesis seems to require the assumption that the political bridge linking state and society did in fact function at one time. One finds little evidence to suggest, however, that West German institutions of representative democracy ever exercised significant influence over bureaucratic policy making. The authority of bureaucratic experts simply went unquestioned for generations. Offe does claim that, before the emergence of the welfare state, societal dependence upon state policies was much more limited; the state's many-pronged intervention in spheres of private life has created the current dependency.

Grassroots activists no longer believe that societal goals can be satisfied within the framework of existing institutional arrangements. Technocratic

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role of representative bodies is particularly apparent with technical issues such as energy, where participation requires technical knowledge that politicians until recently have lacked.

34. Offe, *Contradictions,* 170.

35. BI Oberhavel, "Das Phänomen Bürgerinitiative: Reichen . . . unsere Parteien als 'Willensbildungsorgane' nicht aus?" *Infoblatt* 23, October 1976, 6.

36. Offe, *Contradictions,* 170.

37. Ibid. In Weber's terms, political responsibility legitimates political institutions. When deficits appear in political responsibility, the danger arises that legitimacy will be withdrawn. See also Thomas McCarthy, *The Critical Theory of Jürgen Habermas* (Cambridge: MIT Press, 1978), 367. The loss of legitimacy does not result, however, in the overthrow of these institutions; instead, they are simply ignored.

ideology allowed the assumption that the established modes of political participation would suffice to achieve societal goals. The economy/ecology conflict of the 1960s and 1970s played a key role in dashing that assumption and prompting critique of the conflictual mode of politics that allowed societal values to be played off against each other (or that allowed economic interests to dominate). Here the Weberian problem resurfaced in the citizen initiative critique. In Weber's worst-case scenario, the system legitimates domination by powerful economic interests. Citizen groups criticized the state's "ruthless" promotion of industry interests over the interests of a broad section of society that favored slower growth and environmental protection. Many citizens had previously assumed that a conflictual politics that distributed material rewards would also automatically supply nonmaterial goods of individual autonomy, democratic efficacy, and quality of community life. Some began to question that assumption when policy externalities became intolerable to local communities and they found themselves unable to change the situation.

Offe notes that the West German new social movements protest not against the state's failure to provide economic and material prosperity, but, as Suzanne Berger puts it, against "their all-too-considerable success in having done so, and against the price of this success."[38] The price in this case is the destruction of the citizen's environment, not only in terms of pollution, noise, and so forth, but also disintegrating community structures. Not policy failures, but negative effects produced by successful policies, reveal the technological controls to be, in Herbert Marcuse's words, something less than "the very embodiment of Reason for the benefit of all social groups and interests."[39] The new social movements offer a critique of technological society and an implicit critique of technical rationality. Thus, both of the legitimating aspects identified by Weber come under fire. We have seen how perceived deficits in political responsibility delegitimized parliamentary institutions. In addition, perceived deficits in policy outcomes may threaten the legitimacy of bureaucratic institutions, whose form is supposed to promote optimal policy solutions.

Offe asserts that the new social movements owe their origins to "an awareness of the disaggregation and partial incompatibility within the universe of modern values." Specifically, technical progress is no longer seen

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38. Berger, "Politics and Antipolitics," 32. The decline of technocratic ideology may be explained in part by a feature of technical rationality itself. Legitimation based upon technical efficiency stakes all its claims on policy "success." In an era of slowing economic growth and forced cutbacks, societal support becomes more problematic. This helps explain the distributional conflicts that lead to neocorporatist solutions. It does not explain the rise of the new social movements.

39. Marcuse, *One-Dimensional Man,* 9.

as the means by which to attain all of those things society values: "the formerly accepted link between technical progress and the satisfaction of human needs, property and autonomy, income and identity, and generally, between the rationality of processes and the desirability of outcomes, is no longer seen to exist."[40]

Those groups most likely to perceive the deficits—the middle class, the well educated—form the core of the new social movements. They are not losers in a pluralist game. Their political goals are not defined in terms of zero-sum competition for slices of the welfare-state pie. They include instead "individual freedom, humanistic and universalistic principles," goals whose satisfaction was previously assumed to be guaranteed by the very *form* of policy making. Now, technical rationality of form seems to threaten the normative rationality, or reasonableness, of outcomes from the citizen's perspective. Political institutions of the modern state (based on conflict and bargaining) may set inherently compatible societal goals against each other. The citizen can gain property and lose autonomy, gain income and lose identity. Satisfaction of the material goal tends to come at the expense of the broader goal of development of the individual in the community.

The new social movements do not oppose technical progress per se. They oppose its dehumanizing aspects. Offe cites an example:

> The call for decentralization is not derived from an irrational longing for premodern small communities but from both an understanding of the destructive side effects of centralization and the potential for decentralization that is made available by, among other things, advanced electronic technologies of information and communication.[41]

The West Berlin case supports Offe's claims; Land officials and citizen activists defined the problem differently, and the goals of the citizen initiative were incommensurate with the type of rewards the system offered. Offe has described the development of legitimation deficits—citizen and state actors retreat from the parliamentary bridge that should link them. Moreover, the contradictions of the welfare state begin to impinge on citizens' lives. By providing certain rewards, the state takes away others. These others have to do with the very identities and immediate environments of citizens. Offe describes how these developments unfold; as mentioned above, he does not explain exactly when or why they occur. That is, when do citizens perceive the malfunctioning of the bridge, or when do they discover the

40. Offe, "New Social Movements," 849.

41. Ibid., 841. Citizen initiatives also spend a great deal of time and effort developing proposals for environmentally friendly technologies.

negative effects of welfare-state accomplishments? At what point do policy problems spill over into legitimation problems, and why do they spill over at all? When does the state, despite its provision of material goods, become a threat to certain of its citizens? Jürgen Habermas returns to Weber to tap the historical roots of the current societal problems Offe observes.

Habermas's critical theory also contains a political *project*: Habermas wants to revitalize the political (public) sphere and thus restore the emancipatory potential of modernity that the theories of Weber and his successors seemed to abandon. In this sense, his theory parallels the critical perspective of the citizen group. In their attempts to achieve a more deliberative, democratic form of politics, they offer a possible antidote to the problem of technocracy.

Habermas: System and Lifeworld

Habermas links the legitimation problems of the welfare state that Offe discusses with the historical separation of bureaucracy and politics analyzed by Weber.[42] His theory centers on modernization from the standpoint of the development of different rationalities. Habermas opposes Weber's conclusion that, with modernization, purposive rationality spreads into all areas of private life in the form of bureaucracy, opposed only by "subjective self-assertion" in the form of politics, which becomes increasingly less substantive. Habermas blames this conclusion on an insufficiently complex concept of rationality. Modernization, he claims, contains the potential for various

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42. Habermas incorporates elements of both Marx and Weber. He adapts Weber's paradox of modernity. That is, Weber claimed that development of rationality in a normative sense, the "disenchantment of the world," enabled the process of societal rationalization to occur. This process, however, and with it the spread of instrumental rationality, threatened in the end to destroy the basis for the individual autonomy that had given birth to it. Habermas develops a more complex concept of rationality, proposing different rationalization processes for system and lifeworld. Wellmer summarizes Habermas's formulation:

> The *paradox* of rationalization [is] that a rationalization of the lifeworld [is] the *precondition* and the *starting point* for a process of systemic rationalization and differentiation, which then [becomes] more and more autonomous vis-à-vis the normative constraints embodied in the lifeworld, until in the end the systematic imperatives begin to instrumentalize the lifeworld and threaten to destroy it. (Albrecht Wellmer, "Reason, Utopia, and the *Dialectic of Enlightenment*," in *Habermas and Modernity*, ed. Richard J. Bernstein [Cambridge: MIT Press, 1985], 56)

In other words, the communicative rationalization of the lifeworld makes the development of the system possible in the first place. Then the system becomes autonomous from the lifeworld, acting back upon it and undermining lifeworld communication. Habermas does not treat this development as a given, however. Rather than a paradox of modernization, he writes of a

forms of societal organization and action. It does not have to result in the iron cage. But given this varied potential, he asks why the welfare state has developed in a way that seems to at least partially confirm Weber's assertions. He then tries to understand the current legitimation crises, whose symptom is the rise of the new social movements, within this historical framework.

Habermas rejects the state/society distinction employed by many theorists. He does not wish to give primacy to one or the other (as in pluralist or statist approaches) or to hypothesize their mutual exclusivity (as in Offe). His is a more complex theory of interaction, based upon a two-dimensional concept of society. Habermas conceptualizes society as both system and lifeworld. The lifeworld is our store of implicit knowledge. It consists of those things that allow us to develop our identities and place ourselves in the social world. It has three components: culture, society, and personality. These reproduce and perpetuate themselves through processes of cultural reproduction, social integration, and socialization. The lifeworld also provides the background conditions for our interaction with others through speech.[43]

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process of selective modernization; the outcome that we observe, the system colonizing the lifeworld, is neither inevitable nor irreversible. The process of modernization produces opportunities for mutual influence between system and lifeworld. In this sense, he wants to revive the emancipatory potential of modernization found in Marx's writings.

Habermas also returns to Marx's attempt at a scientific theory of society. Here he wants to revise the analysis of critical theorists Horkheimer and Adorno, for whom the scientific or rational analysis of society became part of the essential problem of an utterly "rationalized," bureaucratized society: rather than bending the bars of the iron cage, social science theory merely reaffirmed their strength. Habermas takes up Marx's project, attempting to formulate a scientific understanding of society in order to develop a critique of the scientific society. He wants to be able to recognize the potentialities of a particular historical, empirical situation. He differentiates in his earlier work (*Knowledge and Human Interests,* trans. Jeremy J. Shapiro [Boston: Beacon Press, 1971]) guiding substantive interests and their corresponding forms of theory—to revive the possibilities, in theory and in fact, for the recognition of alternatives to the iron cage and thus at the same time to provide a basis for critique of both empirical reality and social science theory. In so doing Habermas wants to recover the Enlightenment belief in the emancipatory potential of modernity.

43. Habermas's "linguistic turn" has been the subject of some controversy. Language is Habermas's basis or standard for critique of modern society. His critical theory requires the existence of some kind of universally recognized truth as a standard against which to judge both the accuracy and the normative rightness of claims ("validity claims"). Language competence provides this universal standard. The starting point for Habermas is the dual assumption that the object of human communication is to reach understanding, and that we have the intrinsic ability to do so. The more unrestrained communication, the higher the chance that the outcome will be recognized as legitimate by the participants—the "better argument" will prevail. Thus, the basis for legitimacy of empirical outcomes is their correspondence with the universal standards (of reason) accessible through speech (communicative action). Habermas thus shares

In premodern society, custom and tradition structure and give meaning to social interactions. In the process of modernization, communication, or the achievement of mutual understanding, replaces custom and tradition as the basis for societal action.[44] Habermas calls this the rationalization of the lifeworld. The rationalization process involves functional differentiation of the lifeworld as well. Whereas the lifeworld was structured automatically in premodern society, with modernization it becomes more complex, more open to discussion and choice.

The greater the complexity, and the more human actions are based on consensus rather than tradition, the greater the risk of coordination failures. This risk is reduced by the development of nonlinguistic "steering media" that replace the need for communicative action in coordinating certain activities. These steering media are money and power. Through these media, "subsystems" of economy and administration are differentiated out of the lifeworld. That is, they emerge as formally organized areas of action that no longer depend upon coordination through mutual understanding.[45] They become increasingly autonomous, developing their own internal logics. Their rationality differs from the communicative rationality of the lifeworld. They do not cut themselves off from the lifeworld, however. The media of money and power are anchored in the lifeworld by means of formal law.

In sum, modernization unfolds in the following way. Communicatively reached agreement gradually replaces custom and tradition as the mechanism for coordinating and giving meaning to social interaction. These relationships become increasingly complex (the lifeworld becomes differentiated), and this complexity prompts the development of steering media to help coordinate action. Certain interactions become "mediatized" through money and power, and subsystems of economy and administration grow

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the citizen initiative conception of a politics based upon an underlying consensus. See Bernstein, *Habermas and Modernity,* intro.

44. Habermas explains communicative action this way:

> In coming to an understanding with one another about their situation, participants in interaction stand in a cultural tradition that they at once use and renew; in coordinating their actions by way of intersubjectively recognizing criticizable validity claims, they are at once relying on membership in social groups and strengthening the integration of those same groups; through participating in interactions with competently acting reference persons, the growing child internalizes the value orientations of his social group and acquires generalized capacities for action . . . Under the functional aspect of *mutual understanding,* communicative action serves to transmit and renew cultural knowledge; under the aspect of *coordinating action,* it serves social integration and the establishment of solidarity; finally, under the aspect of *socialization,* communicative action serves the formation of personal identities. (Habermas, *Theory of Communicative Action,* 2:137)

45. Ibid., 307.

apart from the lifeworld, remaining tied to it by law. With capitalist growth, the economy and administration become internally more complex, more autonomous from lifeworld contexts, and more expansive. That is, an increasing proportion of societal relations become tied to and dependent upon the workings of state administration and economy. In the lifeworld, mediatized or formally organized domains of action (for example, the workplace) exist alongside communicatively structured domains (for example, the family).[46]

These developments need cause no discontent among lifeworld inhabitants. However, difficulties arise as the subsystems of economy and administration, together comprising the "system," become increasingly autonomous, operating according to nonlinguistic criteria, and expand their influence into communicatively structured domains of the lifeworld. The system impinges on the lifeworld through the spread of formal law ("juridification"). Habermas calls this phenomenon "internal colonization" of the lifeworld by the system. Colonization prompts a defensive reaction in communicatively structured areas of the lifeworld, which resist mediatization through law. Thus, legitimation problems arise from internal colonization. Part of Habermas's project is to determine in modern society when mediatization of the lifeworld becomes colonization. This way, he can address questions about the rise of new social movements.

A distinction between social welfare laws and collective bargaining laws illustrates when the spread of formal law causes problems and when it does not. The latter are imposed upon areas already formally organized. The former are also directed to domains that are already legally defined, but they are tied as well to lifeworld areas that are communicatively organized, such as family relations. Juridification in the already formally organized area of employer-employee relations can redistribute money and power, but it does not alter the basis of social relations.[47] But where actions are coordinated by mutual understanding, juridification appears as a threat to the lifeworld. That is not to claim that citizens object to social welfare laws; Habermas's claim is that, to the degree that they impinge on family structure, these laws create disturbances or confusion in the lifeworld. They alienate family members from an important source of their identities and an important guide to social interaction.

The system, differentiated out from the lifeworld in the course of mod-

46. Even in formally organized domains, interactions are still connected by mutual understanding. But actors have recourse to system mechanisms when they cannot or do not choose to come to agreement communicatively. This changes the nature of their interaction (ibid., 310).

47. Ibid., 367.

ernization, now comes at the lifeworld from without.[48] It appears as a threat when it imposes its logic on domains of the lifeworld that rely on mutual understanding as a mechanism for coordinating action. Its nonlinguistic steering media threaten to break down the communicative basis for mutual understanding that enables people to give meaning to their own actions. It threatens in this way the very identities of lifeworld inhabitants. And, since the lifeworld provides the only source of legitimation for system activity, this threat can produce a legitimation crisis.

The question then arises: *why* does system rationalization turn against the lifeworld? Why does the system push beyond what is necessary for the institutionalization of money and power and threaten the identities of lifeworld members?[49] The key lies in the development of the welfare state. Here Habermas's thesis is similar to Offe's. In welfare-state capitalism, "critical disequilibria" in material reproduction need to be corrected in order to avoid systemic crises. State policies for redistribution, for example, correct the inequalities created by the market. Such policies, however, disrupt the communicative structures of the lifeworld. There is a basic tension between democracy and capitalism. Democracy asserts the primacy of the lifeworld. At the same time, the economic system must be kept free of lifeworld restrictions and the administration free of legitimation demands in order to carry out their functions. Systemic imperatives thus lead administration and economy to try to marginalize the lifeworld.

The welfare state seeks to pursue capitalist growth and keep demands from the populace at a minimum through legal means. It adopts a strategy of conflict management. That is, by formulating laws to institutionalize relationships between system and lifeworld, the welfare state attempts to limit conflict in order to leave itself free to pursue economic growth. As pursuit of this goal becomes more complex and difficult, as Offe discusses, the welfare state expands its legal net over the lifeworld, impinging upon areas that are communicatively structured and resist juridification. Through

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48. Habermas puts it this way:

> Rationalization of the lifeworld makes it possible to convert societal integration over to language-independent steering media and thus to separate off formally organized domains of action. As objectified realities, the latter can work back upon the contexts of communicative action and set their own imperatives against the marginalized lifeworld. (Ibid., 318)

49. In the context of the West Berlin case study, it is also important to explore the development of science and technology as it affects the lifeworld. Why, from the perspective of the lifeworld, does science serve technical progress, capitalist growth, and rational administration but not the understanding that communicating citizens have of themselves and the world (ibid., 327–28)?

the media of money and power, citizens develop different roles or relationships to the subsystems of economy and administration. These include the roles of employee and consumer (vis-à-vis the economy) and those of client and citizen (vis-à-vis the administration). The roles of employee and client are directly dependent upon the system. The roles of citizen and consumer are tied to the system but not defined in terms of it. The welfare state puts emphasis on the roles of consumer and client. That is, through representative democracy, the citizen role is "neutralized" or restricted to a nonsubstantive choice of candidates rather than a substantive voice in policy making. Through economic measures, the welfare state keeps class conflict latent and thus "normalizes" the employee role. The welfare state makes the remaining two roles more important, by compensating underprivileged groups and simultaneously ensuring capitalist growth through administrative (client) and economic (consumer) channels.

The rationalization of the lifeworld has broken down unifying worldviews that previously guaranteed its solidarity and perpetuation. The rationalized lifeworld cannot produce solidarity in the form of ideology.[50] Instead, the lifeworld now relies upon mutual understanding in order to legitimate decisions. All citizens have the linguistic competence to engage in dialogue, the means by which to judge, for example, the accuracy and normative "rightness" of others' claims, and thus the ability to reach consensus by recognizing and accepting "the better argument." Only agreements so reached can be awarded legitimacy by society:

> As long as we have to do with a form of socialization that binds inner nature in a communicative organization of behavior, it is inconceivable that there should be a legitimation of any action norm that guarantees,

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50. In addition to system encroachment on these lifeworld areas (which comes in the form of legally instituted monetarization and bureaucratization of everyday life), the loss of meaning that spawns legitimation crises is brought on by the related development of "cultural impoverishment." As the lifeworld becomes communicatively restructured and secularized, unifying worldviews break down, and culture becomes a topic of discussion rather than a subconscious guide for action. According to Habermas, science, morality-law, and art increasingly become the realm of experts. "Expert cultures" arise in the study of these lifeworld areas previously taken for granted and accessible to all, until the nonexpert populace feels cut off from its own cultural tradition (ibid., 327).

In Weber's theory, in the absence of a unifying worldview (due to secularization), politicians became responsible for generating legitimacy for the political system. Offe analyzes the legitimation problems that occur when the political realm fails to generate legitimacy for administrative (and political) activity. According to Habermas, the dual phenomena of mediatization of areas of the lifeworld and cultural impoverishment result in a loss of meaning for lifeworld members that produces legitimation problems: "the lifeworld becomes assimilated to formally organized domains and cut off from cultural tradition" (ibid.).

> even approximately, an acceptance of decisions without reasons. The motive for readiness to conform to a decision-making power still indeterminate in content is the expectation that this power will be exercised in accord with legitimate norms of action.[51]

The spread of formal, legally articulated means to guarantee system activity precludes this kind of deliberative legitimation process. Without the "veil" of a unifying ideology or tradition, lifeworld inhabitants see the system coming at them from without as a form of domination.[52]

The welfare state thus paradoxically guarantees the freedom of lifeworld inhabitants while simultaneously taking it away. Here the same mechanism that guarantees equality, or that smooths over the distributional problems of capitalism, threatens freedom. This is similar to Weber's analysis, in which bureaucratization, while guaranteeing equality before the law, worked against democracy. Freedom is defined differently in system and lifeworld. The system guarantees the lifeworld some minimal freedom from economic want, while lifeworld inhabitants desire freedom to participate in decisions that affect them. While the welfare state guarantees the role of client, the lifeworld strives to develop the role of citizen.

Systemic means of guaranteeing freedom actually endanger it from the perspective of the communicatively structured lifeworld. As opposed to Offe's thesis, it is not the negative side effects of progress that threaten the lifeworld, but rather, according to Habermas, effects "resulting from the form of juridification itself."[53] To both Habermas and Offe, capitalism opposes democracy. The problem for Offe, however, lies in the contradictory functions of the welfare state. Habermas acknowledges that legitimation deficits can arise when these contradictions become apparent. But such problems do not threaten the identities of members of the lifeworld. Habermas goes beyond Offe in his analysis of the results of the welfare-state compromise *as it appears to inhabitants of the lifeworld* in their everyday lives. The means by which the welfare state seeks to resolve its contradictions threatens those areas of the lifeworld that are not already formally organized. This is what creates the legitimation crises both authors note. The welfare-state administrative *form* of solving problems itself works against their resolution:

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51. Habermas, *Legitimation Crisis,* trans. Thomas McCarthy (Boston: Beacon Press, 1975), 43. The formulation used at the beginning of this chapter, policy versus legitimation dimensions, is more akin to the language of *Legitimation Crisis,* while the system/lifeworld formulation used later is developed more in Habermas's recent works, particularly *The Theory of Communicative Action.*

52. Habermas, *Theory of Communicative Action,* 2:355.

53. Ibid., 362.

> As the social-welfare state spreads the net of client relationships over private spheres of life, it increasingly produces the pathological side effects of a juridification that is simultaneously a bureaucratization and monetarization of core domains of the lifeworld. This has the structure of a dilemma, in that the social-welfare guarantees are supposed to serve the ends of social integration and yet they foster the disintegration of those life contexts.[54]

More efficient policies, more on-target planning, or a more even distribution of material rewards would not revitalize the threatened lifeworld. The administrative state itself is now perceived as the threat.

The lifeworld reaction to system encroachment takes the empirical form of protest "along the seams" of system and lifeworld, that is, in the areas where the two forms of rationality clash. New social movements arise to defend the lifeworld. According to Habermas, "it is not primarily a question of compensations that the social-welfare state can provide, but of protecting and restoring endangered ways of life or of establishing reformed ways of life."[55] Their protest takes a different form and pursues different goals than protest centered around problems of welfare-state distribution; old lines of conflict are overlaid by new ones. A new line of conflict forms between a center, consisting of a state directly involved in the economy and interested in maintaining capitalist growth as the basis of the welfare-state compromise, and a periphery, composed of diverse groups that have either been sensitized to the self-destructive effects of system activity or are directly affected by them. "The bond that unites these heterogeneous groups," he states, "is the critique of growth."[56] Ironically, in trying to manage conflict by expanding into the lifeworld, the welfare state has created a new form of conflict, which defies its conflict-management capability by resisting institutionalization.

New social movements are not wholly defensive, however. As mentioned previously, Habermas, unlike Weber, emphasizes the ambiguity of modernization. The rationalization of the lifeworld gives it potential for influence over the system. The heretofore unilateral influence of system over lifeworld can theoretically be remedied, but not as long as the welfare-state form of activity (bureaucratization, economic expansion) persists. The new social movements attempt to reassert the primacy of the lifeworld by developing new forms of political action. They do not advocate a return to tradition, that is, a premodern form of lifeworld interaction; rather, their goal is to further the project of communicative modernization, whose end

54. Ibid., 1:xxxiv–xxxv.
55. Ibid., 2:392.
56. Ibid., 393.

is democratization: establishment of a public sphere in which "the goals of society would be submitted to public discussion and decisions would be made based on the achievement of agreement."[57] By seeking to reverse the direction of system-lifeworld influence, citizen groups represent a possible antidote to the Weberian problem of the triumph of bureaucracy over politics. The following section will assess the possibilities for the citizen initiatives' form of "technological democracy" as well as the limitations.

The West Berlin Case

The Reuter-West case unfolds at one of the seams between system and lifeworld. The citizen reaction to the project was not merely to try to stop it, but also to shore up community, which Reuter-West seemed to directly threaten. On the surface, nothing inherent in the project would prompt such a reaction. But citizen concerns transcended the policy dimension; the threat came not just from the plant itself, but from the "disregard of citizen opinion in the growth-minded state."[58] That is, citizens perceived the expansion of the subsystems of economy and administration to come at the expense of their participation in their own governance. This expansion took place on both a concrete level, in the form of the Reuter-West project, and on the related level of rationality. Reuter-West symbolized for the citizen group the economy-administration alliance. They objected to its effects on their immediate environment and also to its process-oriented, "systemic" rationality that had no regard for the life situations of people. They could not satisfy themselves by participating in parliamentary politics, or by following some charismatic leader. They would be satisfied only with substantive participation, which the Reuter-West project threatened on both levels.

Critical theory provides a two-dimensional framework for analyzing the energy problem. The Land government exhibited the contradictions of the welfare state discussed by both Offe and Habermas. The Land was responsible for promoting economic growth. Expansion of BEWAG's capacity served this end, both by providing jobs and by creating the preconditions for industrial growth. At the same time, the new environmental laws gave the Land government responsibility for pollution control. As promoter and regulator of industry, the Land faced demands from both BEWAG and the citizen initiative. In order to be able to address both tasks, policymakers tried to free themselves of demands from the populace. The Senat and

57. Christopher Rocco, "The Communicative Production of Power: The Critical Theory of Jürgen Habermas" (University of California, Santa Cruz, n. d., photocopied), 10.

58. From a speech by Robert Jungk, professor and well-known peace activist (*Spandauer Volksblatt,* 21 November 1976).

BEWAG declared an energy emergency, citing technical justifications for curtailing citizen participation in the planning process. When this attempt failed in the face of citizen objections, the authorities sought to keep participation as nonsubstantive as possible during the permit process by promoting a narrow legal interpretation of citizen participation and limiting the discussion to technical, procedural points.

The policy problem centered on the Land government's contradictory functions. It was not simply the recognition of these contradictions, however, that created the legitimation problem. Habermas' system/lifeworld formulation allows us to recognize that the Land's attempts to deal with its policy situation and its attempts to shore up its legitimacy impinged upon elements of the West Berlin citizenry in a more basic way; they threatened the lifeworld of these citizens.

Throughout the years of the "economic miracle," citizens had accepted government promotion of economic expansion with little objection. The Reuter-West project was a watershed; it brought on the first widespread grassroots protest against such policies in West Berlin and the first citywide grassroots organization. That something akin to communicative rationality had developed is evidenced by the protest in this case. Reuter-West marked the demise of technocratic ideology in West Berlin. Citizen activists would not accept "decisions without reasons," or policy whose main justification was that experts had formulated it. Citizens developed their own expertise in order to fight the project. They were willing to engage in technical debate, but they constantly sought to steer it toward a participatory, substantive discussion of the goals of energy policy and a weighing of environmental and economic factors.

West Berlin citizen groups had developed a discursive rationality that was threatened not by the project, but by the planning process, which ignored their requirements for legitimation. These citizens could not legitimate any decision affecting their environment that was reached without their discursive input.[59] Reuter-West, through the form of decision making, impinged on the communicative structure of the lifeworld. Citizens felt threatened by bureaucratic and economic expansion into many areas of their lives; this feeling crystallized in protest against this particular energy project. Habermas articulates the problem in similar terms to those used by the West Berlin protesters.

Habermas's theory explains why the institutions of the system, here the Land and utility, could not act in a way that would satisfy the legitimation needs of the citizen initiative. They operated under a different rationality

59. The West Berlin group stated the problem this way:

that could *not* produce the community-oriented, communicative decision making required for legitimation. These institutions were structured to avoid the very deliberation that citizens wanted to preserve in their own activities and spread to the system eventually. The economy and bureaucracy operated according to criteria and form inimical to agreement based upon mutual understanding. Parliament could not alleviate the problem, being part of the apparatus itself. Systemic imperative, in the form of the Reuter-West project, thus produced a defensive reaction of the lifeworld against the system.

The protest took the early form, as Habermas claims, of a two-dimensional critique of growth. Citizens objected to energy expansion in its manifestations as a concrete project and the growth mentality of the system. The activists also used terms that indicate that their conceptions were more akin to system/lifeworld than state/society. They did not criticize the state in isolation, but spoke generally of a system, composed of the state, BEWAG, and also parliament, that shared a commitment to economic growth and bureaucratization—to technocracy—against the will and environment of the populace. Activists sought to block the project and, later, to inject their communicative form of action into the institutional system in the form of a new parliamentary group, the Alternative List, that was organized along the lines of the citizen initiative. They attempted to implement their notions of democracy and politics within and, simultaneously, in opposition to the institutional system; in this way they functioned as "critical theorists." In areas already mediatized, they used legal means to push their case. They sought to protect those areas not already mediatized, or to transcend the narrow legal procedures and problem definitions in those areas.

The activists encountered myriad difficulties in implementing their alternative political program. German grassroots political organizations in general seem often to teeter precariously between action and reaction, future and past. Habermas's theory helps explain that part of the problem stems from the paradoxical nature of the groups themselves. Many are single-issue

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> Unfortunately, the public is only in a position to uncover poor planning [decisions] at much too late a point; much is treated extra confidentially until the [finished] construction plans are displayed, in order to take the edge off legitimate protests with arguments of time pressure and reference to the almost completed state of planning. In addition, the new Federal Construction Law does not by a long shot create genuine citizen participation, as long as citizens cannot assail fundamental preliminary decisions . . . That in such a situation the BIs cannot accept formal participation in the carrying out of accomplished facts is clear. (BI Oberhavel/Oberjägerweg, "BI Kraftwerk Oberhavel/Oberjägerweg informiert!" November 1976)

The group's suggestions for change were phrased in terms of the government's "discussing with us" the options for the future and the costs those options would entail (BI Oberhavel/Oberjägerweg, *Festschrift*).

protest groups formed to fight government policies and projects. They are reactive by nature; as defenders of the threatened lifeworld, they appeal to conservative (here used in the sense of preserving a way of life) sentiments. In recruiting a mass base for protest, they often make use of traditional rhetoric and symbols, portraying themselves as defenders of endangered traditions and institutions.[60] At the same time, as Habermas and Offe both point out, their strategies and demands fall very much within the project of modernity—political dialogue and democratization of planning are examples—and involve a substantial degree of activism. Their organizational forms also are oriented toward participation and consensus. Finally, they are able to conduct a technical policy discussion and do not oppose technology as such. It is a rationalized, communicatively structured lifeworld they defend. Citizen groups often complain, however, that their reactive stance against specific projects hinders their long-term pursuit of the activist goal of implementing a communicative politics.

This reactive posture is difficult to overcome in part because of the movements' paradoxical position in the political system. To pursue their policy goals, they must attempt to participate in areas already legally organized. At the same time, they attempt to retain and eventually to expand their communicatively structured domains of action. They are thus participants and critics, both inside and outside the system. Their activity encompasses parts of the lifeworld that are bureaucratically or monetarily structured and parts that are communicatively structured. They understand and operate at the level of system rationality while retaining the critical perspective of lifeworld rationality. Their great problem became finding a forum in which to articulate the latter. In the West Berlin case, the administrative licensing process, upon which citizens concentrated most of their efforts, allowed the bureaucracy to dictate the language and substance of debate. Citizens who wanted to discuss reformulating the goals of energy planning found themselves arguing instead over whether pollution levels at a certain measuring station exceeded legal limits. The West Berlin case study reveals a constant search for a citizen forum for political discussion.

In general, the political action of the new social movements reflects the tensions of trying to act in the system and the lifeworld simultaneously, trying to participate in policy making and retain a critical perspective, trying

60. The German forest has a symbolic character that environmental groups have exploited. See "Der Schwarzwald Stirbt," *Der Spiegel,* 17 December 1984, 36–56. A good recent example of a group adopting traditional symbols and rhetoric is Citizen Initiative Bundschuh, which was formed to fight expropriation of farmland for an automobile test track in Boxberg, Baden-Württemberg. The *Bundschuh* banner originated in the peasant rebellions of the Middle Ages. See *Der Spiegel,* 26 August 1985, 59–61. Such traditional symbols still clearly carry weight among the populace.

to defend the lifeworld while expanding communicative action. Habermas's approach transcends the boundaries of conventional theory in that it captures the two different rationalities at work in the case study. Habermas explains the development of new social movements from the standpoint of both system and lifeworld, as a policy problem and as *Systemkritik*. This approach also suggests different criteria for evaluating the results of grassroots organization and action. Policy results are only part of the story. Of critical importance are the results on the legitimation dimension—the changes in the way citizens view their role in the modern state and their subsequent interaction with political institutions. To the extent that legitimation problems remain unresolved, repeated questioning of the institutions of representative democracy may result. The following chapter describes the history of energy policy making and environmental protest in Germany and sets the backdrop for the Reuter-West case study. While they are in some ways reminiscent of traditional groups, the critical perspective of the new citizen movements makes them in other ways an unprecedented addition to the German political scene.

CHAPTER 2

German Environmental Policy and Protest in Historical Perspective

The West Berlin events unfolded against a backdrop of increasing citizen activism and antistate mobilization throughout West Germany and Western Europe in general.[1] Environmental issues were a major catalyst for this mobilization. New social movements arose largely in the 1970s and 1980s but drew on the heritage of earlier movements dating back to the nineteenth century. Their varied heritage is reflected in numerous splits and contradictions in the more recent citizen movements. This chapter analyzes the evolution of environmental citizen groups around the issue of energy, placing them in historical and political context and tracing the development of their relationship to other important organized societal groups such as the industrial working class. Energy has been the area of perhaps greatest activity in German environmental history, and certainly of greatest controversy. Here is where environment became a political issue, and here is where the recent citizen initiative movement arose.

Current environmental citizen groups aim their critique largely at the industry-state relationship, which is characterized by cartelized industries with a heavy but somewhat fragmented state presence. This chapter explores the history of this relationship in the energy sector. Popular concern for the environment arose in the nineneenth century within the context of a consolidating political system and a rapidly industrializing economy. The energy industry, nurtured by the state, was paramount to Germany's industrialization effort. It provides a good example of state intervention in important economic sectors. The heavy bureaucratic presence in the economy in general, the strong influence of industrial interest groups, and the weak influence of parliaments evident in Germany today have their roots in this earlier period. Bureaucratic intervention, while significant, is fragmented

1. See Berger, "Politics and Antipolitics."

between the national and lower-level administrations. This fragmentation reflects the past independence of Germany's federal states and the variety of decision-making institutions between and among them. The steady monopolization and cartelization of the energy industry also began in this earlier period. The simultaneous centralization and fragmentation of energy decision making became an object of controversy in the Reuter-West case and in other cases nationwide.

Environmental citizen groups were both shaped by their institutional context and critical of it. Environment has long held an important place in the cultural life of Germans. Two opposing strands of thought emerged during Germany's industrialization in the late nineteenth century. One, whose roots go back farthest, is a romantic, aesthetic conception of environment that views technological development with suspicion. The other embraces technological development and seeks solutions to environmental problems within the framework of industrial society. Both strands are evident throughout the history of citizen involvement in energy politics, and their simultaneous presence gives current movements their paradoxical character. The new environmental movements are in other respects, however, a unique product of the late twentieth century. In earlier times, citizen fears regarding industrial expansion had largely to do with possible economic disadvantages or with a kind of aesthetic impoverishment. Today, they are part of the legitimation problem, which centers on the perceived conflict between economic growth and environmental protection, economic versus environmental quality of life. The economy/ecology conflict is an expressly modern formulation.[2] This chapter will describe how environment evolved into a broad-based critique of the economic-administrative system, and from a private matter concerning landowners to a bureaucratic and finally to a political matter. It will also analyze the changing critical relationship of citizen groups to technology, a relationship that has become more complex with time.

The German Energy Industry

Striking features of the German energy industry are its steady monopolization and symbiotic relationship to the state on one hand and fragmentation of ownership and policy authority on the other. Germany entered the industrial world relatively late. Until its unification in 1871, it was a loose collection of independent territories with largely agricultural economies. The first

2. For another analysis of the relationship of the recent movements to others in Germany's past, see Karl-Werner Brand, "Kontinuität und Diskontinuität in den neuen sozialen Bewegungen," in Roth and Rucht 1987, *Neue Soziale Bewegungen,* 30–44.

power plants were rather small (under five hundred kilowatts) and stood in the immediate vicinity of their supply of coal or water. After unification in 1871, German leaders concerned themselves with securing their country's place among the world powers. Rapid industrialization was necessary in order to catch up economically with earlier industrializing countries. The German state led the push for industrialization, setting up large central banks and helping to finance an unprecedented boom in heavy industry and urbanization. A growing supply of energy was crucial to this expansion, and the energy industry boomed accordingly.

Coal mining, concentrated in the Rhineland, Silesia, and the Lausitz, grew apace. Earlier industries such as textiles had been powered mostly by water. The new heavy industries such as steel, however, were based upon coal. Whereas early power companies had concentrated on supplying existing customers with electricity, the larger capacities of the new coal-fired plants, along with favorable price arrangements made through their connected banks, enabled power companies to lure new industries to the areas in which they stood.[3] They thus contributed to the concentration of population and industry in areas such as the Ruhr. The Ruhrgebiet (Ruhr area), which in 1860 was still agricultural, became within a remarkably short period "the industrial center of Europe."[4]

The energy industry expanded rapidly during and after World War I. Large coal-fired and hydroelectric plants proliferated in this period. With the opening of plants in Laufenburg am Oberrhein (1914) and Walchensee (1924), German energy production reached a scale exceeded only in the United States.[5] The large plants brought a change from citywide energy supply to the beginnings of a regional network. The ownership structure of the new energy industry was mixed; some of the first power plants (for example, hydroelectric works in Baden) were privately planned and built, while the various federal states owned others. As the industry developed, German energy firms secured supply monopolies that exist to this day through agreements with local governments, or *Gemeinden.* The local government would give a particular company the right to run its lines under public property. No other company could lay its lines without the permission of the one that already owned the rights. By means of these local

3. Ulrich Linse, Dieter Rucht, Winfried Kretschmer, and Reinhard Falter, *Von der Bittschrift zur Platzbesetzung: Konflikte um technische Großprojekte* (Berlin: Dietz, 1988), 219–20.

4. Franz-Josef Brüggemeier and Thomas Rommelspacher, eds., *Besiegte Natur: Geschichte der Umwelt im 19. und 20. Jahrhundert* (München: C. H. Beck, 1989), 9. See also Franz-Josef Brüggemeier and Thomas Rommelspacher, *Blauer Himmel über der Ruhr: Geschichte der Umwelt im Ruhrgebiet 1840–1990* (Essen: Klartext, 1992).

5. Linse et al., *Bittschrift,* 219.

agreements, a few companies moved quickly to gain control over large shares of the industry. For example, by 1911 AEG (Allgemeine Elektrizitäts-gesellschaft AG, or General Electricity Corp.) represented 31 per cent of the connected load of all German electricity works producing for public consumption.[6]

The development toward large private monopolies made many citizens uneasy. Consumers feared the high prices those monopolies might demand. The construction of larger power plants raised for the first time a political debate over electrical energy. What should the role of the state be in the production and distribution of electricity? Should the state intervene to protect cheap energy production, or should it let market forces guide energy development? Possible alternatives included state-owned utilities or at least a state-regulated energy industry. Indeed, the federal states had begun to take a greater role in the ownership and regulation of the industry. Whereas in 1890 private producers covered 80 percent of total energy use, by 1913 the proportion was just 40 percent.[7] Moreover, during Wilhelminian times, individual German states (*Reichsstaaten*) began to promulgate energy regulations. Before the start of World War I, the states had already developed their current dual function as operators of some power plants and permit and control authorities over both public and privately owned plants. To them, a more centralized, even, and complete supply of energy was preferable to the uncoordinated patchwork of suppliers that had sprung up in areas where raw materials were plentiful and conditions for production were favorable.

Despite the efforts at centralization, however, the industry's ownership structure remained a mixture of public and private firms, and government regulation was only achieved at the level of individual states. The Weimar government planned to divide the *Reich* into supply areas serviced by a state-owned nationwide power grid. The Weimar government was unable, however, to establish control over the industry or the policies of the individual states; its efforts foundered on the barrier of Germany's federal structure.[8] The National Socialist government also failed to take over the energy sector completely. The Energy Law (Energiewirtschaftsgesetz) of 1935 gave the central government control of energy policy but not ownership of energy firms. In general, this law faciliated the continued expansion of energy production and the concentration of power in the large utilities at the ex-

6. Ibid., 223.

7. Ibid., 224. Energy, along with the postal service, railroads, and telephone-telegraph, was one of the first economic areas in which some degree of state control was deemed necessary (228).

8. Ibid., 224–25. The Law over the Socialization of the Energy Industry (Gesetz über die Sozialisierung der Elektrizitätswirtschaft) of 1919 was never implemented. The fragmentation of the industry had gone too far for the federal government to rein it in.

pense of smaller regional or local energy producers. The Nazi government promoted the new consumer market in household appliances as well as large-scale electrification, in keeping with its program of massive industrialization.

The postwar Energy Law of the Federal Republic took over from the Nazi-era law with only the assigned responsibilities changed; it returned the supervision of energy supply to the level of the federal states by placing these responsibilities in the hands of the respective economic ministers. The monopolization and cartelization of the energy industry continued in the postwar period. The total of 16,000 energy firms in 1933 sank to 3,000 in 1955 (in a reduced territory) and further to 1,378 in 1979. The eight largest firms, organized in an exclusive confederation, the Deutsche Verbundgesellschaft, controlled in the 1980s over 90 percent of the production and distribution of electricity in the Federal Republic.[9]

While energy production, encouraged by the legal framework, thus became concentrated over the years in a few large firms, the ownership structure of these firms reflects the historical fragmentation of the industry. The large firms tend to be co-owned by a bewildering array of private, local, Land, and federal bodies. Public or partially public firms arise next to private ones, connected through their confederation and an extensive system of contracts. BEWAG, the West Berlin utility, is fairly typical in its ownership structure.[10] It is a medium-sized joint stock energy corporation, with capital stock of DM 560 million. It is majority owned (50.8 percent) by Land Berlin. The next largest shareholders are other energy firms: Elektrowerke Berlin (10 percent) and Preußenelektra Hannover (10 percent). The remaining shares belong to individual or small investors (29.2 percent), some of whom also have industry connections. The electric companies that own major portions of BEWAG stock are themselves partly owned by other large German electricity firms. Elektrowerke Berlin belongs entirely to VIAG (Vereinigte Industrieunternehmungen AG, or United Industrial Enterprises) joint stock corporation, which in turn belongs partly to Bavaria and partly to other energy firms. The other major BEWAG shareholder,

9. Ibid., 225. This structure also forms the framework for the nuclear power industry.

10. Commerzbank, *Wer gehört zu Wem,* 17th ed. (Frankfurt a.M.: Commerzbank, 1991). Other German energy firms have similar or overlapping connections. Bayernwerk AG, for example, which is part owner of Berlin's BEWAG, is majority owned by the state of Bavaria but also partly (38.84 percent) owned by VIAG, which is also a part owner of BEWAG. RWE (Rheinisch-Westfälische Elektrizitätswerke or Rhine-Wesphalian Electricity Works), long the largest energy firm in Germany (DM 2,250,100,000 in share/nominal capital), is also majority publicly owned, not in terms of capital but in terms of voting strength in the company. Bayernwerk is jointly owned by the state of Bavaria (58.26 percent), VIAG (38.84 percent), and various lower levels of government (Lower Bavaria, Upper Bavaria, and others, 2.9 percent).

Preußenelektra, belongs to VEBA joint stock corporation, a large company that owns many subsidiary companies related to energy.

This type of interconnectedness among firms and government is known in Germany as *Filz*. Although these companies are structured as private joint stock corporations, many are in fact largely or wholly publicly owned. The interests of the state are thus indistinct from those of the private company. This, claim critics, allows firms to have it both ways. When protecting themselves against competition, energy firms cite their public function of energy supply; when arguing against state intervention, they point to their structure as private companies.[11] In any case, the energy industry and the German state enjoy a long-standing, symbiotic, exclusionary relationship that blurs the lines between regulator and regulated industry. Energy firms appear to have enjoyed the upper hand in this relationship insofar as they have been able to avoid government takeover and shape energy policy in a direction favorable to them.

The Energy Law, along with national cartel law, does give the state some regulatory control over energy firms. But the wording of the laws tends to promote cartelization of the industry and give it a great deal of sway over policy making. The legal definition of energy utility, for example, assists existing firms in keeping new ones out.[12] An energy supply company (*Energieversorgungsunternehmen*) is defined as an enterprise that supplies others with electricity or gas. If an industry produces extra heat and pipes it to another business, it is in a legal sense an energy supply company and as such requires a permit for its activities. Lawmakers have tended to support existing utilities' claim that such permits should not be granted in areas where legally sanctioned energy sources already exist.

The structure of energy supply contracts (*Konzessionsverträge*) also encourages monopolies. Contracts between a firm and a service area are not subject to cartel laws.[13] The energy firm pays the local government for the use of land and public facilities. Many local governments, hard pressed for cash, would rather collect from the large energy firms than have to devise their own local energy supply plans that might provide for more variety or competition.[14] At least in theory, competition among forms of energy exists.

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11. *Der Fischer Öko-Almanach,* 1991–92 ed. (Frankfurt a.M.: Fischer Taschenbuchverlag, 1991), 261.

12. Ibid., 260.

13. Ibid., 263.

14. Other local governments have tried to set up their own local supply nets. To this point the large energy firms have been generally successful in foiling these attempts. See *Der Spiegel,* 12 October 1992, 99–103 and 24 June 1991, 50–54. In their current form, supply contracts also discourage private development of alternative forms of energy. The customer has a right to be supplied with energy but has no voice in determining the type of energy supplied or the supplier.

Firms offering alternative energy (gas, coal, and oil, for example) may enter an area already supplied by an electricity firm; for this type of competition, energy firms are not released from the anticartel law. But through their control of the transport routes for energy, existing firms can effectively shut out their rivals. Through the historical development of the industry, we can observe how the state and industry grew to appear to critical citizens as a single inaccessible system such as Habermas describes, which defies public agitation for environmental protection.

Environmental Policies in Germany—Nineteenth Century through 1945

Along with regulation of the energy industry, regulation of the natural environment has a long history in Germany. The basis for such regulation has evolved along with public perceptions of environment. In its earliest form, environmental legislation was a matter of deciding between different economic uses of land. From the Middle Ages into the nineteenth century, authorities (generally police) in the various territories determined the balance between use and protection of forests and streams, waterfalls and mineral deposits. Environmentally related laws appeared at different times and varied substantially among the territories. In southern Germany, for example, forest regulations already existed in the sixteenth century; in middle Germany they appeared somewhat later and in Prussia not until the eighteenth century. These were not the product of environmental consciousness as we know it. According to one analyst, prevention of environmental damage was less a factor in promulgating regulations than economical use of natural resources for financial or political profit or development for individual use, such as hunting.[15] Also, the prince or sovereign had a paternalistic responsibility to those beneath him, which included maintenance of the areas in which they lived and worked. Environment was not yet valued for its own sake; it was not yet considered apart from its economic uses, as something that has an inherent right to exist.

From the thirty-nine semifeudal territories of the Napoleonic era arose in the latter part of the nineteenth century a unified German Reich with a single legal order. With the industrialization and urbanization came an onslaught of environmental problems that overwhelmed the policy-making capacities of local governments. The city of Essen in the Ruhrgebiet, for

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Furthermore, the customer is obligated to be supplied in full by the utility; s/he cannot supply her/himself through solar energy, for example, even in part (*Der Fischer Öko-Almanach,* 263).

15. Klaus-Georg Wey, *Umweltpolitik in Deutschland* (Opladen: Westdeutscher Verlag, 1982), 22.

example, grew from a population of 4,000 in 1800 to 443,000 by 1910.[16] In the thirty years from 1870 to 1900 alone, Berlin's population rose from 800,000, already a large city by central European standards, to over three million. In the now heavily populated areas of the Ruhr, Saar, Upper Silesia, and Saxony, residents complained increasingly of overcrowding, air and water pollution, trash problems, and excessive noise.

Meanwhile, scientists compiled evidence of the causes of environmental damage. In the nineteenth century, scientific studies from the fields of biology, chemistry, and medicine concerning the effects of environmental pollution began to appear. A detailed scientific discussion of acid rain occurred in Germany, inspired by the death of local vegetation in the vicinity of metallurgical plants.[17] But this discussion failed to find a broader audience, in part because visible damage remained local, while harmful substances that traveled longer distances through air or water were less easily detectable. Local populations cared about soot but not about the less obvious but more dangerous substances such as SO_2. Also, many assumed that high smokestacks would take care of air pollution problems, dispersing pollutants and rendering them harmless. Policymakers as well as the general public had little sense of broader environmental damage or responsibility. Popular attitudes supported industrial expansion for its economic benefits. Technological progress was generally considered the highest societal good; critics of its side effects were often dismissed as "crazy machine-smashers."[18]

Although German unification shifted certain legal responsibilities to the national government, important areas related to environment, such as construction, water, forestry, mining, and agriculture, remained largely in state and local hands. Originally these had all been the responsiblity of local police. Now legal statutes generalized them but did not raise them to national-level policy tasks. Where gaps existed in the national laws, individual rules of the states applied. Manifold city ordinances having to do with, among others, garbage and smoke problems appeared in the nineteenth century.

Permit requirements for polluting facilities did become part of national law. These had originally been designed to protect the interests of landowners, who were concerned about detrimental effects from neighboring facilities on their private land. By 1845 Prussian law mandated permits for certain highly polluting facilities. The permit clause was carried over in the trade

16. Ibid., 25.

17. Arne Andersen and Franz-Josef Brüggemeier, "Gase, Rauch, und Saurer Regen," in Brüggemeier and Rommelspacher, *Besiegte Natur,* 64–67. See also Brüggemeier and Rommelspacher, *Besiegte Natur,* 10.

18. Wey, *Umweltpolitik in Deutschland,* 31.

regulations of the North German Federation of 1869 and finally in the Imperial Business Regulations (Reichsgewerbeordnung, or GWO) of 1900.[19] The GWO specified that industrial facilities "which through the location or the nature of the place of business could lead to significant disadvantages, dangers or annoyances for the owners or residents of the neighboring properties or for the public in general" required legal permits. Those current national laws that originate from the GWO—the Atom Law, the Waste Law, and the Federal Immission Control Law, for example—all have retained versions of the permit process found in the earlier laws.

Although national law specified some of the permit requirements, implementation was left largely to the individual state administrations. This led to discrepancies in permit procedures.[20] Once awarded, a permit remained in effect until an "essential" change was made to the location or nature of the facility. From the standpoint of environmental protection, the permit law created more problems than it solved. Once a permit was issued, the facility became unassailable under the law. If a problem later arose that had not been discussed during the permit proceedings, nothing could be done about it. If the facility made disturbing noises, for example, citizens were instructed to report to the local police. The energy industry took advantage of the weak laws to avoid investing in air pollution control technologies. The industry's most widely implemented solution to worsening local "smoke" problems in the early twentieth century was to thin the emissions by building taller stacks. Desulfurization technologies were known but not implemented.[21] The law contained no "best available technology" (*Stand der Technik*) clause. The industry and the legal authorities considered the best available technology to be whatever technology was normally in use, rather than what was technically possible. Industry would not invest in desulfurization methods without legal prodding. And without public protest, there would be no "technology forcing" laws.

The city of Berlin illustrates the difficulties of dealing with air pollution at the local level. By the 1920s Berlin had become a metropolitan center of world renown. It had also developed pollution problems no one could ignore. In the mid-1920s articles abounded in the local press about the alarm-

19. Bernd Bender and Reinhard Sparwasser, *Umweltrecht,* 2d ed. (Heidelberg: C. F. Müller Juristischer Verlag, 1990), 82. The General Business Regulations of Prussia, which themselves derived from Napoleonic law, contained requirements for permits for certain especially harmful facilities.

20. Through the Technical Instructions to the GWO in 1895, the national bureaucracy attempted to provide for a more even administrative handling of permit cases (Wey, *Umweltpolitik in Deutschland,* 110). This set of instructions remained valid until 1964.

21. Andersen and Brüggemeier, "Gase, Rauch," 72–73.

ing state of the city's once-sparkling air. Not only industry, but also the growing volume of automobile traffic, made the legendary *Berliner Luft* the butt of bitter jokes. The city administration issued a "local air law" in the form of a police decree against the "smoke and soot plague." But the chief of police killed the law because of "impossibility of implementation." There were no means of measuring emissions, and even the Health Office of the German Reich claimed that "objectively determinable measurement values do not exist. There are merely certain hygienic claims that can be raised . . . depending on the individual situation."[22]

Isolated public protests did occur against visible pollution such as soot. But existing law did not require preventive measures against pollution. New laws were added to the books without altering the definition of environment as an issue for property owners. The Civil Code (Bürgerliches Gesetzbuch) of 1900 guaranteed landowners that they did not have to tolerate "impermissible influences" from industrial facilities.[23] They could not demand, however, that a polluting process be stopped; they could only ask for compensation for damages.[24] Industries invested in antipollution measures in cases where those measures helped improve industrial processes. Technical processes to remove particulates from exhaust gases, for example, advanced quickly for this reason.[25] The human and environmental effects of pollution, however, had not yet become major issues.

This remained the case through 1945. From the 1920s to the end of World War II, little change occurred in national-level air pollution policy. In the 1920s, German administrations concentrated on economic recovery from the war and the subsequent hyperinflation. The cult of progress and technology had perhaps its fullest expression up to that time in the Weimar period. The Nazi regime, aided by legislation such as the 1935 Energy Law, subordinated environmental considerations to heavy industrialization. There is some evidence that the Nazi *Blut und Boden* ideology helped inspire legislation to designate nature protection areas and monuments. A national Nature Protection Law was passed in 1935, followed by a Nature

22. Wey, *Umweltpolitik in Deutschland,* 115.

23. Ibid., 109. Another catch was that those "influences" had to significantly affect the use of the land or produce unusual circumstances for land use.

24. Brüggemeier and Rommelspacher, *Besiegte Natur,* 12.

25. One author claims that occupational health issues, avoidance of machine breakdown due to excessive dust, or even avoidance of damage payments to litigants were not the main reason for the accelerated development of technologies for particulate cleanup. Instead, many large technical processes such as gleaning nitrogen from air required fairly clean air. The particulate filters also captured other raw materials which otherwise would have been lost (Wey, *Umweltpolitik in Deutschland,* 108).

Protection Decree in 1936.[26] After 1941, however, war took priority over all other considerations, including implementation of these laws.

Early Protest Movements

By the early twentieth century, acute pollution problems in industrial areas prompted local protests. These protests, many of which were directed against air pollution caused by energy facilities, tended to be small and involve only those living in the immediate vicinity, in keeping with popular perceptions of the problems as local and basically economic in nature. Citizens generally viewed technological development itself in positive terms. The nature protection groups fighting hydroelectric projects, for example, considered water power preferable to coal firing. They had reservations about its side effects, but many believed that these were basically technical problems that could be solved through technical innovations.[27] The protesters seemed to fear the economic disadvantages that could arise from technology more than technology itself or the risks associated with it. As mentioned previously, many worried about the development of industrial monopolies.

Certain air pollution protests met with success. In 1928 in Duisburg, for example, a local citizen group took up negotiations with an area copper smelter regarding its emissions. As a result of these negotiations, the smelter pledged to improve its emission situation.[28] Workers in various areas also tried to exert pressure against polluters, either in the workplace or in the labor-based political parties at the Land level (these complaints almost never reached the national legislature, the Reichstag). These efforts fell short of forcing the government to promulgate general guidelines for pollution control. Ministerial officials were aware that "in broad circles of the population the demand for systematic combatting of air pollution is becoming loud" and that legal measures were called for.[29] But officials tried to take those measures within the existing legal framework. The protests were still too small-scale to interest the national legislature, and the problems continued to be defined in local terms.

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26. Arne Andersen, "Heimatschutz: Die bürgerliche Naturschutzbewegung," in Brüggemeier and Rommelspacher, *Besiegte Natur,* 155. The Nature Protection Law foresaw the possibility to reclaim nature protection areas that had been developed, except where these contained industrial facilities with permits. It also proposed a greater role in planning for nature protection authorities, although here, too, economic priorities would be paramount. Indeed, from 1935 to 1941, the nature protection authorities worked on guidelines for everything from mining to energy supply to water purification. These steps were, however, never implemented.

27. Linse et al., *Bittschrift,* 235.

28. Wey, *Umweltpolitik in Deutschland,* 116.

29. Ibid., 121.

While environmental groups engaged in disputes over specific local facilities developed little overarching critique of technology in general, other groups arose around the turn of the century to embrace a more aesthetic, romantic set of environmental values. These groups, whose membership consisted largely of the educated bourgeoisie, were critical of modern industrialized society. A "life reform" movement, for example, spoke out against centralized urban living and experimented with communes, natural foods, and the like.[30] Loosely organized nature protection clubs arose at regional and state levels. The most prominent nature protection group, the German Association for Preservation of the Countryside (Deutscher Bund Heimatschutz), formed nationally in 1904.[31] Although it contained both pro-and antitechnological strands of thought, those members critical of technology tended to dominate. Their critique remained within a small circle of people and did not generally address itself to solving concrete problems. Nature and *Heimat* protectionists emphasized above all "the aesthetic impoverishment in the march of industrialization and technicization, which was also understood by them as 'destruction of the national soul.'"[32] They did not draw on the concurrent technical and scientific debate, and they avoided mass mobilization and conflict with authorities. To the extent that they involved themselves in policy matters at all, these groups worked primarily for establishment of nature preserves and passage of landscape beautification measures.

More optimistic about industrialization and more in tune with the experience of industrial workers were the socialist Friends of Nature (Naturfreundebewegung), founded in 1895 in Vienna. This group evidently did not, however, enjoy much influence within the larger German working-class movement of the time.[33] Moreover, little communication existed between the Friends of Nature and the bourgeois nature protection groups. This fragmentation of environmental groups may have been a product of the class-based politics of the time. *Heimatschutz,* which evoked a kind of German mysticism, was a phenomenon of the educated bourgeoisie. Some analysts argue that these groups' critique of industrialization concealed a fear of the organized industrial working class and its culture, which were perceived as suspiciously internationalist and detached from the "father-

30. Jost Hermand, *Grüne Utopien in Deutschland* (Frankfurt a.M.: Fischer, 1991), 92–93.

31. This group stemmed directly from the protest against a power plant at Laufenburg (Linse et al., *Bittschrift,* 237). *Heimat* does not correspond exactly to "countryside." It is perhaps most closely translated as "homeland," but the term evokes German folklore and a romantic love of nature as well and tends to take on nationalistic overtones.

32. Ibid.

33. See Jochen Zimmer, "Soziales Wandern: Zur proletarischen Naturaneignung," in Brüggemeier and Rommelspacher, *Besiegte Natur,* 158–67.

land."[34] Workers generally did not oppose industrialization; indeed, many thought along with Marx that technological advance would bring their emancipation. This inspired distrust among the bourgeois movements and likely contributed to their failure to develop any kind of social or economic critique. Instead, these groups remained limited to a kind of nature mysticism and love of *Heimat.* It is thus no wonder that they did not leave much of a mark on actual policies or connect with the scientifically based critiques of the time.

These groups' forms of protest corresponded with the limited nature of their complaints. Few addressed themselves to concrete policy cases in the first place, and those who tried to take direct action found that German political institutions offered limited possibilities for influence. It was impossible, for example, to prevent the construction of a polluting factory through the courts, a favored method today. Opponents could ask for compensation for damages, but they could neither prevent the construction nor stop the operation of polluting facilities. Indeed, plaintiffs found it quite difficult even to collect compensation for damages in areas such as the Ruhrgebiet, which contained a large number of industries within close proximity. Plaintiffs had to show that they were damaged by a particular plant, but in such areas, it was impossible to pinpoint a single exact source. Victims of pollution could make use of legal rights to raise objections to lower administrative officials within the framework of the water and trade laws. They could also direct petitions to the government, but none of these actions could force government authorities or industries to consider environmental protection measures in their plans. In Baden, for example, some groups pushed for establishment of an expert environmental commission, but the government rejected their demands.[35]

Then as now, energy projects seemed to symbolize for proponents and opponents alike the march of industrialization. The Association for Preservation of the Countryside participated in only one political battle, against a hydroelectric power plant near Laufenburg that would destroy a rare river landscape of natural rapids. Members protested not against the plant itself but against its location, arguing that a plant at that site would ruin the beauty of the landscape. Members commissioned an expert report proposing a different site, and prominent citizens such as Max Weber, Werner Sombart, and Friedrich Naumann voiced their objection to the plant. The Interior Ministry of Baden, however, hoped the construction would attract industry to the area. It rejected the group's appeal, citing the priority of economic

34. Andersen, "Heimatschutz," 144.

35. Linse et al., *Bittschrift,* 241.

over aesthetic considerations, and the plant was built as planned.[36] Early environmental groups enjoyed little policy success insofar as nature protection remained for them an aesthetic concept. They did not develop a calculus of the advantages and disadvantages of industrial construction versus undisturbed nature and thus could not convince policymakers that construction was not always a good idea on their own economic terms. And little communication existed between the bourgeois environmental clubs and local protesters.

The strength of the unpolitical, romantic strand of environmental thought within the Association made it easy for the Nazis to integrate the organization and its leaders into their new association Nationality and *Heimat* during the 1930s.[37] As a result of these groups' connection to the regime, the whole movement, along with its language, were discredited after World War II. Many conservative critics of industrialization had been active in the Nazi-run administrations. Neither they nor their brand of environmentalism remained credible afterward; hence the virtual disappearance of this type of critique in the immediate postwar decades.[38]

Post-1945 Environmental Politics

The postwar period marked an important change in political interaction: a "party and interest group democracy" arose, including a popularly elected national parliament, the Bundestag, with proportional representation and a stronger parliamentary role in government decision making.[39] The institutional changes relocated environmental discussion to parliament; whereas environmental policy making had formerly been considered a technical matter for bureaucratic experts, the politicization of the issue meant that parliamentary bodies became centers of environmental debate. Responsibilities for environment were divided among various government bodies, however, creating a new set of coordination problems.

Despite its parliamentary structure, the new West German political

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36. Andersen, "Heimatschutz," 150.

37. Ibid., 155. This was the *Reichsbund* "Volkstum und Heimat."

38. The German Nature Protection Ring (Deutscher Naturschutzring) was formed in 1950 in order to consolidate the many nature protection groups that had until that point worked in an uncoordinated fashion. According to Wey, the umbrella organization did not strengthen the work of the individual groups in that it concentrated on implementing what had already been accomplished, namely the nature protection laws of the 1930s, which remained on the books. Once environment had become a political issue through the efforts of other groups and mass mobilization, this group did try to formulate a program for legal action for nature protection (Wey, *Umweltpolitik in Deutschland,* 168–69).

39. Ibid., 152.

system had several features that promoted the continued primacy of bureaucratic policy making. First, the relationship between the legislature and the executive was skewed toward the latter. Although public policies required approval by the Bundestag, they generally originated in the expert bureaucracies. They were submitted for parliamentary approval only after major planning decisions had been worked out between the ministries and key interest groups, particularly the affected industries.[40] Industrial interest groups were entrenched in the process through their close relationship with the economic ministries and often through the ownership structure of firms. But there remained no link for lay citizens to the centers of policy-making power. Environmentally minded legislators had a difficult time prevailing over bureaucratic experts. Parliament lacked independent sources of information that would allow it to evaluate policy decisions, and the decision process was largely closed to citizen participation as well. Further, the West German electoral system was not structured to reward individual position taking on issues. Political parties controlled the candidates running for office in any given district; it was thus more important to toe the party line than to take a stand popular with local constituents. There is no separation of powers between the executive and the legislature; the heads of the executive branch and the ministries are chosen from the governing party or coalition in the Bundestag. This arrangement worked to consolidate power in the executive under the chancellor and cabinet, and to subordinate parliament.

The symbiotic relationship between government and large energy producers also remained intact after the war. During the 1950s and 1960s, West German industry thrived, and private cars became more common. With increasing environmental information, and with the postwar industrial boom, environmental pollution began to attract more public attention. Economic concerns, however, took priority, as successive governments worked to rebuild West Germany and restore prosperity to its people. Technological optimism again became the order of the day. The framers of the Basic Law did not take the opportunity to restructure the constitutional responsibilities

40. In the corporatist West German system, policy decisions are reached cooperatively between the government and key interest groups, generally industry and labor. See Katzenstein, *Policy and Politics;* and Offe, "Attribution of Public Status." It appears that industry still has the upper hand. Günter Hartkopf, state secretary in the Ministry of the Interior during the early 1970s, said in an interview that pushing environmental matters through in the early years was "primarily a fight against industry and those close to it" (Wey, *Umweltpolitik in Deutschland,* 203). Individual politicians hesitated to criticize industry positions. The establishment of the independent Council of Experts for Environmental Questions (Rat von Sachverständigen für Umweltfragen) in 1971 was supposed to correct the information problem and help policymakers judge environmental issues, but by most accounts it did not help even the balance between executive and legislature, and indeed the results of its investigations were mostly picked up by the executive rather than the legislature.

for environmental protection; thus, the old structural problems of the prewar period, having to do with federalism and fragmented responsibilities, resurfaced during this phase. The federal government made no coordinated environmental policy effort.

Despite these continuities from the prewar period, an important reorientation of environmental thinking occurred after 1945. The environmental discussion took on a more global scope, focusing more on the activities of other countries, particularly the United States. In keeping with West Germany's position in the postwar Western world, citizens began to recognize environment for the first time as a universal issue. Accordingly, concerned groups sought to communicate with one another and to formulate their goals and demands in broader terms. Likewise, they looked for more general causes of environmental problems.

As public awareness increased in the 1950s, a political debate over air pollution arose. The Ruhrgebiet, densely populated and heavily industrialized since the nineteenth century, became a hotbed of controversy. In one instance, the director of a residents' association wrote an open-letter proposal for air pollution control. The Association of German Industry (Bund Deutscher Industrie, BDI), the largest industry interest group, submitted a critique of the proposal, prompting a debate among Land-level politicians and finally within the federal government itself.[41] In response to the widening air pollution debate, the federal government set about revising the GWO in 1959. It created an intraparliamentary standing committee for air quality, which could change or expand the catalog of facilities requiring permits. It also proposed creating a new set of technical instructions for implementation of laws, which would alter the permit process to include a "best available technology" clause. In general, the changes would be designed to support preventive action and to force even existing facilities to innovate in accordance with changes in technology. West German industry fought the proposal for a technology-forcing clause, demonstrating its power to delay major environmental initiatives. The Federal Ministry for Employment and Social Order, responsible for formulating the implementation instructions, did not finish until 1964, partly because of "scientific and practical" problems, partly because of "delay tactics by the BDI."[42]

In the 1960s, the major political parties began to appeal to public environmental interest. The conservative Christian Democratic Union (CDU), allied with the Bavarian Christian Social Union (CSU) and the smaller Free Democratic Party (FDP), had controlled postwar politics from 1949 until the mid-1960s. The main opposition party, the Social Democratic

41. Wey, *Umweltpolitik in Deutschland,* 182.
42. Ibid., 191.

Party (SPD), elevated pollution to a national campaign issue with its 1961 slogan, "Blue skies over the Ruhr." Energy supply was at the center of this new environmental push. The West German media increased their coverage of environmental problems. The international discussion also intensified as environmental issues reached the agenda in other industrialized countries. In the Länder and federal parliaments, growing numbers of legislative initiatives and inquiries testified to the new political importance of the issue.

The ruling CDU ridiculed the SPD's "Blue skies over the Ruhr" campaign. But the situation in the Ruhrgebiet had become so urgent that the CDU-led Land government itself proposed air pollution measures, citing health effects as a reason. The government lacked the personnel to implement environmental policies. Nevertheless, the Decree regarding Traffic Restrictions during Inversion Weather of December 1964 was a step forward in attacking the smog problem. This decree served as a model for later smog ordinances nationwide.[43] Environment had become an important enough issue that all parties felt obligated to take positions on it. Importantly, for the first time the government cited human health, rather than economic effects, as the primary reason for taking action.

For all of the proposals, the government implemented no specific measures such as mandatory desulfurization. It proved difficult to sustain a serious environmental effort within the existing power structure, which was dominated by those ministries in charge of economic growth. Environmental authority was divided between ministries with conflicting missions, and the economic branches generally prevailed over others whose responsibilities included environmental protection.[44] In the legislature, for example, the health committee favored desulfurization, but the economics committee successfully opposed it. A similar conflict occurred within the executive bureaucracy. Whereas the Federal Ministry for Economy had responsibility for trade regulations, in 1961 responsibility for the human health aspects of air and noise pollution problems was assigned to the newly created Federal Ministry for Health, Youth, and Family. Although the new ministry held a subordinate position vis-à-vis the Ministry for Economy, certain of its officials challenged the economics ministry on key points. They lost, but

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43. Verordnung über Verkehrsbeschränkungen bei austauscharmen Wetterlagen, Brüggemeier and Rommelspacher, *Blauer Himmel,* 66.

44. Wey, *Umweltpolitik in Deutschland,* 187, 191–93, 202–3. In 1970, for example, the interior ministry was in charge of air, water, and noise pollution, physical planning, and urban construction. The Federal Ministry for Nutrition, Agriculture, and Forests had responsibility for nature protection and conservation. The Federal Ministry for Education and Science was in charge of environmentally friendly technology, environmental radioactivity, and radiation exposure. The Ministry for Youth, Family, and Health had responsibility for environmental chemicals, and the defense ministry was in charge of high seas and coastal waters.

their dissent was in itself a new and important development, signaling the emergence of an intrabureaucratic economy/ecology conflict. In general, however, the economic branches' view that environmental protection threatened jobs won out during this phase.

In 1969 the short-lived "grand coalition" of both major parties gave way to an SPD-led coalition government for the first time in the postwar era. The SPD seemed determined to make the environmental issue its own. The new government's declaration of 1969 gave high priority to legislative measures to combat air and noise pollution. In 1970, the federal government announced a crash program for environmental protection that was supposed to demonstrate the government's commitment to a comprehensive environmental effort and to clarify the distribution of environmental responsibilities within the executive branch. This was more a symbolic gesture than a binding attempt at policy making, however. Without a restructuring of the executive branch, it was clear that no such comprehensive policy could be achieved. Environmental competencies were simply added to the duties of several existing bureaucracies. Despite a relative centralization of environmental expertise in the Federal Ministry of the Interior in the 1970s, the array of new project groups formed within the ministry to work on the environmental program did little to solve the problem of splintered executive responsibilities.

The Environmental Movement of the 1970s and 1980s

The energy issue, prominent during Germany's industrialization period, burst onto the political agenda again in the 1970s, spearheaded by an environmental movement that raised anew the dormant questions about the relationship of industry, state, and citizenry. The citizen activism of this period was in a sense an unprecedented political phenomenon. The 1970s saw the rise of social movements organized not along traditional lines of economic conflict, but around new issues of quality of life and a critique of growth.[45] The upsurge in citizen protest began as West Germany's "economic miracle" slowed in the late 1960s and information on the harmful effects of pollution became widely available. Many local populations began to question the government's continued support of industrial growth at the expense of the natural environment and to formulate their critique in terms of an economy/

45. For a typology of groups, see Roland Roth, "Neue soziale Bewegungen in der politischen Kultur der Bundesrepublik—eine vorläufige Skizze," in Brand, *Neue soziale Bewegungen,* 20–82. See also Guggenberger and Kempf, *Bürgerinitiativen und repräsentatives System.* Roth and Rucht, *Neue soziale Bewegungen in der Bundesrepublik,* also analyze various aspects of these groups.

ecology conflict. The Club of Rome's 1972 report *The Limits to Growth* found particular resonance in West Germany.[46] This report, along with the oil crisis of 1973–74, brought the wasteful use of resources, particularly in the energy sector, to the forefront of political debate.

State-sponsored industrial projects began to draw widespread public protest. Local residents formed citizen initiative groups. These were generally single-issue neighborhood or local groups organized either to procure some service for the community or, as was overwhelmingly the case beginning in the early 1970s, to protest some government-sponsored project or policy. In Frankfurt, for example, plans to build a new runway to expand the capacity of the international airport drew mass protest. The construction would require denuding a sizable tract of forest that had served as a recreational area for the surrounding communities. Mass mobilization reached its height in the protest against government-supported nuclear energy facilities, including reactors at Wyhl, Brokdorf, Grohnde, and Kalkar and recycling facilities at Gorleben and later Wackersdorf. At their peak, the environmental protests drew hundreds of thousands of demonstrators.

Although the energy issue most clearly evoked critique of the growth mentality, energy protest was embedded in a larger array of citizen movements concerned with the quality of life and critical of the economic and administrative system. During the 1960s a variety of protest and alternative lifestyle movements had arisen in West Germany as well as in other Western democracies. Women's rights, civil rights, antiwar, and labor groups emerged strongly at this time. Urban centers such as West Berlin became the scene of a thriving left-wing student movement and alternative culture. Although there was little overlap between the protest groups of the 1960s and the environmental citizen initiatives of the 1970s, some of the later groups built on the communication network established by especially the left-wing groups.[47] The peace movement, composed of a variety of smaller groups, also emerged strongly in the 1970s and early 1980s, especially in response to the stationing of nuclear missiles on West German soil.

Disgruntled citizens began to question not only government decisions themselves, but also the form of decision making that produced them. Environmental groups noted that these decisions did not reflect the growing environmental values of the general populace. Moreover, they seemed to reflect no concern about future quality of life in other than economic terms.

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46. See Hermand, *Grüne Utopien in Deutschland,* 134.

47. See Brand, "Kontinuität und Diskontinuität," 35–38. Some of the New Left's thinking influenced the new green parties. The left-wing groups did not always participate in siting protests and other environmental actions, but they were partners in founding some of the green and alternative parties later on.

People began to ask why policymakers seemed incapable of taking these other considerations into account, and many came to the conclusion that the undemocratic nature of the policy process was to blame; the bureaucratized, expert-oriented policy process left no room for parliamentary or citizen participation. The close relationship between industry and state in West Germany, which had been central to citizen concerns during the industrialization period, thus came to the fore again in the 1970s. Unlike previous environmental action, the mobilization of the 1970s and 1980s occurred primarily outside political institutions and was directed against them. Whereas earlier citizen complaints had stemmed largely from the fear of economic or aesthetic disadvantages, the new citizen activists claimed that the state-industry system was destructive to quality of life, a more inclusive concept involving environmental quality and political efficacy. This linkage of environmental protection and democracy was the basis of the legitimation issue.[48] Legislative responses such as the Federal Immission Control Law of 1974, designed to create a comprehensive air pollution policy and to increase citizen involvement in the legal permit processes, seemed to only heighten tensions, indicating that political institutions in general had lost legitimacy with some of the populace.

The environmental movement of the 1970s conceived of environment as having an intrinsic worth apart from its economic uses or even its connection to human health. Environment had taken on a value for its own sake that activists argued should be included in the calculus when choosing between development and preservation of nature. The new formulation of environmental problems universalized them. The movement of the 1970s and 1980s overcame the localization of the environmental debate that had so long persisted. Groups that had arisen due to particular local circumstances began to find their way together. They set up communication networks and joint activities. In 1972, the Association of Citizen Initiatives for Environmental Protection (Bund Bürgerinitiativen Umweltschutz) was founded to provide a nationwide umbrella organization for environmental groups. By 1977 it included about 950 groups with approximately three hundred thousand members.[49] The German Association for Environment and Nature Protection (Bund für Umwelt und Naturschutz Deutschland), formed nationwide in 1975 to formulate "constructive proposals for ways out of the environmental crisis," also eventually claimed over one hundred thousand members. By this time more people described themselves as members of

48. Linse et al. (*Bittschrift,* 225) claim the critique of *Filz* never became central, and that lack of citizen participation in permit processes and related themes remained more important. I argue that the *Filz* issue is intimately connected to these other issues.

49. Wey, *Umweltpolitik in Deutschland,* 172.

citizen initiatives than of all political parties combined. Moreover, studies estimate that by 1975–76 40–45 percent of all existing citizen initiatives had to do with environmental questions.[50]

The environmental movements of the 1970s and 1980s bore some similarities in their membership to earlier environmental groups. The new groups were also composed largely of relatively highly educated middle-class people.[51] Nevertheless, their membership included a broader cross section of the population than had previously been the case. In addition to students and professors from local universities, who helped supply the necessary expertise, senior citizens and younger urban radicals were joined by farmers and more socially conservative citizens. They had vastly different reasons for supporting the citizen initiatives: some farmers objected to the possible loss of their economic livelihood, for example, while other citizens opposed the destruction of the natural environment or the "dictatorial" power of the state-industry complex. Pro- and antitechnological strands of environmental thought coexisted within these groups, whereas in the earlier organizations one strand tended to dominate. Indeed, the diversity of membership distinguished the new groups from previous ones; for the first time, an effort was made to bring the various perspectives together.

Through their diversity, these groups expressed a new and complex relationship to technology. Although many contained some backward-looking elements, their goals and methods were generally, as Offe notes, squarely within the project of modernity. They supported technological solutions to environmental problems as long as their implementation was decided democratically. And they encouraged people to inform themselves about environmental topics, even when the information was quite technical in nature. They thus seemed more opposed to technocracy than to technology itself. Citizen initiatives developed a broad palette of noninstitutionalized political activities, including petition campaigns, nature walks through affected areas, information booths, demonstrations, site occupations, and festivals. The political repertoire of grassroots environmental groups eventually transcended the noninstitutionalized realm. Some of the left-wing and other citizen groups joined environmentalists to found political parties and voting lists in the late 1970s and early 1980s. Green and alternative parties have become a common and persistent feature of the political landscape, especially at the Land level. In many cases, their members had first become acquainted through their cooperation in environmental protest actions. The new parties enjoyed electoral success, especially where such controversies

50. Ibid., 171. Note that this designation depends somewhat on the way environment is defined.

51. Ibid.

still raged. In Frankfurt, for example, opposition to the runway ensured that all three of the established parties lost votes, while the newly organized Greens won representation in every race they contested, polling as much as 25 percent in some districts.[52]

During this period, for the first time the legal permit process also became a key setting for debate between government policymakers, industry representatives, and environmental citizen initiatives. Citizen participation in the legal arena was facilitated by the passage of the Federal Immission Control Law in 1974 and changes in the citizen participation provisions of the Federal Construction Law (Bundesbaugesetz) in 1977. The hearing process is similar under both laws. In addition to their mass mobilization efforts, many citizen groups filed objections to new industrial projects in administrative court, in conjunction with the permit process.

The Federal Immission Control Law

The SPD-led federal government passed the Federal Immission Control Law in response to growing citizen environmental concern and in the wake of the passage of the 1970 Clean Air Amendments in the United States. The new law was formulated in largely nonoperational terms, as a directive to the Länder more than a policy statement. Specific requirements appeared in the Technical Instructions (TA-Luft), which were issued later.[53] Federal politicians could take credit for having done something about environment

52. Gottfried Orth and Adalbert Podlech, eds., *Testfall Startbahn West* (Wuppertal: Jugenddienst-Verlag, 1982), 13.

53. In 1983, the Decree over Large Combustion Facilities (Großfeuerungsanlagenverordnung or GFAVO) was added to the Federal Immission Control Law. This decree established regulations for energy facilities, among others. The rules for implementation were tightened as well. A new TA-Luft appeared in 1983. Important national-level administrative institutions include the following:

1. Federal Ministry for Environment, Nature Protection, and Nuclear Safety (Bundesministerium für Umwelt, Naturschutz, und Reaktorsicherheit (BMU))
2. Federal Office for Radiation Protection (Bundesamt für Strahlenschutz), formed in 1989, an independent agency subordinate to the BMU, responsible for helping the federal government administer policy having to do with radiation protection, reactor safety, and disposal of nuclear waste. Its most important duties at the moment are setting up and running nuclear waste storage facilities.
3. Federal Environmental Agency (Umweltbundesamt), formed in 1974 as an independent federal agency. Its responsibilities include working out legal and administrative regulations and establishing and running an information system for environmental planning. The Umweltbundesamt also serves as a center for environmental documentation and public information.

while leaving the implementation details, and the weight of citizen criticism, to the Länder. Two guiding principles of the new legislation distinguish it from previous efforts.[54] The "polluter pays principle" (*Verursacherprinzip*), which stems from the old police statutes, holds that anyone undertaking actions that might result in environmental damage should be held responsible for avoiding that damage or, if it cannot be avoided, for cleaning it up. Although this principle has long been at least theoretically a part of environmental regulation, in the past firms were rarely held liable for damages. A second important principle is the "prevention principle" (*Vorsorgeprinzip*), by which environmental protection considerations should guide planning decisions to ensure that environmental damage does not occur in the first place. In stating its aim as the protection of people and other living things from a wide variety of "harmful environmental influences," the new law expressed a commitment to the prevention principle.[55] These principles are only partly anchored in various environmental and construction laws; they are understood more as broad guidelines for policy making.

The Federal Immission Control Law changed the interpretation of "best available technology" to what is technically possible, rather than what is commonly in use (the nineteenth-century interpretation). In using best available technology as the major criterion by which necessary environmental measures would be determined, the new law shifted the standard for feasibility from what was financially affordable for a particular company to what was technically possible.[56] It was a technology-forcing law.

The Federal Immission Control Law also altered the permit requirements for polluting facilities by linking the construction and air pollution permits. Now proposals had to include precautions against environmental damage in order to qualify for a construction permit. Likewise, certain

4. Council of Experts for Environmental Questions, created in 1971. It consists of twelve members chosen by the responsible minister. They prepare expert reports on the environmental situation, developments in environment, and so on.
5. Other federal authorities not directly responsible for environment have some duties related to environmental questions. The Federal Office for Health (Bundesgesundheitsamt), for example, has some environmental responsibilities, as environmental problems affect human health.
(Bender and Sparwasser, *Umweltrecht,* 21–22)

54. Ibid., 16–17.

55. "Harmful environmental influences" include those whose nature, quantity, or duration are likely to lead to hazards, significant disadvantages or significant disturbances for the public or the immediate area (BImSchG, art. 3, par. 1). These can include air pollutants, noise, light, heat, and a variety of other "influences." See *Bundesimmissionsschutzgesetz,* 7th ed. (Wiesbaden: Deutscher Fachschriften-Verlag, 1990) for the entire text of the law, and Bender and Sparwasser, *Umweltrecht,* 73–137 for an analysis of its individual clauses.

56. Wey, *Umweltpolitik in Deutschland,* 165.

aspects of the construction were relevant to the air pollution permit process. The proximity of a polluting industrial facility to residential areas, for instance, could now be grounds for denying a permit.[57] These provisions gave environmentalists additional legal grounds for objections. The law also set the stage for further environmental debate by leaving the list of official participants in the permit process open. It did not by a long shot resolve the policy or legitimation problems that had prompted the grassroots environmental movement. Long delays occurred in implementing the law and, indeed, in even determining what concrete steps were necessary to fulfill its aims. The necessary technical support, networks for monitoring ambient air quality, for example, did not yet exist. Money and personnel required for implementation were not forthcoming. A study commissioned by the Council of Experts for Environmental Questions found that 75 percent of the air pollution authorities and 85 percent of the water pollution authorities surveyed judged their personnel insufficient to fulfill their given duties.[58] Air pollution authorities complained about their information deficit relative to emitters, while water pollution authorities cited their lack of specialists.

By opening the permit processes to public scrutiny without altering initial bureaucratic planning procedures, the new law invited legal complaints of flawed policy-making form.[59] Most industrial production facilities are now required to apply for permits. The permit process begins with an application to the responsible permit authority. The applicant must state which pollutants in what amounts will be emitted. The permit authority makes a public announcement of the proposal and displays the application and supporting documents for a month. Citizens can file objections with the permit authorities until two weeks after this period ends. Anyone can file an objection, with the restriction that the person, firm, group, or local government must show that the planned facility will affect him, her, or it (*Betroffenheit*)[60] or that the applicant has not presented enough evidence to allow authorities to determine possible negative environmental effects. All public permit processes for gene technological production facilities in Ger-

57. Ibid., 210, according to BImSchG, art. 13.

58. Wey, *Umweltpolitik in Deutschland,* 215–216.

59. Theoretically, the state can also punish violations against the environment under criminal law. Most of the laws contain escape clauses, however, that ensure that such cases are rarely prosecuted. Furthermore, a firm cannot be sued on the basis of criminal law. Only an individual can be sued, and it is often prohibitively difficult to identify a responsible individual within a large firm.

60. The concept of *Betroffenheit* can include health effects in general, special health problems such as asthma, effects of the construction on nearby food sources, and effects on property such as a garden, house, agriculture, or business (*Der Fischer Öko-Almanach,*112). There are no limits on the distance a plaintiff can reside from the planned facility, but objections from the immediate area may weigh more heavily with the authorities.

many had to be broken off, for example, because the firms involved had not included enough information to enable the permit authorities to judge the effects of the production.[61] There is no class action suit; one cannot object on behalf of society at large. The authorities must hold a hearing with the permit applicant and those who have filed objections to discuss those objections. The permit authorities must acknowledge in the final decision that they have taken the objections into account. Then a permit is either issued, issued with qualifications or changes determined by the permit authority, or denied.

Citizens who oppose the permit decision have several chances to appeal it. If the first appeal fails, they can raise objections before the administrative court (*Verwaltungsgericht*) within a month. The next step is the administrative appeals court of the particular Land (*Oberverwaltungsgericht*) and finally the Federal Administrative Court (Bundesverwaltungsgericht). Only those who filed objections in the first place can take these subsequent steps.

The permit process has proved a fruitful form of protest for environmental groups and an essential part of planning. According to one analyst, permit authorities only seriously examine an application if it receives citizen complaints.[62] The objections nearly always result in some changes to the project. Citizen initiative groups often use the permit process to force a firm to improve its proposed technology by introducing concerns that have little legal chance at stopping the construction but force the firm to justify its plans publicly. Occasionally a firm will obligate itself to a higher level of environmental protection in return for a withdrawal of the legal complaint. Filing objections in court also has a delaying effect; the construction cannot begin until a decision is made.[63] Environmental groups have often delayed construction projects for years through their legal appeals.

Conclusion

Citizen environmental concern arose within an institutional context characterized by a historically close relationship between industry and state. The

61. *Der Fischer Öko-Almanach,* 111. The firms involved in the plans were Behring, BASF, and Grünenthal.

62. *Der Fischer Öko-Almanach,* 113.

63. There are exceptions to this rule. The applicant can appeal to the permit authority for "immediate execution" of the permit, before a final decision on its legality has been reached. Although this order was originally designed for exceptional circumstances only, permit authorities have used it frequently to break deadlocks between industry applicants and protesters. Plaintiffs can counter the immediate execution order by appealing to the court for a temporary injunction to stop the construction. The court then decides whether the permit authority legally ordered the immediate execution of the permit. If not, that order is canceled and the original complaint must be decided before construction can begin (*Der Fischer Öko-Almanach,* 114).

energy industry is strongly connected to the state both in its ownership structure and its role in policy making. The industry-state connection eventually became a target of criticism by environmental groups, who claimed that this structure kept companies and government from responding to public environmental concerns. Institutional fragmentation has given German environmental policy its particular character. The federal structure has traditionally bestowed a great deal of policy-making independence on the individual states. When environment became a political issue, government responsibilities for it were incorporated into various existing institutions in a rather haphazard and sometimes contradictory manner. Many blame this combination of centralized energy authority and fragmented environmental authority for the government's heavy-handed support of the energy industry on one hand and its limited and often inadequate response to environmental issues on the other.

The current movements in some ways display the legacy of earlier environmental groups, but in others are a unique reflection of their own time, particularly with regard to the legitimation problem. The themes of protest are different today. The debate in the early part of the twentieth century was less scientific, more emotional, charged with rhetoric about *Heimat,* and less substantive in that there was no real attempt by policymakers or the various environmental groups to put a value on untouched nature or a cost on environmental damage. During the industrialization period, specific conflicts centered on economic effects of industrial development. During the era immediately after World War II, the conflicts centered on human health effects of pollution. It is only recently that activists or policymakers have assigned an intrinsic value to the natural environment, as well as concrete costs to destruction of the environment. With the advent of large power plants, citizens did worry that private monopolies would have too much influence in the energy sector, largely with regard to price. Now, however, the state-industry relationship is relevant not primarily because it threatens economic well-being, but because it threatens non-economic well-being. Quality of life is not merely an aesthetic concept in today's argumentation, but a concrete one that can be weighed against the benefits of technological development. This is what makes the new movements new. Both forward-looking and backward-looking strands of environmental thinking were evident then as now, but these two strands are linked in the current concept of an ecological society.

Defining the issue in terms of the economy/ecology conflict broadened it from a local, private land-use issue to a more universal one that recognizes environmental problems as part of a larger societal complex. Environment is considered not simply an issue for economic elites or for technical experts, but for all citizens. The new groups have a broader range of issues,

more variety of membership, and a corresponding broader range of actions. The old themes did not inspire mass political action. They were defensive, conservative, often unpolitical. There was no civil disobedience around these issues; government decisions did not lead to hard confrontations between government and protesters. The new movements are much more on the offensive and propagate an environmentally friendly restructuring of society in general. The new groups see the form of action as an integral part of their critique. They have therefore developed a palette of activities largely based upon noninstitutionalized action; grassroots democratic decision making; and mass mobilization—but that has more recently included institutional action as well. The presence of these groups indicates a profound change in people's understanding of their role as citizens. One author notes: "the dramatic change of protest forms from Wilhelminian Germany to the Federal Republic gives expression to a changed understanding of roles and a different political culture. *Untertanen* have become active citizens."[64]

The energy and environmental debate has spread upward to the national level and has become concentrated in parliaments and the courts. Courts did not previously provide an avenue for citizen participation, except to sue for compensation for damages from pollution. With the mass mobilization and legal changes of the 1970s they became the major forum for environmental debate. In turn, with the advent of green and alternative parties and voting lists around 1980, parliaments became a center of energy debate. Energy policy making had gone from a private to a bureaucratic to a political matter.

Within this political and legal setting, the Reuter-West controversy arose. The following chapters will describe how the controversy unfolded in West Berlin, the development of the policy and legitimation problems, and the way citizen groups and policymakers sought to resolve the problems within the context just described. The Reuter-West case and others will show how citizen activism both reflected its heritage and transcended it, how activists sought to transform their world and its possibilities.

64. Linse et al., *Bittschrift,* 254.

CHAPTER 3

The Rise of a New Social Movement at Oberhavel

The Reuter-West controversy began in the early 1970s under conditions of a slowly declining local economy, a deteriorating environment, and an emerging public awareness of the economy/ecology conflict. Controversy arose over utility and government plans to build a large coal-fired power plant in a forested part of West Berlin. On the basis of the Reuter-West story, this chapter explores how and why a new social movement forms. Important for explaining the rise of grassroots protest is the connection between the form of policy making and the legitimacy of policies. Early energy planning in West Berlin provides an empirical example of the type of technocratic policy making Weber described. Policy authority lay with the Land bureaucracy, under the direction of the senator for economy. This branch worked closely with the local utility, BEWAG, to formulate initial site and capacity decisions. The Land and local parliaments issued final approval to bureaucratic decisions but lacked independent sources of information by which to evaluate them.

Upon hearing of the project, nearby residents formed a citizen initiative group, which grew to include a broad cross section of the population in its membership. The group understood its goals on both policy and legitimation dimensions. On the former dimension, it sought to prevent plant construction. On the latter dimension, it rejected the West Berlin government's pursuit of economic growth at the expense of the environment and demanded a reorientation of the goals of energy policy. Such a reorientation could only be achieved, activists claimed, by democratizing the decision-making process, by breaking up the energy policy monopoly of the bureaucracy and utility. Protesters saw these two as an impenetrable system, similar to Habermas's description, operating by different rules and pursuing different goals than those of the citizenry. The technocratic form of policy

making, they claimed, prevented citizens from having a voice in goal setting.

The planning bureaucracy had difficulty quashing citizen complaints and making coherent policy. Policymakers sought to shore up their authority by invoking technical expertise. This task was complicated by the new Federal Immission Control Law, which dispersed bureaucratic authority and required officials to generate new technical information. Under the informed scrutiny of the citizen initiative, governmental unity began to weaken. Policymakers defined the energy problem in terms of conflict management, while protesters defined it in terms of participation. Given these different definitions, the bureaucracy's efforts to shore up its policy-making authority by withdrawing further from citizen scrutiny simply exacerbated its legitimacy problem. In much the way Offe describes, both sides avoided the parliamentary institutions that should have connected them—bureaucrats in order to prevent delays that citizen involvement would cause, and the citizen initiative in order to challenge the bureaucracy directly through mass mobilization.

Setting

West Berlin in the 1970s provided a graphic example of the ills of urban overcrowding, environmental pollution, and economic decline besetting Western democracies in general. Before World War II, it had been a bustling capital city and longtime center of the German labor movement. Its postwar isolation lamed its once-burgeoning economy, and the construction of the Berlin Wall in 1961 shook the confidence of many industrialists in the city's continued political viability. But the economy recovered and expanded until the oil crisis of the 1970s. This time recovery came more slowly to West Berlin than the Federal Republic. Declining population and rising unemployment contributed to a gradual drop in the total number of employed persons, especially in the city's large manufacturing sector.[1]

West Berlin's energy situation reflected the city's unique political status. It was an "energy island" unconnected to any regional supply lines. Because no regional safety net existed, policymakers insisted on maintaining a larger-than-average reserve capacity in case of plant malfunctions, a practice that drew increasing citizen criticism in the 1970s and 1980s. In fact,

1. West Berlin Senat, *16. Bericht über die Lage der Berliner Wirtschaft,* October 1984, 37. West Berlin's economy during the period of the case study was somewhat differently structured than that of the Federal Republic as a whole. Production and manufacturing industry constituted a larger portion of West Berlin's economy and service industries a correspondingly minor portion. The city's public sector was larger than in the nation in general (ibid., 14, 102).

TABLE 1. Share of SO_2 Emissions and Ambient Air Pollution Contributed by Various West Berlin Emitter Groups in 1982

Emitter Group (annual mean)	Emissions %	Ambient Air %
Households and small users	14.5	30
Industry and power plants	84	15
Traffic	1.5	<5
External sources	—	50

despite the declining population and shaky economic outlook, BEWAG nearly doubled its capacity from 1970 to the mid-1980s.

At the time the story begins, West Berlin had two energy suppliers: BEWAG and the wholly Land-owned natural gas company, GASAG, which played only a minor role in energy supply. BEWAG operated eight power plants in the city, with a total capacity of 2,233 MW.[2] Just over one quarter of this capacity was oil fired; the remainder was fueled by bituminous and some lignite coal.[3] Although BEWAG selected a site for a possible nuclear power plant in the 1960s, citizen opposition in later years prompted it to drop the project. West Berlin energy planners faced two particularly difficult problems: rigid space limitations and legal restrictions on stack height. Because of heavy military and civilian air traffic in and out of West Berlin, building heights are restricted in three air traffic safety zones. Both problems contributed to the city's environmental pollution, which was among the worst in Western Europe.

By the 1980s, according to a *GEO* survey, the city ranked 318th of 328 West German cities and counties with respect to overall state of the environment (air, water, drinking water, soil, waste disposal, and nature protection).[4] Not all of these environmental problems were created at home; the German Democratic Republic and the Federal Republic itself contributed in large part to West Berlin's poor air and water quality. The most visible environmental problem, and the one around which political controversy arose in the early 1970s, was air pollution, especially sulfur dioxide (SO_2) and nitrogen oxides (NO_x). Table 1 shows the percent share of West Berlin SO_2 emissions and ambient air pollutants contributed by various sources.[5]

Although local power plants accounted for a large and growing share of SO_2 emissions in the city, because of "high smokestack politics" their

2. BEWAG, *Zahlen, Daten, Fakten,* 1985, 3.

3. BEWAG, *Strom und Wärme für Berlin: Die Kraftwerke der BEWAG,* 2d ed., 1979, 10.

4. Egmont R. Koch, ed., *Die Lage der Nation,* 1985–86 ed. (Hamburg: GEO, 1985), 442.

5. West Berlin Land Parliament, Document 9/2367, *Bericht der Enquete-Kommission "Berliner Energie- und Kraftwerkspolitik,"* 24 January 1985, 19.

effect on ambient air quality was normally rather small. On an average of 74.3 days per year, however, temperature inversions forced practically to ground level pollutants that would normally be dispersed higher in the air.[6] Emissions from residential coal-oven heating, still common in both parts of Berlin, and automobile pollution also contributed significantly to the problem. The city had a very high concentration of automobiles, and until the 1980s, neither catalytic converters nor unleaded gasoline were available to the public.[7] During the frequent inversion periods, large violations of short-term ambient air quality standards were common.[8]

Deteriorating air quality raised questions concerning the health effects of continued industrial expansion. Incidences of respiratory ailments, especially among children, and lung cancer were significantly higher in West Berlin than the national average. According to an inner-city pediatrician, children's systems were "so weakened by the constant intake of high concentrations of pollutants that in many cases a normal flu leads to protracted sickness with high fever and many complications."[9]

In this setting, the energy conflict arose. It began in the northwestern corner of West Berlin, in the large, rather isolated district of Spandau. Spandau was formerly a separate city, older than Berlin, and residents still consider themselves Spandauers first, Berliners second. The Havel River runs the length of the district, intersected by the Spree River. In the northwest corner is one of Berlin's largest forests. Nature protection areas line western Spandau. The easternmost finger of the district is a major industrial area at the intersection of the Havel and Spree Rivers. This is the home of Siemens, Osram, and other heavy industries. In the middle of this industrial area, on a stretch of flat land called Ruhleben Meadow, stands the 440 MW Ernst-Reuter power plant, rebuilt shortly after World War II. Since the winds blow mainly from the west, Spandau residents are spared some of the ill effects of the many industries. Next to the neighboring districts of

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6. Senator for Health and Environmental Protection, *Luftreinhalteplan—Teilplan Schwefeldioxid,* 1981, 12.

7. Berlin Action Association against the Death of the Forests, *Berliner Luft-Zeitung,* December 1984, 5.

8. Two measuring points, in the inner-city districts of Wedding and Kreuzberg, were particularly problematic throughout the power plant controversy. At one of these, the maximum daily average value for SO_2 was exceeded 235 times between 1976 and 1980. At their highest point, SO_2 levels there reached over three times the maximum allowed by law. 1976–79 data are taken from Helmut Weidner and Peter Knoepfel, *Luftreinhaltepolitik bei stationären Quellen in der Bundesrepublik Deutschland* (Berlin: Wissenschaftszentrum Berlin Reports, 1984), 70–72. 1979–83 data are from Senator for Urban Development and Environmental Protection, *Luftverunreinigungen in Berlin (West),* 1984, 7–11.

9. *Der Spiegel,* 25 February 1985, 91.

Zehlendorf to the south and Reinickendorf to the east, Spandau has the lowest population density of Berlin's twelve (formerly) Western districts.

At the eastern edge of the Spandau Forest, along the upper reaches of the Havel, stands the coal-fired power plant Oberhavel (literally, "upper Havel"). It was built before World War II, partially demolished, and rebuilt thereafter. Two new 100 MW blocks were completed in 1962, bringing total capacity to 216 MW. During the growth years of the 1960s, BEWAG busily expanded capacity at its older plants and made plans for additional plants.[10] BEWAG also had expansion in mind for the remote upper Havel site. In 1961, the utility submitted plans for a third, and in 1965 for a fourth, Oberhavel block to the West Berlin Land government. In 1972 BEWAG announced that rising demand would require expansion of the Oberhavel plant to 1,200 MW by the early 1980s. This would make Oberhavel by far the largest West Berlin power plant.[11] Already under construction was another large project, a 450 MW heavy oil–fired plant at Lichterfelde in the southern district of Steglitz. Problems at this plant would prove an early warning of what BEWAG would encounter at Oberhavel. Lichterfelde was plagued by delays, in part caused by design and engineering problems. Just as the final block went on line, the energy crisis made heavy oil a luxury item. The first rumblings of public dissatisfaction with West Berlin energy policy occurred at Lichterfelde.

Technocratic Policy Making

In keeping with German tradition, government and regulated industry in Berlin overlap. BEWAG operates as a private joint stock corporation but, as chapter 2 describes, is actually mostly state owned. Key members of the Land government sit simultaneously on the BEWAG supervisory board.[12]

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10. BEWAG, *Strom und Wärme,* 28–58. BEWAG expanded its plant at Steglitz in 1962–63 and Charlottenburg in 1966. New plants opened in 1965 (Rudow), 1974 (Lichterfelde), and 1976–77 (Wilmersdorf).

11. Egbert Herrmann, "Chronologie von Kraftwerk Oberhavel zu Kraftwerk Reuter-West," n. d., photocopied, 1. The next-largest plant at the time was Ernst-Reuter, also in Spandau on Ruhleben Meadow, at 440 MW. Lichterfelde, the heavy oil–fired plant under construction, would have a capacity of 450 MW.

12. The supervisory bodies include a supervisory board (*Aufsichtsrat*) and an executive board (*Vorstand*). Shareholders periodically convene a general meeting (*Hauptversammlung*), at which the supervisory board is chosen; the supervisory board, in turn, appoints and officially controls the executive board. In fact, the executive board handles the daily management of the firm. In this capacity it operates fully autonomously, except for the few instances where law or statute requires the approval of the supervisory board or passage at the general meeting. The number of supervisory board members is legally determined by the sum of capital stock. In firms of over two thousand employees, parity between employee-elected and firm-appointed

In 1975, when the planning process for Oberhavel was initiated, the governing mayor was chairman of the supervisory board. The senator for economy, who was legally responsible for supervising all aspects of energy planning, including environmental protection, also sat on the BEWAG board, as did the senator for finance. What might elsewhere be construed as conflict of interest is commonplace in Germany. As is typically the case, BEWAG's supply contract with Land Berlin gave it the exclusive energy concession in exchange for a duty.

West Berlin, and now united Berlin, is a city-state and a relative exception in the German political system in that Land and city administration are synonymous.[13] After the quadrennial parliamentary elections, the majority party or coalition in the Land parliament (*Abgeordnetenhaus*) chooses the Land-level cabinet, the senators, each of whom presides over a branch of the Land bureaucracy, the Senat. At the helm of the Land government is the governing mayor, whom the majority party appoints. This setup lacks the check that a separately elected mayor and legislature would provide. The lowest level of Berlin government is the district (*Bezirk*), of which there are twelve in the formerly Western portion of the city. At the district level, the important bodies are the assembly or local parliament (*Bezirksverordnetenversammlung*) and a district-level bureaucracy (*Bezirksamt*) organized into permanent divisions roughly corresponding to those at the Land level.

Early energy planning, true to the technocratic model, was a matter of informal consultations between the utility, the Senat Administrations for Economy and for Construction and Housing, and the Spandau District authorities. The important decisions on whether and how large to build a new plant were made by bureaucratic and industry experts. Only after agreeing on an initial plan did the Senat announce the project to the public and submit it for parliamentary discussion.

In the 1970s, West Berlin's party political scene was changing after a long period of dominance by the Social Democratic Party. In contrast to the Federal Republic as a whole, the SPD had held an absolute majority in West Berlin government through most of the postwar period. By 1975, repeated government scandals had eroded the party's support to below 50 percent, forcing it to form a coalition government with the small Free Democratic Party in order to remain in power. The major opposition party, the conservative Christian Democratic Union, continued to gain strength.

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members must be achieved. Employee representatives must include at least one wage worker and one white-collar worker (Günter Wöhe, *Einführung in die Allgemeine Betriebswirtschaftslehre,* 15th ed. [München: Verlag Franz Vahlen, 1984]. See also BEWAG Bylaws, 14 December 1981).

13. The other two city-states are Hamburg and Bremen. All three have simultaneous status as municipalities (*Gemeinden*) and federal states (*Bundesländer*).

Under the coalition government, the SPD retained seven senators; three posts, including the powerful Senator for Economy, went to the FDP. On the district level, Spandau had long been an SPD enclave, although the party's margin over the CDU had narrowed by the time the SPD-FDP coalition government was formed at the Land level. The FDP had no significant support in Spandau—it hovered around the 5 percent cutoff mark for representation in the district parliament, or assembly.

Energy projects must be formally initiated by the district in which the construction will take place in the form of a construction plan proposal. But the many rules governing the formal approval process ensure that the Land-level authorities hold the ultimate decision power. Before it can write the proposal, the district administration needs the approval of the Senat Administrations for Economy and for Construction and Housing; the senator for construction and housing is responsible for all construction projects under federal law, and the Energy Department (Energiereferat) under the senator for economy must confirm the necessity of energy projects.[14] Thus, the Land government controls both the informal and formal aspects of early planning.

Once the Land authorities clear the initial proposal, the district administration proceeds with its own approval process. The district parliament must then approve the construction plan proposal. Afterward, it is publicly displayed for a month. During this time, citizens can submit written suggestions or complaints, to which the district administration is required to respond. The district then submits the revised plan to the senator for construction and housing, who releases it as a Senat ordinance, by which it acquires the force of law.[15]

By late 1974, the informal consultation process had produced a consensus on expansion of the Oberhavel power plant. The responsible Land and district administrations had agreed on a site south of the existing plant, based on information supplied by BEWAG. BEWAG maintained that an expansion to 1,200 MW would eventually be necessary, and Oberhavel was the only site that could support such a massive plant. The utility estimated

14. The fact that necessity for energy projects is determined by the Senat Administration for Economy implies that "necessity" will be defined in economic terms. This is consistent with German energy policy tradition as described in chapter 2. In the early 1970s, the Senator for Health and Environmental Protection was not included in the construction approval process. Since the passage of the Federal Immission Control Law in 1974, a new procedure is required for large construction projects to determine their possible negative environmental effects.

15. BI Oberhavel, *Infoblatt,* no number, June 1976, 26–27. The district administration is required only to respond to complaints, not to change the construction plan proposal to accommodate them. It submits a revised plan, along with a list of complaints that have not led to changes and the reasons they have not, to the Senat.

that the first two 300 MW blocks would have to go on line in 1980–81 to keep pace with energy demand. Having reached this informal agreement, the senator for construction and housing directed the Spandau bureaucracy to formulate a construction plan.

Here the project hit a snag. The new Federal Immission Control Law clashed with established bureaucratic policy-making procedures in that it required authorities to account for environmental factors in their policy choices. The Land authorities had simply ignored these new requirements in the initial planning stages. The district of Spandau, however, hesitated to follow suit. The local administration would have to contend with any political, economic, or legal fallout from projects constructed in Spandau. The Spandau authorities announced that they would postpone action until they could acquire more information on effects of the plant. They ordered an environmental impact report and a report on economic necessity in order to double-check the BEWAG estimates upon which initial approval had been based.[16] The reports were delivered in November 1975. Both proved important in the ensuing political conflict over the plant.

The environmental impact report, produced by Professor Sukopp of the Institute for Ecology of the Technical University of Berlin, voiced serious reservations about the environmental soundness of plant expansion. Several protected forest and wetland areas would be negatively affected and others destroyed outright. The economic report, produced by Professor Schäfer of the Research Office for the Energy Industry (*Energiewirtschaft*), was more favorable to construction. Schäfer supported BEWAG's estimation that major expansion of capacity would be necessary in the near future. He estimated that electricity demand would rise by at least 5.5 percent annually.[17] Given West Berlin's status as an energy island, he recommended immediate construction. Efforts to create an energy network with Eastern Europe were in progress, but such a solution, assuming it proved politically feasible, would take more time to create than the 5.5 percent annual growth rate would allow. On the basis of the Schäfer figures and under the leadership of the senator for economy, the Senat announced that plant construction would begin immediately in order to avert a power shortage.

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16. Expert reports are generally requested by the responsible administrative branch and financed by the project applicant (in this case the utility). Experts are chosen either by the administrative branch or the utility. They tend to be strategically chosen—each branch has its experts, whose findings generally lie in the preferred direction. During this early stage of planning, experts were hard to come by, according to Reinhard Schröder of the Senat Administration for Health and Environmental Protection (interview by author, 1 July 1986).

17. This figure is based upon estimates of GDP growth. The Senat and BEWAG used this figure for their own calculations from then on. Schäfer was BEWAG's chief expert consultant.

In December 1975, BEWAG commissioned an expert report of its own from the federal Technical Inspection Association (TÜV) on expected SO_2 and NO_x pollution from the proposed plant. The report found the Oberhavel site less than ideal from an emissions standpoint. Plant emissions would directly affect a large portion of northern West Berlin. Furthermore, the site lay in an air traffic safety zone, where the stacks could not be built high enough to disperse emissions and ensure that city pollution levels would not rise significantly when the new plant went on line. On the basis of this report, as well as those from Schäfer and Sukopp, the Spandau authorities recommended that an alternate site also be considered for the plant: a site in the northern corner of Spandau in the little-used forest area near Oberjägerweg. During that same month, January 1976, BI Kraftwerk Oberhavel (Citizen Initiative [Bürgerinitiative] Oberhavel Plant, hereafter referred to as BI Oberhavel) was founded.

The Impetus for a New Social Movement

The Spandau authorities had reason to worry about political fallout from the project. While BEWAG and the Senat promoted energy expansion as a means to bolster the city's economy, they found that Spandau residents had quite another set of considerations. The economy/ecology conflict had become quite real to them. This was not the first large construction project a government had tried to rush through the approval process, and experience in West Germany was beginning to show that some of these had been ill-advised. Once they were standing, however, there would be nothing anyone could do.[18] In early 1976, when BEWAG was still smarting from negative publicity over its ill-fated heavy oil–fired plant at Lichterfelde, Spandau residents got wind of the impending project. The Senat's haste to begin construction aroused suspicions, especially of those who lived in the immediate area. The claims of an impending energy shortage did not seem to add up, given West Berlin's declining population and industrial stagnation. The environmental impact report predicted a devastating effect on the

18. Some of these now stand as monuments to government misinvestment. The fast-breeder at Kalkar, for example, had by 1986 far exceeded all cost estimates (DM 7 billion) and was denied its final approval when the government began to bow to political and economic pressure to get out of the nuclear industry. A commentator for *Der Spiegel* writes:

> That it could come to this flop, unique in economic history, the German polity can thank the arrogance of a small circle of technocrats and the state's fascination with the gigantic . . . The introduction of nuclear technology has had little to do with market factors; it originates from the pattern of thinking of a centrally administered economy. (*Der Spiegel,* 17 December 1984, 30)

local landscape. Individuals worried about the slipping quality of life in the city began to double-check BEWAG's information.

Not only did the Spandauers object to having a large plant built in their vicinity, they questioned also whether a new plant was necessary at all.[19] Many felt "planned to death;" to them, the Land's support of the project revealed that their government valued perpetual economic expansion over quality of human life. They feared that the Land's claims of necessity hid an interest relationship between itself and BEWAG, a relationship that was beginning to appear as a threat to residents' way of life. Citizens objected to the Land government's definition of the energy problem in solely economic terms, without regard for environmental quality of life. They saw industry and Land as a single block whose interests undercut those of the population as a whole. Unsatisfied with the reassurances they received from the utility and the Senat, and unable to reconcile these with the information in the literature, these Spandauers began in January 1976 to organize fellow residents against the construction. The initial meeting of interested individuals and groups took place on 12 February.

The decision to organize for grassroots protest followed a growing trend in West Germany. Citizen initiatives arose nationwide to challenge large state-sponsored industrial projects. In an early case, a large utility revealed in the 1960s its plans to build a 1,200 MW coal-fired power plant near the town of Voerde on the "green fringe" of the heavily populated Ruhrgebiet. Another large company announced construction of an oil refinery complex in the same area. Some two thousand people would have to be relocated because of deadly fumes from these facilities.[20] Local residents mobilized against the destruction of the last green fringe in the Ruhr area. Grassroots protest groups began to spring up throughout West Germany in reaction to such projects. These groups borrowed some of their mass mobilization tactics from the student movement of the late 1960s. In the mid- to late 1970s, protesters gathered en masse to block the construction of nuclear power plants. The antinuclear movement built a national following.

On 2 March, the Spandau District administration held an open meeting to discuss the Oberhavel project. It had not reckoned with the large crowd of interested citizens; in all, 150 people had to be turned away. More than 50 people attended the first membership meeting of the new BI Oberhavel shortly thereafter. Membership remained an informal concept throughout the BI's existence; every interested citizen could participate in its activities. But

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19. BI "Selbstdarstellungen," various, and BI Oberhavel, *Infoblätter* 1–3, spring 1976.

20. Günter Wallraff and Jens Hagen, *Was wollt ihr denn, ihr lebt ja noch: Chronik einer Industrieansiedlung* (München: Wilhelm Heyne Verlag, 1985), 56.

the group would need enough internal discipline to plan strategy and coordinate activities. At this first meeting, participants formed five permanent working groups: publicity, information gathering, strategy, press relations, and finance. They also formulated the following resolution defining the purpose and composition of the group:

> The Citizen Initiative "Oberhavel Plant" is a party-independent association of Spandauers and Berlin groups, clubs, and residents.
>
> It is the task of the BI to support the population in the fight against the planned giant power plant and to organize appropriate measures.
>
> The BI "Oberhavel Plant" is open to Berlin citizen initiatives, renters' initiatives, associations, clubs, parishes, and other groups, as long as these do not—openly or secretly—pursue party political goals.
>
> The BI "Oberhavel Plant" is not prepared to subordinate itself to any political party or organization.
>
> This resolution does not eliminate the possibility that members of diverse parties participate in the various groups or in the BI itself as individuals. The prerequisite is, however, that they hold back their party political interests.[21]

The BI thus tried to establish itself as the mouthpiece of the population at large, taking pains to avoid any ties to party politics. Parliamentary channels of participation existed—at both the district and Land levels, parliaments were officially involved in the approval process. But activists considered grassroots protest more effective and more legitimate than these institutional channels. From the beginning, BI documents reveal an underlying concern with the undemocratic nature of energy policy procedures. Many considered parliament more an obstacle to democracy than an agent of it. In an essay entitled "The BI Phenomenon: What Is Wrong with the Parliaments?" the West Berlin group explained its position:

> The elected officials . . . could equally well head the school or construction administrations, their own companies or the environmental agency, because the substantive decisions that would require expertise are made in any case by officials who are not popularly elected and thus not in any way controllable by the citizen . . . Decisive results can only be

21. BI Oberhavel, *Infoblatt,* no number, June 1976, 4. This resolution was also designed to prevent meetings from deteriorating into shouting matches between ideologically opposed groups, as often happened in broad protest movements encompassing a number of conflicting interests and ideologies.

> achieved when citizens join together and exercise massive political pressure on the government/industry alliance [*Filz*].[22]

The goals of the new BI were twofold. Its immediate task was to block construction of the proposed power plant. By organizing to prevent plant construction, activists also aimed to force government planners to take citizen values into account in formulating projects. BI members perceived themselves as helping to achieve the long-term goal of a democratic society in which citizen participation would be a vital part of government decision making. Their rhetoric reflects these dual aims:

> Our goal is the prevention of the plant construction. [Our] actions show that we want to inform and convince, and this by peaceful means. We are neither bound to a party nor radical—we are citizens who understand democracy in this way: the active participation and critique by citizens are necessary and moreover valuable for every government—[every government] should know what the citizen wants and how he stands on measures planned by the government.[23]

Although the founders of the group lived mostly in districts nearest the proposed site, they took pains to ensure that Oberhavel was understood as more than a "not in my backyard" issue. Their official slogan "Every new power plant in Berlin is a plant too many!" reflects this desire. Economy and ecology, stressed the group, must not be viewed as a trade-off; one would not necessarily have to suffer in order to ensure the health of the other. "There are healthier *and* cheaper alternatives" to plant construction, BI members claimed.[24] The group developed both environmental and economic arguments against the plant, which varied in importance at different stages of protest. At the beginning, claim early members, they were stressed equally.

BI members saw themselves as critical participants in technological society, neither rejecting technology outright nor accepting all technological advance as progress. Their objections were directed not so much against technology as against the form of policy making in which political decisions were formulated as technical imperatives and decision power was awarded according to technical expertise. The Senat touted its proposed solutions as the only possible ones. BI members wanted to develop alternatives to these

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22. BI Oberhavel, *Infoblatt* 23, October 1976, 6.

23. BI Oberhavel, *Infoblatt,* no number, June 1976, 3.

24. BI Oberhavel/Oberjägerweg, "Wir haben schon ein Jahr lang 'Geschichte' gemacht," in *Festschrift.*

proposals and to convince the populace to cast a critical eye on Senat decrees, to take responsibility for finding out what else could be done. Their formulation of the problem, and their conception of their own role as critical citizens, separated them from environmental movements of the past.[25]

The Oberhavel group pursued a strategy of mobilization through information. Activists sought to counter BEWAG and Senat arguments with technical arguments of their own. The crucial task of informing the public had begun even before the group was formally organized. The first flyers against the proposed plant appeared in February 1976, at a time when just a few interested Spandauers were holding informal meetings at a local gardening club. With its new organization (the five permanent working groups and a plenum), the fledgling BI could address itself to the formidable task of information gathering. Its members had already obtained the BEWAG construction proposal, the environmental impact reports, and other important papers. The group enjoyed the support of students and professors from the Technical University of Berlin, as well as other scientists and engineers. These "counterexperts" volunteered their time examining the information and explaining it to lay members. The group set out to publicize what members had thus far worked out: that the proposed construction was unnecessary and potentially both financially and environmentally disastrous.

Publicity was the life of BI Oberhavel. Financed entirely by contributions from supporters, the activists had set up information booths near Oberhavel, in the forest, and in downtown Spandau, where they distributed information and collected signatures against the construction. They printed information brochures that described the history and purposes of the BI, outlined Senat arguments in favor of the plant, and presented counterarguments. Here the BI experts proved invaluable by translating technical material into language the average Spandauer could understand. According to several BI interviewees, their biggest surprise was to find the issues more political than technical, and to discover that even the technical details were not beyond the comprehension of the average person. Obtaining technical information was a problem, interpreting it less so.[26]

From the expert reports already submitted, BI members gleaned relevant environmental information. Construction at Oberhavel would destroy part of West Berlin's limited recreational area: portions of Spandau Forest, the beaches and campsites on the northern banks of the Havel River, and

25. See discussion of early environmental groups in chapter 2.

26. Interviews by author with BI Oberhavel members Gudrun Strehmann (31 July 1986) and Egbert Herrmann (7 July 1986), and BI Energy Planning and Environmental Protection member Thomas Schwilling (11 November 1985).

the nearby nature protection area of Teufelsbruch would be rendered unusable. Upwards of thirty thousand trees would have to be felled for the project. BI Oberhavel was also (and primarily) concerned with air pollution from the proposed plant. West Berlin's dangerously poor air quality was already earning it a reputation as West Germany's "smog city number one."[27] SO_2 levels had already reached legal limits with the original 200 MW Oberhavel plant. Emissions from an additional 1,000 MW would push SO_2 levels far over those limits. Mercury and fluorine emissions, too, the group claimed, would present a problem if the expansion took place. The proposed plant would also worsen West Berlin's serious water pollution. Water used in the cooling process would be recycled into the Havel, raising temperatures and upsetting the ecosystem.

The Oberhavel group also challenged BEWAG's claim of an impending energy crisis. The demand figures, claimed BI members, were based on unrealistic growth projections. How can we extrapolate the growth we enjoyed in the 1960s into the future, they asked, when

> Forty percent of electricity use was in private households, and West Berlin's population was steadily sinking. By 1990, the population was expected to drop by five hundred thousand. Based on these figures, energy use in private households must also drop.
>
> Industry accounted for 30 percent of West Berlin electricity use, and energy-intensive manufacturing industry was declining. The Senat and BEWAG's industrial growth projections were unrealistically high.[28]

The activists calculated that at the rate of expansion BEWAG claimed necessary, several more 1,200 MW plants would have to be built within the borders of the city by 1990. "Then we would surely have more electricity than we could want in Berlin, but no more air to breathe and no space to live." BEWAG, claimed BI members, was motivated by economic gain and was therefore interested in encouraging as much energy use as possible. For those who had a stake in living in the city, however, another set of criteria must be used: "the economic and technical interests of a corporation cannot take priority over the preservation of our threatened environment."[29] The Senat would be of little help in curbing BEWAG, noted the BI, because of West Berlin's famed *Filz:* Senat and utility were as closely interwoven as

27. *Der Spiegel,* 25 February 1985, 91.
28. BI Oberhavel, *Infoblatt* 1, spring 1976.
29. Ibid.

the threads on a felt hat. These citizens thus perceived the Senat and BEWAG as conspirators against popular interests.

BI volunteers formulated a list of alternatives to new construction, which they promoted as both cheaper and environmentally more sound. Instead of shutting down old facilities and building large new plants in the forest, declared activists, BEWAG and the Senat should be formulating a comprehensive energy program. It should include modernization of existing plants, many of which were pieced-together remnants of prewar plants that could well use renovating. Further, they added, any new plant must be hooked up to a residential heating system (*Fernwärme*). The plans for expansion at Oberhavel did not provide for excess heat to be channeled to nearby residential areas. Nor had prospects for energy saving been explored. For example, better insulation in construction and more efficient firing methods would save a significant amount of electrical power. Research into solar and geothermal energy should also be initiated, and use of more environmentally friendly energy forms, such as gas, should be encouraged. Up to that point, the Land-owned gas utility had not entered the heating market at all. Since the Land owned all or part of both utilities, a more environmentally sound distribution of business between the two would not be hard to achieve. Finally, the BI urged that efforts to hook West Berlin to an East-West power net from the Soviet Union be redoubled.

BI Organization and Support

Members of the Protestant church played an important coordinating role in the antiplant movement from its inception. Two local pastors helped found the BI. A Protestant church affiliate, the Johannesstift, printed the group's flyers. The BI met regularly in Spandau churches, and, beginning that summer, local pastors helped lead walking tours to the proposed sites. On 24 February, several local church organizations participated in an informational meeting held by BEWAG and the Spandau District administration.[30] At this meeting, the church groups formally joined the opposition to the plant. They expressed the position that too many questions persisted for a responsible decision on the plant to be possible. The price—destruction of already limited living space—was too high.

Both Catholic and Protestant organizations and individual clergy members have exercised substantial influence on the West German citizen initiative movement. Church involvement helped mobilize communities around protest issues in the case of the Frankfurt airport expansion project and later

30. A description of the meeting appears in *Spandauer Volksblatt,* 4 March 1976.

at the proposed nuclear recycling facility at Wackersdorf.[31] West Berlin was no exception; Protestant pastors took part on both sides of the issue. Some parishioners took offense at the clergy's political involvement. The activist pastors stressed, however, that they were participating as concerned private citizens rather than representatives of the church. At least one church organization, the Johannesstift, had direct reason to join the antiplant protest. Its recreation center for the handicapped lay on the banks of the Havel next to the plant. If the expansion plans went through, the center would have to be closed.

As the year progressed, a core of about forty permanent activists, mostly local Spandauers, was joined by a steadily growing number of occasional participants. The BI met every Thursday; the permanent working groups discussed their activities in the plenum, the highest organ of the BI. Some groups of students, as well as scientists, artists, and attorneys, worked on special themes for the BI but did not attend the weekly sessions. The composition of the activist group gradually changed. Increasing numbers of young people participated, many of them university students, and the generally conservative founding members receded into the background, until some contributed only material support. The Johannesstift, for example, which had been active in organizing the group, continued to print BI flyers while its role in other activities diminished.

As membership changed, group organization changed also. The original five permanent working groups had by June shrunk to two, information/strategy/self-education and publicity/press. A "finance minister" took over the task of gathering and distributing funds. An elected coordinating committee took responsibility for formulating the agenda, setting appointments, and other procedural matters. Members exchanged information and passed resolutions at the Thursday meetings.[32]

Bureaucratic Coordination Problems

Energy planning in West Berlin faced some hurdles not found elsewhere. The air traffic safety zones covered much of the city territory, eliminating the possibility of dispersing emissions through high stacks. Population density in most of the city was too high to allow a large-scale energy project.

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31. For an analysis of the Frankfurt airport controversy, see Dieter Rucht, *Flughafenprojekte als Politikum* (Frankfurt a.M.: Campus, 1984), chap. 4; and Gottfried Orth, "Kirche für die Menschen: Die kirchliche Beteiligung am Widerstand gegen die Startbahn-West," in Orth and Podlech, *Testfall Startbahn West,* 45–85. For the Wackersdorf controversy, see Roman Arens, Beate Seitz, and Joachim Wille, *Wackersdorf: Der Atomstaat und die Bürger* (Essen: Klartext, 1987).

32. BI Oberhavel, *Infoblatt,* no number, June 1976.

The several existing plants in densely populated sections of the city could not be expanded because of space limitations. In the rest of West Germany, large plants were generally placed outside of population centers, but walled-in West Berlin had no such option. In addition, air quality in much of the city was too poor to legally allow the addition of new polluting industry.

Senat planners needed to find a site that avoided these pitfalls. Sparsely settled northern Spandau seemed the most viable option. If the plant were properly placed, the prevailing winds would blow emissions away from the heavily polluted inner city. Spandau also offered the necessary water source for cooling and railroad lines for transporting coal. During the spring, the Senat weighed the two sites that the Spandau District authorities had offered: Oberhavel and Oberjägerweg.[33]

Neither site was particularly close to densely populated areas, but Oberhavel was far more visible, and it lay directly across the river from the small residential areas of Konradshöhe and Tegelort. Oberhavel was thus more likely to draw fire from local residents. The Oberjägerweg site was along the Berlin Wall to the northwest of Oberhavel, surrounded by forest and grassland. Oberjägerweg lay outside the air traffic safety zones. Further, the steam cloud from the cooling tower would not impair visibility there as it would at Oberhavel. The problem with Oberjägerweg was that construction there would involve much higher loss of forest and plant life. A large area of forest would have to be cleared for the plant itself. Further, since no water supply or railroad lines existed there, supply and waste disposal systems would have to be built, bisecting the remaining Spandau forest area. Northern Spandau would be all but lost for recreational use.

Roads and supply and waste disposal lines already existed at Oberhavel. Economic authority Schäfer estimated that a plant at Oberhavel would be significantly cheaper to build. The major problem at this site was the higher likelihood of public objections. It was not clear at that time whether administrative courts would accept such objections; in any case, time would not permit extensive legal battles over siting. A nervous Senat wanted to prevent above all prolonged legal and political action against the plant.

Zoning presented another problem. Before a construction plan could be written, the site would have to be properly zoned. This involved a somewhat lengthy Senat approval process. The Oberhavel site belonged in part to Land Berlin, but part was the property of the Johannesstift, which had announced its refusal to sell. The state could expropriate the land, but this could require much time in court. The public land adjacent to the plant was designated forest area and would have to be rezoned for industry.

33. West Berlin Senat Resolution, 20 April 1976.

Although the Oberjägerweg site would also have to be rezoned (it was designated a nature protection area), it already belonged to Land Berlin.

In the late winter and early spring of 1976, attention focused on the district of Spandau. It was the district bureaucracy's responsibility to formulate the construction plan, which would contain the all-important decisions on where and how large the plant would be. After the bureaucracy had formulated the plan, it would be put before the district parliament, the assembly, for initial approval.[34] In late January 1976, the Spandau District Assembly created a working group, Oberhavel Plant, to inform itself before it was asked to vote on the construction.[35] The district assembly set itself an early April deadline for decisions on site and scale of the plant.

What the Senat had insisted be a conflict-free, speedy decision process began to break down in the spring. The Spandau authorities found themselves under pressure to make a quick decision, with no clear information upon which to base one and no clear idea what the Senat wanted. Experts commissioned by the Senat alternately recommended Oberhavel and Oberjägerweg. Little information was available from the Senat Administration for Health and Environmental Protection on the environmental aspects of plant construction.[36] BEWAG could not seem to decide how much capacity was needed by what date. Further, the resistance in Spandau was building with ominous speed into a protest movement with more at stake than the location of a power plant. The BI took every opportunity to corner the Spandau administration on the technical arguments that were being pushed by the Senat. With these conflicting pressures, and a growing distaste for what the Spandauers viewed as the Land's interference in their decisions, the district administration began to pull away from the Senat.

The district's confusion was due in part to the lack of coordination between Land-level bureaucratic authorities. The new Federal Immission Control Law dispersed responsibility for energy projects to various admini-

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34. Afterward, it would be routed back to the Spandau District Office and displayed for public comment for a month (during this time, BEWAG as well as citizens could offer suggestions and revisions). The district office would then send a revised edition to the senator for construction and housing. That completed, the district's role in the planning would be over, unless the senator rejected the construction plan. This almost never happens because of the informal involvement of all responsible branches of government as well as the utility at each stage of decision making (BI Oberhavel, *Infoblatt,* no number, June 1976, 26).

35. This group consisted of SPD district assemblypersons from the Committee for Construction (Bauwesen) and the Construction Plan Advisory Committee (Beratung von Bebauungspläne), the Municipal Council on Construction (Baustadtrat), the responsible Land-level legislators, and responsible members of the SPD Hakenfelde (*Spandauer Volksblatt,* 23 January 1976).

36. West Berlin authorities were slow to respond to the requirements of the 1974 Federal Immission Control Law and TA-Luft. Not until the 1980s was a sophisticated measurement network for air pollution established in the city.

strations,[37] and the Senat had yet to establish effective channels of communication between these authorities. The Senat Administration for Economy had attempted to operate as in the past, virtually ignoring the new powers of the Senat Administration for Health and Environmental Protection, for example.

Stung by its own inability to take decisive action, faced with conflicting evidence and the growing political divisiveness of the issue, the Senat temporarily halted planning in March to assess the evidence itself. To remedy the problems of interinstitutional coordination, a working group of five responsible bureaucratic administrations was formed under the leadership of the senator for economy.[38] The group promised to check the 5.5 percent figure for annual growth in energy demand, which had become central to the controversy over construction. Proceeding from this figure, the senator for economy had estimated that an additional capacity of 300 MW was needed by 1980 and 600 MW more by 1985.

The Senat working group was also handed the hot potato of recommending a site. Failure to come to agreement might force the authorities to scrap the initial plans and start over with new proposals and new expert reports. The working group's recommendations would not be binding, but the Senat hoped they would constitute clear guidelines for the district. It was an attempt to achieve a consensus that informal consultation and formal planning had failed to achieve.

On 20 April, the working group's final recommendations were announced in a Senat resolution.[39] The group proposed limiting the expansion to 600 MW, 300 by 1980 and a further 300 by 1982. Although it produced no final word on the site, the group was now considering three possibilities: Oberhavel, with its existing 216 MW plant, Oberjägerweg, with no plant as yet, and Ruhleben Meadow, where one 440 MW plant, Ernst-Reuter, already stood. The group proposed two alternatives:

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37. Weidner and Knoepfel, *Luftreinhaltepolitik*. See my discussion in chapter 2. Under the Federal Immission Control Law, both the Senat Administration for Health and Environmental Protection (SenGesU) and the Senat Administration for Employment and Social Matters (LafA) must give their approval to power plant projects.

38. These were the Administrations for Economy, Health and Environmental Protection, Employment and Social Matters, Construction and Housing, and Federal Matters. NonSenat participants included BEWAG, the Research Office for the Energy Industry Munich (Schäfer), a division (Water, Soil, Air) of the Federal Institute of Health, the Institute for Ecology of the Technical University of Berlin (Sukopp), and the federal TÜV (Egbert Herrmann, "Chronologie des Planungsablaufes" [n. d., photocopied]; and *Spandauer Volksblatt,* 16 March 1976).

39. Herrmann, "Chronologie des Planungsablaufes"; and West Berlin Land Parliament, transcript, 26th Session, 22 April 1976.

1. construct a 600 MW plant at a single site in northern Spandau (either Oberhavel or Oberjägerweg) while keeping the old Ruhleben Meadow plant on line; or
2. construct one 300 MW block in northern Spandau and two 300 MW blocks at Ruhleben Meadow, shutting down at least part of the old Ernst-Reuter plant in return.

The working group directed Senat experts to find out whether the second alternative would be allowable under the new Federal Immission Control Law. Senat planners had previously ruled out the Ruhleben Meadow site, partly because the Senat wanted to hold it open for a nuclear plant, but also because of emission problems. Ruhleben Meadow lay somewhat south of the other two sites and on direct line with the most polluted inner-city districts. According to the law, no further emissions could be allowed where ambient air quality already violated legal limits. The expert report, released during the summer, favored the first alternative. It concluded that the best plan would be to expand the Oberhavel plant to 600 MW (two blocks) and hook it up to a heating network for the district of Spandau. BEWAG's veto of this proposal again left the Senat without a consensus on the site.[40]

Senat uncertainty on the siting became more pronounced as pressure mounted to make a decision. One near-announcement and subsequent withdrawal followed another. The different authorities publicly contradicted each other. The confusion stemmed from two interrelated problems: lack of technical information and institutional fragmentation. It would have been difficult in any case to obtain the necessary information to comply with the new laws, but time pressure exerted by the senator for economy, who declared a state of "planning emergency" based upon the 5.5 percent growth estimate, exacerbated the problem. An interviewee in the Senat Administration for Health and Environmental Protection complained that the various expert branches were simply given no time in which to produce studies that would allow them to make firm recommendations.[41] They were forced to

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40. BEWAG had not planned to hook the Oberhavel plant to a heating network. The utility shot back a reply: 600 MW at Oberhavel would in fact produce enough energy to heat fifty thousand homes. But because of the long transport distance from Oberhavel, the costs would be too high. BEWAG would only be able to construct a heating network if the Senat paid for the line (DM 60 million) or if it dropped the requirement to build a desulfurization device on the plant (*Der Tagesspiegel,* 15 July 1976). The Federal Immission Control Law allowed no exceptions, however—this was explicitly to eliminate the possibility that industry would try to avoid supplying pollution control equipment on the basis of economic cost (see Gabriele Knödgen, "The STEAG Coal-Fired Power Plant at Voerde," Discussion Paper 81-11, Wissenschaftszentrum Berlin, 1981, 18). There would be no bargaining on pollution control.

41. Schröder, interview.

do what they could with the limited technical information available from BEWAG because this "emergency" did not allow them time to generate the studies themselves.

The structure of the planning process worked against bureaucrats' ability to reach a decision and thus damaged their legitimacy. Despite the existence of the interinstitutional working group, the Senat had difficulty coordinating the efforts of the various branches now involved in energy policy making. Previously, the support of the Energy Department (under the senator for economy) had sufficed to ensure approvals from other Senat branches. The Federal Immission Control Law, however, gave a more substantive role to these other authorities. In addition, although citizens remained shut off from the bureaucratic centers of decision making, BI pressure focused public attention on the lack of coordination between the different authorities. The increasing complexity of the approval process nullified the senator for economy's efforts to streamline decision making by declaring a state of emergency. And the Spandau authorities' recalcitrance, accompanied by mounting grassroots opposition, exacerbated the problem.

The siting controversy also became a partisan issue, placing increasing strain on interparty relations. The SPD's Land-level coalition partner, the FDP, sought to distance itself from the potentially damaging political consequences of the issue. In May, the party announced its rejection of the 600 MW expansion the Senat had proposed, stating that a plant that large would put too much "strain" on the environment in Spandau. Furthermore, the FDP would agree only under certain circumstances to even a 300 MW expansion of Oberhavel. The Senat's efforts to produce consensus began to unravel. The Land-level SPD stood increasingly alone.

Of the two sites, Oberhavel received the most outspoken support, if only as the lesser of two evils. In June, Professor Sukopp, who had written the environmental impact report for the Spandau District administration, submitted a cost-benefit report comparing the two sites.[42] Sukopp concluded that Oberjägerweg would be a poor choice, and he expressed severe ecological reservations about Oberhavel as well. West Berlin environmental agencies and organizations uniformly opposed Oberjägerweg, maintaining that Oberhavel would be the only plausible site from the standpoint of environ-

42. Besides his affiliation with the Technical University of Berlin, Sukopp was the Land authority for nature protection under the Senat Administration for Health and Environmental Protection. His report stated that building the plant at Oberjägerweg would involve the loss of more forest recreational area, not only for the plant site itself, but also for transport of coal and water, cable for heating, and roads. Oberhavel would be expensive, Oberjägerweg more expensive.

mental protection.[43] And in July, the Senat Administration for Health and Environmental Protection announced its support of Oberhavel.

Expanding the Issue—Mass Mobilization

The BI opposed any further energy expansion, and members tried to convince the populace that arguing over the site obscured the real issue of whether a plant should be built at all. Activists generated evidence against both proposed sites. They attacked the Senat claim that a plant on Oberjägerweg could be hidden from view. A scale model of the plant showed that the cooling tower would dwarf the treetops the Senat claimed it would "lose itself" among.[44] Despite BI admonitions, several of its supporting groups did become involved on different sides of the siting issue. Foresters expressed concern about Oberjägerweg; construction there would cause greater loss of plant life than at Oberhavel. They argued that if the plant had to be built somewhere, it should at least not be in the middle of Berlin's healthiest forest. Northern Spandau residents, however, tended to prefer Oberjägerweg because it was farther from residential areas of the district.[45]

In addition to their extraparliamentary activities, BI members tried to pressure the local parliament into opposing the plant. In mid-June they presented the Spandau District Assembly with a petition against the plant signed by fifteen thousand citizens.[46] Two weeks later, the list had grown to twenty thousand. The proposed plant had become a daily topic of conversation and media coverage in Spandau. Several high-profile BI activities, such as a "tree adoption" at the Oberhavel site, had received strong public support. The group also met with Senat and Spandau government representatives at every opportunity, often frustrating expert planners with precise technical questions.[47]

Thus far the BI had pursued a strategy of public mobilization through information, attacking the proponents' technical claims with technical claims of their own. Particularly important was the 5.5 percent figure for annual

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43. In April, the Berlin Action Center for Environmental Protection (Aktionszentrum für Umweltschutz) announced its opposition to the site, citing the concurring positions of the Land Office for Nature Protection and Landscape Maintenance (Landesstelle für Naturschutz und Landschaftspflege) as well as the Land Forest Office (Landesforstamt) for support (*Der Tagesspiegel,* 10 April 1976).

44. Strehmann, interview; Herrmann, interview.

45. *Spandauer Volksblatt,* 4 March 1976.

46. *Spandauer Volksblatt,* 17 June 1976.

47. The *Spandauer Volksblatt* gives an account of a March 1976 meeting at which well-informed citizens questioned authorities on SO_2 emissions, dust, and mercury.

increase in demand. Without it, the Senat could not make a good case for immediate construction. Evidence was mounting that the 5.5 percent prediction was not as concrete as BEWAG and the Senat claimed. BEWAG had scaled down its immediate expansion plans from 1,200 MW to a mere 300 and had hedged on construction after that, while still stubbornly clinging to the 5.5 percent rate. The numbers did not add up. At this stage of planning, the BI could take few legal steps to halt the process. Supporters attempted instead to stir up enough doubt to delay the process until more evidence could come in, evidence the BI was certain would strengthen its case.

As successful as the BI was at organizing protest in Spandau, the real turning point was its growth into a citywide movement with ties to other citizen action groups in West Berlin and beyond. BI Oberhavel enjoyed the declared support of many West Berlin initiatives and organizations.[48] Together these groups built a communication and support network that persisted after the initial decision. This network would form the basis for many later citizen projects and the foundation for the Alternative List, a voting list created in 1978.

BI Oberhavel also established contact with citizen initiatives outside West Berlin. These contacts had the effect of broadening the issue from protest against a single plant to a more general critique. The efforts of other West German protest groups, especially those against nuclear power, proved instructive. On 22 April the BI showed a film about farmers' successful resistance against the proposed nuclear power plant at Wyhl in the Black Forest. Members of the older antinuclear groups began to serve as advisors to the BI. Later that summer, the group invited the chairman of the nationwide Association of Citizen Initiatives for Environmental Protection to address a rally.[49] These mutual contacts helped promote nationwide solidarity among citizen initiative groups. Experiences could be exchanged, strategies

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48. West Berlin groups announcing their support included

1. Interest Association Rust, an umbrella organization founded in 1950 of various associations in an area of Hakenfelde, near the proposed site (*Spandauer Volksblatt,* 6 March 1976)
2. Foresters (*Spandauer Volksblatt,* 4 March 1976)
3. Association for the Protection of Trees (Gemeinschaft zum Schutz des Baumes) (*Spandauer Volksblatt,* 15 February 1977)
4. BI Neustadt (ibid.)

The BI Oberhavel information sheet also lists supporting groups as of mid-April 1976 (*Infoblatt,* no number, June 1976, 2).

49. Chairman Wüstenhagen. Together with Wüstenhagen, BI members produced a resolution at this meeting calling on the Spandau District administration to vote against the planned construction (BI Oberhavel/Oberjägerweg, *Festschrift*).

mutually planned, outside support for local actions mustered. Perhaps more importantly, these contacts brought the underlying legitimation issue to the surface. The nationwide movement united, as Habermas notes, around a critique of growth. Initiatives against nuclear power and airport projects, senior citizens' and renters' initiatives, and many more found they shared an opposition to the state's mentality of continuous economic expansion, a mentality whose time, they claimed, had passed. They also shared an opposition to bureaucratic policy making and a corresponding commitment to grassroots democracy; different groups had experimented with many alternative forms of decision making. One author sums up the early activity this way: "at this time many citizen initiatives appeared, whose demand for an open, flexible and need-oriented politics went hand in hand with grassroots democratic egalitarian and transparent forms, as a necessary corrective to the rigid structures of parties and administration."[50]

The Spandau Decision: District vs. Land

In the face of grassroots pressure and Senat disagreement, the Spandau authorities prepared their siting decision. At its 22 May meeting, the governing Spandau SPD indicated that the SPD-led district assembly would approve a 300 MW expansion of the Oberhavel plant only. It was a potentially explosive decision. 300 MW was less capacity than any of the proposals the SPD-led Senat had considered. It was in effect a rejection of the Senat's 5.5 percent growth projection by its *own* local party. If that projection were accurate, a mere 300 MW would leave West Berlin with a disastrous undercapacity. But the local party found it necessary to respond to growing fears that the project would damage the district both environmentally and politically. The SPD's choice was controversial even within the district. Sentiment in Spandau, however, was that the party had not gone far enough in its rejection of Senat and BEWAG plans.[51]

The Spandau District Assembly's approval of the Oberhavel expansion came with a list of conditions that attested to the success of the BI activists in bringing environmental issues to the fore. The district assembly stated that it would commission an environmental impact report for the site and would drop the planning if this report indicated that the construction would

50. Bühnemann, Wendt, and Wituschek, *Die Alternative Liste Berlin,* 52.

51. On the same day, the local church synod spoke out against Oberhavel on the grounds that it would cause an unjustifiable environmental burden. The SPD Young Socialists of Spandau announced their support of BI Oberhavel in opposing any new plant, even if this position would lead to intraparty problems (*Spandauer Volksblatt,* 15 May 1976). In June, an SPD district assemblyman stepped down because of his party's stand on the plant (*Spandauer Volksblatt,* 22 June 1976).

violate environmental laws. Further, the Land and BEWAG would be required to install desulfurization equipment on the plant, to hook the plant to a residential heating network, and to ensure that the construction would not affect the water table.[52] The district administration and the district assembly gave their final approvals, and in July 1976 Spandau sent the revised construction plan proposal with the 300 MW limit to the Senat. Spandau had made its decision. It was now up to the Senat to go along with less capacity than it had wanted or to try to force its hand with district decision makers.

The Senat's response indicated that it had no intention of bowing to citizen opposition or the wishes of the Spandau authorities. On 13 July, Senator for Economy Lüder released an overdue *Senat Report on the Berlin Energy Supply* that supported a 1,200 MW expansion.[53] The Senat continued to base its need calculations on the 5.5 percent annual growth rate; the senator for economy claimed this was the absolute minimum growth that could be expected.[54] Using this rate, the Senat concluded that the first 300 MW must go on line at Oberhavel by winter 1980–81. Without it, reserve capacity would fall to a dangerously low 6.3 percent, not enough to cover a sudden unexpected jump in demand that might occur during a particularly harsh winter. A second 300 MW must follow in winter 1981–82. As for the siting alternatives, the Senat continued to favor the northern sites of Oberhavel and Oberjägerweg over Ruhleben Meadow.

By this time local industry was openly pressuring the Land to get on with the project. The West Berlin Chamber of Commerce, in a statement to the press, demanded from the Senat "an authoritative and speedy realization of solutions to cover the energy demand for West Berlin, as they are provided for in the Senat energy report."[55] The Chamber of Commerce proceeded from an even higher estimate of annual increase in demand, 6.5 percent. This rate would make a 1980 opening of the plant essential, which in turn would mean that the construction plan would have to be approved within the next few months.

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52. Herrmann, "Chronologie des Planungsablaufes," 132.

53. West Berlin Land Parliament, Document 7/563, *Bericht über Stand und Perspektiven der Energieversorgung des Landes Berlin,* 3 September 1976. A draft had already been approved by the senators for health and environmental protection and for economy as well as BEWAG and the Land-owned gas company, GASAG. The report stated that expansion was necessary, especially since the attempts to link Berlin to an East-West power net (Königsberg-Kaliningrad Stromverbund) had failed.

54. BEWAG calculated minimum safe reserve capacity at 17 percent. At this same time, BEWAG published its annual business report for 1975–76, which used an even higher expected growth rate of 5.9 percent.

55. Herrmann, "Chronologie des Planungsablaufes," 133.

New Legal Avenues for Citizen Protest

On 7 July, the Münster Administrative Appeals Court handed down a decision that changed the character of the West Berlin conflict. The so-called Voerde decision clarified the plant-licensing procedure under the Federal Immission Control Law. The law required that a pollution source be constructed and operated in such a way that the public was not adversely affected.[56] Specific administrative guidelines and standards were contained in the TA-Luft. The law stipulated that administrative authorities could issue a permit for new, polluting industry only if the TA-Luft conditions could be met. In the Voerde case, an individual living in a highly polluted area claimed that a power plant project for which the state had issued permits would affect him adversely by raising pollution levels above the allowable TA-Luft limits. The utility had offered to reduce pollution from other area plants and to raise the height of the stacks so that net pollution would not increase. Backed by popular protest, the plaintiff convinced the court that plant emissions would still worsen air quality in his neighborhood. The court nullified the permits. Moreover, the court ruled that heightening stacks or undertaking overdue repairs on old facilities would not constitute acceptable offsets for a new pollution source. A plant project was halted on the basis of litigation brought by a single plaintiff.

Utilities throughout the Federal Republic were up in arms. This decision had wide-ranging implications. First, individuals who could show they would be damaged in some way could bring a large project to a halt, regardless of economic factors that spoke for construction. The decision expanded the notion of adverse effects from a facility to include quality of life, not just economic factors. It thus gave individuals a much better chance of pressing successful litigation against a polluting facility. Second, the court interpreted the values in the TA-Luft as guidelines rather than rigid limits. The level at which pollution presented "dangers, considerable disadvantages, or inconvenience to the general public" would now be open to the scrutiny of the administrative courts in each individual case. Obtaining a permit from an administrative agency would no longer guarantee a project's construction. Third, the Voerde decision showed that "high-smokestack politics" would no longer be tolerated in West Germany. Wherever plant emissions eventually landed, someone's rights would be violated. The court left utilities no choice but to clean up. Industry spokespeople estimated that this decision would in effect delay construction projects by an average of two years. Even though the Voerde decision was eventually overturned by the

56. BImSchG, pt. 2, sec. 1, "Genehmigungsbedürftige Anlagen." See also Knödgen, "STEAG Power Plant," 14, 21.

Federal Administrative Court in 1978, it opened the way for a slew of environmental suits against large projects throughout West Germany.

In West Berlin, the Voerde decision caused some fast reshuffling of strategy on both sides of the plant-siting controversy. The Senat expressed new reservations about Oberhavel and especially Ruhleben Meadow. The Ruhleben site was closer to residential areas, and its emissions were in direct line with several densely populated districts. Given BEWAG's and the Senat's conviction that the plant must be built without delay, the new possibilities for citizen suits presented a grave problem. There would be two major application procedures for the plant (one based on construction law and the other based on environmental law) and myriad smaller decisions, all of which included provisions for citizen participation. Although these provisions were limited largely to opportunities to express technical and procedural reservations at hearings, they could nevertheless delay the project significantly.

The Senat was loath to give up the option of dividing the new capacity between two sites and thus making the expansion less noticeable. But in the end, Senator for Economy Lüder announced that Ruhleben Meadow was no longer under consideration: "the experts voiced serious misgivings about a plant expansion at the inner-city Ruhleben Meadow site... They agreed that additional capacities, in view of the present air pollution in this area, are not possible."[57] From the standpoint of air pollution law, Oberjägerweg looked like the optimal site. It was far enough away from residential areas that direct damage to individuals would be difficult to prove.[58] There were, however, legal problems with Oberjägerweg as well. Parts of the site fell under nature protection laws, which forbade construction. This fact would return to haunt the Senat later.

The decision to eliminate Ruhleben Meadow from consideration was critical for the Spandau authorities. It meant that all future expansion must take place in the northern part of the district. The district administration had already unequivocally rejected any expansion over 300 MW and was busy working out a construction plan for this capacity at Oberhavel. The battle lines were beginning to sharpen, with the Spandau policymakers lining up against the Senat, albeit for very different reasons than the BI.

The Voerde decision opened new legal possibilities for the BI. Because of wind direction and meteorological factors, chances were good of finding

57. West Berlin Senat, Vorlage 782/76, April 1976, quoted in Egbert Herrmann, "Chronologie Kraftwerk."

58. Individuals must prove direct damage in order that the complaint be accepted by the court. Class action suits were not provided for in West German law (Herrmann, "Chronologie des Planungsablaufes," 134).

suitable plaintiffs no matter where the plant was sited. In addition, changes in the Federal Construction Law and the Administrative Court Regulations, set to take effect 1 January 1977, would provide further opportunities for citizen participation. Under the revised Administrative Court Regulations, the construction plan would be subject to administrative court review.[59] It would now be possible for citizens to challenge directly the validity of a construction plan in court. The revised Federal Construction Law also contained expanded provisions for citizen participation. The BI had started a legal fund and had retained a lawyer. The group would need to stall construction long enough for the new legal measures to take effect. Members raised the possibility of a site occupation. This was a risky strategy; violent outbreaks would be hard to avoid, as current antinuclear protests amply demonstrated.[60] But as a last-ditch attempt to stop construction, it might work. By mid-May 1976, BI Oberhavel already claimed about five thousand members.[61] Enough people could be mobilized to at least threaten the Senat with site occupation.

As a Senat decision became imminent, the foresters expressed increas-

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59. The new Federal Construction Law contained expanded provisions for citizen participation, including a two-month display period and mandatory replies to written objections (Jürgen Dalhaus, Senat Administration for Urban Development and Environmental Protection [formerly Health and Environmental Protection], interview by author, 19 August 1986). An accompanying change in the federal Administrative Court Regulations would allow broader citizen participation in construction planning (VwGO, art. 47 [review of standards]). Up to this point, there had been no means for citizens to challenge the legality of a construction plan. At best, they could mount an indirect challenge by filing a complaint in administrative court against a construction permit after the permit was issued. These complaints could only be considered once the petitioner's rights had actually been damaged by issuance of the permit. Damage was very difficult to demonstrate and made the kind of objections the BI had virtually impossible to raise under construction law.

The revised law, however, allowed any citizen who could show that he or she would suffer a "disadvantage" from the project to file a complaint against the construction plan itself. Not only did this broaden the range of complaints that could be filed to include environmentally based ones, it also caught the process at an earlier phase. The construction plan approval process precedes applications for individual building permits and can be brought to a halt through a single complaint under the revised law. Even without a construction plan, the revised law could be used as the basis of a case against any preparations for construction. In light of these facts, BEWAG and the Senat were particularly interested in avoiding writing a construction plan at all and in getting construction underway before anyone had a chance under the law to file a complaint (review of standards discussed in West Berlin Land Parliament, transcript, 39th Session, 28 October 1976, 1603; and Eckart Scharmer, Institute for Urban Studies Berlin, interview by author, 23 July 1986).

60. See Dieter Rucht, *Von Wyhl nach Gorleben: Bürger gegen Atomprogramm und nukleare Entsorgung* (München: C. H. Beck, 1980); and Nelkin and Pollak, *The Atom Besieged.*

61. *Spandauer Volksblatt,* 16 May 1976.

ing uneasiness about the choice.[62] At a special meeting of their union, forestry employees declared that "every power plant is harmful"; no matter which site was chosen, the environmental burden would be intolerable. The foresters were particularly worried that the siting choice might fall to Oberjägerweg. They were not alone in their fear. The Spandau daily published an open letter, signed by many local groups, explaining why choosing the Oberjägerweg site would be a "catastrophe" for the Spandau Forest recreational area.[63] The lines were drawn. The participants awaited the Senat decision.

The Senat Decision

As the 11 October deadline neared, tension between the Land-level parties in the Senat and parliament erupted into open conflict. The immediate choice was 300 MW at Oberhavel or 600 MW at Oberjägerweg. In August, the FDP resolved to support the Oberhavel site and to strengthen its publicity efforts to this end. Governing Mayor Schütz (SPD), who favored Oberjägerweg, quickly called a confidential meeting to avert a split in the SPD-FDP governing coalition.[64] At this meeting, the SPD representatives argued that on the basis of environmental protection, a 600 MW plant at Oberjägerweg, expandable to 1,200 MW, would be the best choice. Excess heat from the plant could be piped to fifty thousand homes, the stacks would be outfitted with more effective filters, and because of the allowable stack height at that site, the emissions would be better scattered than at Oberhavel.

On 23 September, the Spandau daily reported that the power plant question was indeed splitting the coalition partners.[65] The FDP had taken offense at Schütz's endorsement of Oberjägerweg, which came after Senator for Economy Lüder of the FDP had expressed his support for Oberhavel. Schütz made the decision for Oberjägerweg sound like an accomplished fact. Not wanting to be publicly one-upped, the FDP dug in its heels for

62. On 26 September, Professor Sukopp published another comparison of the two sites, stating in no uncertain terms that Oberhavel would be a mistake, Oberjägerweg a catastrophe. Foresters also based their claims on experimental evidence from a "wind rose," which showed the normal variation in wind direction and resultant direction of the plume from a plant at either northern Spandau site. The wind rose indicated that almost no part of Berlin would be spared the ill effects of a new Spandau plant (*Spandauer Volksblatt,* 5 October 1976).

63. *Spandauer Volksblatt,* 12 October 1976. These groups included West Berlin university professors, forest conservationists (*Baumschützer*), the Union for Horticulture, Agriculture, and Forestry, the Nature Protection Society (Naturschutzbund), the Voters' Association of Independent Citizens (Wählergemeinschaft unabhängiger Bürger [WUB]) of Zehlendorf District, and BI Oberhavel.

64. A report of this meeting appears in *Der Tagesspiegel,* 1 September 1976.

65. *Spandauer Volksblatt,* 23 September 1976.

Oberhavel. The FDP delegations at the local and Land levels were unanimous in their opposition to the Oberjägerweg site. Oberhavel, the FDP argued, would cause less environmental damage and would be significantly cheaper to construct.

The Spandau CDU, meanwhile, maintained that the plant should not be built in Spandau at all, but rather in Zehlendorf to the south. The local CDU parliamentarians would give their approval to 300 MW at Oberhavel only if an expert report could be produced to show that it was the only feasible site. Oberjägerweg was out of the question, the party claimed. The CDU by no means opposed energy expansion. On the contrary, the party had badgered the SPD-FDP coalition for a year to hurry up and expand to 1,200 MW but had taken no clear stand on siting.[66]

As the decision date neared, Governing Mayor Schütz scrambled to close the rift between the parties. A 5 October meeting with Senator for Economy Lüder produced no change in the standoff. A 6 October Senat Coalition Committee meeting adjourned without agreement and the following day again achieved no results.[67] The committee agreed to meet one more time before the deadline. If the coalition partners failed to agree, FDP spokesmen hinted that the party, to avoid jeopardizing the coalition, would defer to the greater strength of the SPD. A decision *would* be announced, claimed Schütz, on 12 October.

An 8 October tour of both sites by Senator for Economy Lüder (FDP) and Senator for Construction and Housing Ristock (SPD) brought the two party leaders no closer to agreement. Lüder claimed that this walk reinforced his conviction that the better arguments were for Oberhavel.[68] The SPD, continued Lüder, had a mental block about building such a big plant on the shores of the Havel, where it would be visible to many. But environmental considerations, he continued, echoing the foresters' position, weighed in favor of Oberhavel. Ristock and the SPD, however, were equally firm in their position that environmental factors weighed in favor of Oberjägerweg.

On 12 October, against the opposition of the three FDP senators, the Senat passed a resolution in favor of Oberjägerweg. Although both sides had used environmental arguments to justify their siting preferences,[69] other

66. The CDU wanted 1,200 MW by 1985–86 (Erklärung des Landesvorstandes und Fraktionsvorstandes der CDU im Abgeordnetenhaus). Then, at a presentation by the Berlin CDU Forum on Environment, CDU environmental spokesman Peter Boroffka claimed that the party was against a new plant altogether (*Spandauer Volksblatt,* 5 March 1976).

67. *Spandauer Volksblatt,* 7 October 1976.

68. *Spandauer Volksblatt,* 9 October 1976.

69. The Senat cited several environmental reasons for its ultimate choice, including noise, air pollution control, and what Lüder claimed was the main difference, the influence on recreational area and proximity to residential areas. Being farther away from town, Oberjägerweg

factors sealed the case for the Land-level SPD and Oberjägerweg. Among them was an 8 October letter from Spandau mayor Kleusberg (SPD): "in this letter the position was unmistakably expressed that the Spandau District authorities would under no circumstances approve construction of more than 300 MW at Oberhavel."[70] The struggling SPD could not afford a major policy failure.

Perhaps the most compelling reason for choosing Oberjägerweg was the desire to avoid legal entanglements that could delay the project. An immediate construction start was of paramount importance to the Senat. If the 5.5 percent figure for growth in demand was accurate, the Senat and BEWAG would have to act quickly to get a new plant on line. The Voerde decision would encourage individuals to file complaints on the basis of the Federal Immission Control Law. Because fewer people would be directly disadvantaged in the legal sense by a plant at Oberjägerweg, this site would relieve the Senat of some of the burden of answering citizen complaints. In addition, if construction began before January, BEWAG and the Senat reasoned, they would not be required to comply with the new citizen participation provisions of the Federal Construction Law. Experience showed that administrative courts were reluctant to stop projects already under way. The Senat and BEWAG declared a state of planning emergency and scheduled the clearing of the forest at Oberjägerweg for December 1976.[71]

Although the FDP had voted against Oberjägerweg, the SPD-FDP coalition remained intact. The tension between the Senat and the Spandau District authorities would be more difficult to ease. The site decision put the district back at square one. On the previous recommendation of the Senat, the district had written a construction plan (albeit for less capacity than the Senat wanted) for Oberhavel. The process would now have to be reinitiated for Oberjägerweg. The Senat had nullified the district's decision on the plant and now needed its cooperation. District authorities had already announced their refusal to consider any site other than Oberhavel and any capacity greater than 300 MW. The Spandauers could decline to initiate a construction plan process for Oberjägerweg, thus buying time for the opposition.

The Senat had already offered certain "sweeteners" to the district in order to persuade the assembly to go along with the Oberjägerweg site. These included a proposal to tear down the old Oberhavel plant and convert

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enjoyed an advantage in all these areas. This explanation was given at the delayed presentation of the Senat energy report to parliament (West Berlin Land Parliament, transcript, 39th Session, 28 October 1976, 1607–08).

70. *Der Tagesspiegel,* 13 October 1976.

71. BEWAG and the Senat agreed that the first block must go on line in the winter of 1980–81 and the second in 1982–83; no further delays could be tolerated. Herrmann, "Chronologie des Planungsablaufes."

the site to a public beach. Now the Senat added an eight-point program of local improvements to the offer, some of which it had long promised but failed to act upon.[72] If Spandau remained obstinate, the Senat could try to proceed without a construction plan and thus leave the district assembly out of the process, on the grounds that "energy supply has highest priority."[73] This step proved unnecessary, however. On 22 October, the Spandau SPD voted in favor of Oberjägerweg.

The Senat had compelling reasons to try to proceed without a construction plan regardless of the district assembly's position. Before the plan could be formulated, the site had to be rezoned. Both processes, zoning and approval of the construction plan, however, mandated public display and comment periods that could delay construction. The Federal Construction Law contains a clause allowing exemptions to these procedures in emergency situations where the deviation can be justified on grounds of city planning and where the essential aspects of planning are not affected.[74] The impending energy shortage, claimed the senator for economy, constituted such an emergency situation. The public welfare and very survival of the city depended on a secure energy supply; securing this energy supply could claim priority over all other legal considerations.[75] In mid-November, BEWAG applied to the senator for construction and housing for exemptions from the laws against felling trees in forest areas and from the construction plan requirement. Senator Ristock voiced his intention to approve the construction plan exemption "in light of the well-known energy situation and on grounds of the public welfare."[76]

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72. *Spandauer Volksblatt,* 22 September 1976; and 13 October 1976.

73. In cases of emergency the higher Land authority can preempt or override local decisions under provisions for exemptions in the Federal Construction Law. The Senat, on the grounds of an energy emergency, had expected to use a shortened approval process for the plant, under which construction could begin without a construction plan having been completed. On legal grounds and due to fierce opposition from the district of Spandau, however, this scheme was unlikely to work for the Oberhavel site. Instead, the Senat wanted to try it for Oberjägerweg.

74. BBauG, art. 31, par. 2, alternative 2.

75. The Senat found an old statute by which it hoped to circumvent both procedures. Before the Federal Construction Law was passed in 1960, zoning had followed the construction-use plan (*Baunutzungsplan*). Whereas the land-use plan classified Oberjägerweg as "nature protection area," upon which construction is forbidden, this older plan classified Oberjägerweg as "forest area," which under certain circumstances can be denuded. The Land could win permission to build by applying for exemptions from the two nature protection laws (one Land-level, one federal) that forbade felling trees in forest areas. The exemption procedures required no public participation. Therefore, if the Land could claim that the old construction use plan represented a transitional construction plan, it could avoid the citizen participation clauses in the newer laws (Scharmer, interview).

76. Herrmann, "Chronologie Kraftwerk," 4.

The Senat's declaration of emergency powers left all subordinate authorities unable to exercise veto rights on the project. According to the *Spandauer Volksblatt,* "the entire responsibility for Project Oberjägerweg now lies with the Senat... All subordinate offices are now acting 'on orders.'"[77] The Senat's declaration of emergency powers would not, however, allow it to circumvent the permit process mandated by the Federal Immission Control Law. The utility would have to file permit applications for the plant building and the cooling tower.[78] With citizen litigation a virtual certainty, BEWAG and the Senat wanted to deforest the site before the air pollution permit process began and bank on the administrative courts' unwillingness to stop a project already in progress.

The Senat also took steps to repair its ailing reputation among the public and its government colleagues. It launched a massive media campaign through the Land Press and Information Office in support of the Oberjägerweg site, purchasing several-page spreads in local newspapers and collecting endorsements from various prominent figures in government and industry. Decisive action at Oberjägerweg could repair the legitimacy of Senat policy making. The project would become a test of the West Berlin government's ability to govern and, perhaps more importantly, of the bureaucracy's *right* to plan.

Conclusion

The structure of energy policy making in West Berlin recalls Weber's theory of the separation of bureaucracy from politics. The key early planning decisions were reached behind closed doors by government and industry. These two were closely connected, since government owned most of the utility and the utility provided the government with the technical information necessary for planning decisions. Parliament, and therefore the electorate itself, was left largely out of the process.

The Senat supported energy expansion as a means to attract industry and bolster the city's economic health. At the same time, the 1974 Federal Immission Control Law put the Senat in charge of solving West Berlin's severe air pollution problem. The public outcry over the Spandau energy project exacerbated the tension between these two roles. As governmental disunity over the siting decision grew, Senat leaders viewed the problem

77. *Spandauer Volksblatt,* 4 November 1976.

78. These permit applications were filed with two different bureaucracies: the Land Office for Worker Protection and Technical Safety, under the senator for employment and social matters, was responsible for the plant building (including the combustion plant), and the Senat Administration for Health and Environmental Protection was responsible for the cooling tower (Herrmann, "Chronologie Kraftwerk," 4).

increasingly in terms of conflict management, attempting to limit the disagreements by restricting participation in the planning process.

BI Oberhavel, on the other hand, defined the problem in terms of participation. The group reacted against both the project itself and the technocratic form of government policy making that produced it. The protest transcended the realm of policy and became a legitimation problem in that citizens perceived industry and state as a single impenetrable system whose intervention in their lives appeared as a threat. The plant represented to them the dominance of economic and bureaucratic interests over the environmental quality of life of the populace, in much the way Habermas claims. Industrial expansion and bureaucratization threatened the individual's unspoken connection to the community by destroying the physical environment and by promoting economic interests and bureaucratic form that were both foreign to community life.

The Senat and BI's different definitions of the problem led them to take actions that exacerbated the conflicts between them. As Offe predicts, both bureaucracy and citizenry retreated from the parliamentary bridge that officially linked them. Activists, noting the negligible role of parliament in energy policy making, pursued a strategy of extraparliamentary grassroots protest to confront policymakers directly. The Land government, faced with demands from both the utility and protesters, tried to withdraw from the parliamentary and citizen-participation provisions of the law, on the grounds that energy demand made large and rapid expansion imperative. This action reinforced BI claims that the process was undemocratic. In addition, interinstitutional coordination problems, in part the result of legal changes and poor distribution of information between Senat branches, damaged Senat credibility and strengthened the citizen movement. The Senat could not argue convincingly that technical factors mandated certain policy choices when expert bureaucrats themselves could not agree on those choices.

BI Oberhavel displayed a new critical relationship to technology and technical expertise that set the citizen initiatives of the 1970s apart from protest groups of the past. Lay citizens were willing to engage in technical debate. By putting the bureaucracy's technical claims to the test, they also challenged the legitimacy of the Senat's policy-making power, which had been based on technical expertise. They neither wholly accepted nor rejected technological development itself; their opposition to the project stemmed not from a mystical conception of nature, but from a desire to control their own destinies. They objected not to technology as such, but to uses of technology that proved destructive to their lifeworld. And they objected to the Senat-BEWAG relationship not on grounds that it would disadvantage citizens economically, but rather that it would destroy citizens' environmental quality of life. In this way the West Berlin group, like other new

social movements related to environment, linked the issues of environment and democratization. The BI, having changed its name to Oberhavel/ Oberjägerweg to reflect the siting choice, began to try to develop new decision-making forms within its own organization and to articulate an alternative vision of democracy. These developments are the subject of the following chapter.

CHAPTER 4

The Internal Politics of the Citizen Initiative Movement: Strategies and Dilemmas of Grassroots Democracy

BI Oberhavel/Oberjägerweg attempted to develop within its own organization grassroots democratic alternatives to the technocratic decision making the group opposed. Having rejected participation in institutions of the system, the BI tried to discover its own forms consistent with the lifeworld. This task became increasingly complicated as the opposition to the power plant project grew into a mass movement. BI organization evolved along with the conflict. The challenge of coordinating a broad protest movement while simultaneously developing a communicative, deliberative internal politics pulled the BI in several directions at once.

The dual active-reactive nature of the group reflected the two-dimensionality of the issue. Policy and legitimation goals often conflicted and complicated internal BI decision making. On the policy dimension, mass protest actions and administrative court complaints stood the best chance of blocking the plant construction. But these forms of action were difficult to reconcile with the legitimation goal of a deliberative, nonhierarchical group decision-making process. The BI's composition was quite diverse. In order to stop the construction, the group had to mobilize as large a cross section of the population as possible. It thus brought together people who could agree on the immediate aim of saving the Spandau forest but very little else. The various strands of environmental thought were all present within a single group; pro- and antitechnology activists, liberals and conservatives, communists and capitalists tried to work together. The resulting ideological tensions made the goal of forging a democratic BI politics difficult to achieve. Members were not always able to eliminate their disagreements through dialogue, or to convince minorities to go along with decisions the majority had agreed on. The internal tensions resulted in the

near-splintering of the group even as its protests began to show positive results.

Within the organization, tension arose between the desire for direct democracy in decision making and the need for unified action. To BI supporters, the form and goals of decision making were inextricably linked; the BI's claims to legitimacy as the mouthpiece for citizen concerns were based upon its democratic structure. The group's commitment to grassroots democracy, however, made it unable to control the more radical factions of its support, ironically threatening its legitimacy in the eyes of the broader public.

BI Oberhavel/Oberjägerweg arose within a general climate of citizen unrest. The many citizen initiative groups founded during this period shared a critique of state-sponsored industrial expansion and a commitment to noninstitutionalized forms of organization and action. They developed a variety of grassroots democratic decision-making forms within their own organizations. As they broadened their critique from specific projects to the economic-administrative system in general, they began to establish communication networks among themselves. The groups encountered similar problems in pushing their agendas, and their internal structures evolved accordingly.

BI Organization and Strategy

BI Oberhavel/Oberjägerweg tried to offer in its structure a grassroots democratic alternative to bureaucratized political participation. Its plenum was designed to enable all interested citizens to discuss and decide upon goals and means of action. The plenum convened every Thursday in Spandau. Participants devoted much effort to reaching decisions by consensus rather than by technical criteria or bargaining. In cases where consensus could not be achieved, majority votes prevailed. Members recall taking care to assuage the doubts of the minority in these cases. The BI had formed permanent working groups to handle its major business. But in order to avoid bureaucratization and overspecialization, the BI rotated membership in these groups. As the summer of 1976 turned to fall, the Thursday meetings drew increasing crowds. Energy expansion was now recognized as a citywide problem; increasing air pollution, destruction of recreational area, and unchecked energy growth would affect the quality of life in all of West Berlin. Environmental concerns had become the BI's main drawing card. The group's increasingly broad following prompted a continual search for appropriate forms of organization.

In the spring of 1976, residents of an area near the Oberhavel site formed their own "working group," which met independently but also par-

ticipated in the BI plenum. Independent working groups eventually sprang up in all twelve West Berlin districts. These groups set up information stands and conducted their own publicity and fund-raising activities while coordinating their actions with those of the main Spandau group. They enabled the BI to reach a wider cross section of the population, and they helped disperse membership enough to preserve the grassroots decision-making structure even as membership boomed.

The Oberjägerweg decision swelled the BI ranks overnight. The Thursday meetings, which had initially drawn up to sixty members, began to pack in over three hundred.[1] More of the work was delegated to the district groups, simply because the size of the Spandau meetings made reaching decisions impossible. The permanent working groups of the original Spandau branch still took care of the central organizational work.[2] Now, coordinating district group activities with the work of the original Spandau branch became a major task of the BI. Members eventually divided the BI into two parts: one was the original Spandau group, which was the seat of the plenum and the permanent working groups, and the other consisted of the new district groups. The latter formed a coordinating committee, which met with the plenum on a regular basis. The plenum could be called at any time to discuss particular issues. Later, while the plenum continued to deal with questions affecting the purpose and principles of the BI, the district groups took charge of organizing most BI activities.

The BI tried to attract broad support for the short-term policy goal of preventing construction at Oberhavel while at the same time promoting its core members' long-term legitimation goal of democratizing energy policy making. The BI enjoyed the support of a number of other groups and initiatives from West Berlin and beyond who did not necessarily share its focus. The BI made saving Spandau Forest a rallying cry behind which the diverse groups and individuals could unite: "large segments of the population could be mobilized against the felling of thirty thousand trees, and saving the forest could be accepted . . . by many who did not call the energy prognosis into question the way the BI did, but who supported fully the urgent immediate demand for preservation of the quality of life in Berlin."[3]

The BI needed a means to coordinate the work of its diverse support groups. Thus arose the idea of an umbrella organization, an "action association" (*Aktionsgemeinschaft*), that would draw together various groups and

1. BI Oberhavel/Oberjägerweg, "Wir haben ein Jahr," 13–14.

2. Egbert Herrmann, "Bericht der BI Berlin—kein Kraftwerk am Oberjägerweg und anderswo in Berlin," n. d., photocopied, 1–2. More on the organization of the district groups, their interaction with the plenum, and internal politics is contained in Charlottenburg District Group, "BI Oberhavel Selbstdarstellungen," 2 March 1977.

3. BI Oberhavel/Oberjägerweg, "Wir haben ein Jahr," 13–14.

individuals whose common interest was a desire to participate more fully in planning and who supported the BI's immediate goal of saving the forest from destruction. The new Action Association Oberjägerweg secured the participation of dozens of groups and individuals from all areas of West Berlin, some of whom were interested primarily in saving the forest and others of whom were more interested in broadening citizen participation in general.

BI Oberhavel/Oberjägerweg members developed innovative ways of consolidating their support. Before the 11 October siting decision, West Berlin foresters initiated one of the most successful BI activities, leading walks in the forest every Sunday to the prospective plant sites. On the way, the foresters would describe the various flora and fauna, explain how the construction would affect the area, and answer the participants' questions. These walks became an effective forum for discussing the protesters' position. Foresters were assisted by activist pastors from the Protestant church. The walks brought together the most diverse strands of BI support, from conservative, elderly Spandauers to student "alternatives." They helped destroy the widely held impression, nurtured by Senat propaganda, that the activists were dangerous radicals and communist dupes.[4] In addition to printing flyers and sponsoring various communitywide actions, the Action Association Oberjägerweg also took over supervision of the Sunday information walks. The walks began to draw participants from the neighboring states of Lower Saxony and Schleswig-Holstein as well as West Berliners. Every week more people came: On 17 October, 350 people participated in the walk, on 24 October the number rose to 800, on 31 October it was 1,500, and on 7 November, 3,000 people took part.[5]

Meanwhile, BI Oberhavel/Oberjägerweg and its supporters began to prepare in earnest for a long legal battle. The biology department at the Free University sent an open letter to several senators detailing the ecological effects of deforestation and plant construction. With the help of its lawyer, Rainer Geulen, the BI prepared a legal attack on the plant that hinged largely on the permit processes under the Federal Immission Control Law. BI volunteers prepared expert reports to demonstrate that addition of a new polluting source would violate ambient air quality and emission standards. In November, the BI also presented an expert report refuting the 5.5 percent annual demand growth estimate used by BEWAG, Schäfer, and the Senat

4. The president of the West Berlin Chamber of Commerce had claimed that without energy expansion, West Berlin would be open to extortion from the East bloc; anyone who opposed expansion was thus playing into the hands of the Communists (BI Oberhavel, open letter to West Berlin Chamber of Commerce, 17 September 1976).

5. *Spandauer Volksblatt,* various.

and presenting its own estimate of 4 percent maximum growth.[6] Based on this figure, it would be unnecessary to begin construction before fall 1980, and the new plant would not have to open before fall 1984. Action Association Oberjägerweg called for a one-year moratorium on plant construction, a "thinking pause" in which Land authorities would be required to rework their energy prognosis. The activists hoped that stagnating demand in winter 1976–77 would force the Senat to reconsider increasing energy capacity.

The plant opponents' immediate task was to stop deforestation of the site until legal steps could begin. The only paperwork the Senat had submitted was an application for an exemption to nature protection laws that would allow BEWAG to deforest the site. The lack of paperwork prevented the BI from objecting in court. Ordinarily one could file against the construction plan or the land-use plan, but since neither existed for Oberjägerweg, BI members faced a difficult choice. They could wait until the exemption was granted and then file for a temporary injunction against it, but it might be difficult to get a court hearing in time to stop deforestation. Likewise, the strategy of informing the public about energy matters would not produce immediate results. Even if a majority of West Berliners shared the BI viewpoint, no official forum existed in which this viewpoint could be expressed and counted. The alternative, and perhaps the only action that could delay construction, was civil disobedience, a risky and for some a morally questionable strategy, but one that had achieved results in similar cases nationwide.

BI Oberhavel/Oberjägerweg in National Perspective

BI Oberhavel/Oberjägerweg was not alone in its activities or its goals. This was the heyday of antinuclear protest in West Germany. Grassroots citizen activity took on a significance that extended far beyond "not in my backyard" politics. Dieter Rucht underscores the two-dimensionality of the antinuclear movement's concerns:

> From about 1974 on, the protest against nuclear power plants had developed beyond local impact [*Betroffenheit*]. It no longer restricted itself to the effects of atomic plants in the sense of "classical" environmental pollution. The resistance against a concrete project became understood simultaneously as resistance against the entire atomic program. Questions of energy planning, of economic growth, of under-

6. The report was written by Professor Kisker of the Department of Economics, Free University of Berlin (Herrmann, "Chronologie Kraftwerk," 4). BI members emphasized that this figure represented the maximum possible growth; many predicted that actual growth would be much lower, as in fact it was.

> standing of democracy entered the picture... Besides concern for human health, for security of conditions for human existence, and for protection of nature arose a critique of what was perceived as undemocratic planning, the "shock" of the delayed public announcement of project plans and the fear of errors in political decisions that would aggravate the problem.[7]

The antinuclear protest at Wyhl in Baden-Württemberg was a turning point. In February 1975, local BIs had coalesced to occupy the site. Police could not force them off, and eight months later the courts brought the construction to a halt. The successful site occupation was a great victory for citizen protest in general. Citizen initiatives gained nationwide acceptance as a form of political organization:

> The inflexible attitude of the Land government of Baden-Württemberg, its close personnel ties to the firm, its downright clumsy tactics in the course of the conflict, and the crude attempts to slander the BIs spread and intensified the resistance of the area (badisch-elsässischen) BIs. The revocation of the partial construction permit by the Freiburg Administrative Court on 21 March 1975 strengthened the antinuclear activists and underscored the seriousness of their objections.[8]

The occurrences in and around Wyhl had a "signal effect" for other sites. Site occupation became for a time a favored BI strategy; protesters viewed it as the only strategy that achieved results against bureaucratic policy making. A nationwide network of grassroots protest groups formed to provide support for each other and share information and experiences.[9] BI Oberhavel/Oberjägerweg members participated in 1977 demonstrations at Brokdorf and Grohnde (both proposed nuclear plant sites), and the West Berlin BI enlisted the help of people who had organized the protest actions at Wyhl and elsewhere.[10]

On the night of 26 October 1976, under heavy police protection, two hundred construction machines were moved onto the proposed site at Brokdorf. Only afterward did the Schleswig-Holstein Land government officially announce the issuance of the first partial construction permit for the site.[11] Very early on the morning of 29 October, police fenced off the area with barbed wire, foiling protesters' site occupation plans. In Brokdorf,

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7. Rucht, *Von Wyhl nach Gorleben,* 86.
8. Ibid., 85.
9. *Spandauer Volksblatt,* 14 October 1976.
10. Rucht, *Von Wyhl nach Gorleben,* chap. 3 describes those demonstrations.
11. Ibid., 89.

approximately eight thousand people responded to the calls of the local BI to attend a protest demonstration. During the demonstration, protesters broke through the barricades, and an estimated two thousand rushed onto the construction site. They were repelled by the police in a violent confrontation. The next day, thousands of people participated in a silent march against the use of police force. On 13 November violence erupted again. According to one account, in spite of police barricades, some thirty to forty-five thousand people broke onto the site. Police subdued the protesters after a "civil war–like battle." What many described as excessive use of police force "sparked great bitterness and was also sharply criticized in the press."[12]

BI Oberhavel/Oberjägerweg followed the Brokdorf events with alarm. The West Berliners faced very similar circumstances. What if BEWAG sealed off the site before the protesters could mobilize to occupy it? What good would it do to protest before a fortress? After the initial confrontation at Brokdorf, the West Berlin group fired off a letter of solidarity to the demonstrators there, condemning the "*Nacht und Nebel* action" of the Land government.[13] The Thursday BI meeting that week was packed to the rafters with a thousand angry citizens.

Mass participation, members knew, was their best hope, but it would be difficult for them to control the action if violence broke out. The BI tried to go on with business as usual. It sponsored a festival on 13 November with food and drink, music, films, theater, poetry readings, and information on the group and its activities. But local and West German proviolence activists (so-called chaotics or *Chaoten*) tried to disrupt the festival, demanding "active combat actions" against the Senat and BEWAG.[14] Since its inception the BI had pledged to limit its activities to nonviolent protest and to distance itself from groups that promoted violence. The principle of nonviolent resistance would be severely tested if it came to mass protest and site occupation.

The Strategy of Civil Disobedience

BI Oberhavel/Oberjägerweg faced important strategic choices. Members met to decide whether to concentrate on the legal avenue of protest or to condone civil disobedience. Those arguing for civil disobedience cited the failings of institutional politics. The problem with the existing channels for citizen participation, they claimed, was that public access came at too late

12. Ibid.

13. BI Oberhavel/Oberjägerweg, "Wir bauen eine Hütte in unseren Forst," in *Festschrift,* 18.

14. *Spandauer Volksblatt,* 16 November 1976.

a stage in the planning process; citizens had to wait until the completed plans were displayed before they could comment. The West Berlin authorities had so far avoided even submitting the plans. Members argued that this delayed public access was a deliberate attempt "to take the edge off legitimate protests with arguments of time pressure and reference to the almost completed state of planning." Even the much-touted new Federal Construction Law, argued the BI, would "not by a long shot create genuine citizen participation, as long as citizens cannot challenge fundamental preliminary decisions."[15]

West German institutional structure, BI members continued, worked against environmental protection. The laws designed to protect the environment could not be expected to help when the agencies destroying the environment were the very ones responsible for passing and implementing laws to protect it from destruction. Likewise, environmentalists could expect no support from bureaucratic environmental authorities, whose branches were subordinate to the senators for economy and construction and housing, both of whom favored the plant. The nature protection and forest authorities could not, even if they wanted to, forbid those powerful senators from granting the permits; they simply lacked the power to intervene.

BI members felt themselves forced into particular modes of action by the nature of their objections and the related institutional constraints. Citizens could clearly not accept formal participation as it stood; to them it would mean legitimating "the carrying out of accomplished facts" in the guise of democratic discussion. Instead, actions that until recently had been solely the tools of student protesters—demonstrations, flyers, and so forth —"are today instruments of every active citizen who has exhausted in vain the formal bureaucratic routes to realizing his interests."[16] Enlightenment, stressed the BI, was the most important means by which citizens could be mobilized against faulty planning. Then, faced with informed mass action, policymakers would have to take citizen views into account:

> Once one observes how alleged technical imperatives, formal grounds or competence grounds of authorities, construction companies or pri-

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15. BI Oberhavel, *Infoblatt* 23, October 1976, 6–8. The BI cited examples of decisions citizens had been allowed to "participate" in:

> The members of BI Westtangente have already had the opportunity to experience a "liberal" form of citizen participation. They were allowed to talk to the Construction Administration about details of the already determined layout for the new freeway, although they had made it clear that they would oppose the plan to extend the freeway altogether. The BI against the Lichterfelde power plant was even allowed to suggest a color for the oil tanks that were put in front of its nose.

16. Ibid. The gender bias is in the original language.

> vate firms collapse in the face of really wide protests, one knows... that in spite of the "perfect" apparatus, the gentlemen "up there" cannot put anything through against the will of the majority of those affected. The population in Wyhl has to this point made most impressively clear how best to back up this declared will.[17]

While the BI prepared to take legal action, the group stressed that citizens whose interests clashed with those of the utility and Senat could not rely on laws and courts alone to represent them. Their voices would be heard, claimed the group, only when "citizens bind themselves together and exercise mass pressure on the government-industry complex."[18] They perceived the parliamentary bridge between government and citizenry to be broken. Only direct mass pressure by people who saw their interests betrayed by politicians could force those politicians to separate themselves from industrial interests and take up their popular mandate. In this way the BI justified civil disobedience. Protesters would be breaking the law, yes, but only because they had been failed by those who were supposed to represent their interests. Most BI members did not wish to do battle with the police. Citing the example of Wyhl, however, they noted that civil disobedience was sometimes the only effective means of protest. Legal methods had not worked in time at Wyhl. The BIs there found they could delay the construction start only by throwing themselves in front of the bulldozers. In Wyhl, acts of civil disobedience had prevented what much of the population considered a greater wrong. The BI coordinating committee decided on 16 November to occupy Spandau Forest.[19]

Despite miserable weather, the Sunday information walk on 14 November drew twelve hundred participants.[20] The BI had collected over twenty-five thousand signatures against the plant. BEWAG was in the process of acquiring the site from Land Berlin, and construction could start as early as 20 November. The action association announced a peaceful demonstration through Spandau for that date. On the very day of the demonstration,

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17. Ibid. This quote raises the question of whether the BI represented the majority view. In general, the citizen initiative movement has not claimed to speak for the majority; instead, it has claimed that citizens are offered no real choices on matters such as energy policy. Thus, majority opinion has been irrelevant to West German policy making. BIs claim that their aim is to make the public aware of the existence of alternatives to policies presented by government as technical imperatives, and to equip citizens to make these important decisions themselves. Many BI members seem to assume, along with Habermas, that if all actors were aware of the alternatives and educated about the facts, the "force of the better argument" would produce a consensus solution.

18. "BI Oberhavel/Oberjägerweg informiert!"

19. BI Oberhavel/Oberjägerweg, "Wir bauen eine Hütte," 18.

20. *Spandauer Volksblatt,* 16 November 1976.

BEWAG received permission to conduct test drilling at Oberjägerweg. The peaceful demonstration drew six thousand participants and three hundred policemen in riot gear. The demonstrators were addressed by well-known peace activist Professor Robert Jungk, who urged the government to "finally listen to the citizen." Jungk echoed the sentiments of the BI when he said, "it is no longer enough when politicians merely let the citizen speak his piece and then keep doing what they had planned anyway. It is exactly this disregard of citizen opinion in the growth-minded state that leads to bloody confrontations and revolution."[21]

The demonstration ended with a call to proceed to Oberjägerweg to secure the forest. The BI asked supporters to help build a hut on the site and leave a permanent watch there to warn of an impending construction start. Every participant in the upcoming information walk was requested to bring along a board and hammer or other tool. Police and foresters promised not to intervene.

On the morning of 21 November, no one really knew how much response the BI request would receive. Architecture students from the Technical University had built a support group for the BI and had submitted construction plans for the hut, which would be used as a gathering place and information center. But would they have enough building materials and participants? A BI member tells this story:

> I started out from Kreuzberg with friends in a VW bus full of boards. We had doubts whether that many people would really take the matter seriously and wanted to be sure... Ten kilometers from Oberjägerweg we began to notice people with boards at the bus stops; we stopped and asked where they were going and naturally invited as many into the bus as we could... Upon arrival in Spandau we saw that everything that could roll was loaded with boards heading for the woods: strollers, hand trucks, a motorcycle rider sitting on his two-by-fours who could manage only twenty kilometers per hour. When we reached the site, ten people were already there. All had doubted whether it would work and had brought carloads of building materials with them just in case...
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> Many hadn't at first wanted to see what the "crazy" BI was doing now, but then were so taken by it that they went home and brought out everything that was still needed... Here teachers and carpenters, assembly-line workers and students, office workers and foresters worked together... deliberately and rationally, hundreds of people making something together without supervisor and planning, and more

21. *Spandauer Volksblatt,* 21 November 1976.

resulted from it than all participants had ever experienced in so short a time. In three hours, as it was just beginning to get dark, our hut on Oberjägerweg stood finished.[22]

The hut construction provided a much-needed exercise in solidarity. Volunteers erected an information stand outside the clearing, and the weekend's task was finished. BI supporters then set to work building a "telephone chain" to mobilize people the moment any bulldozers were spotted.

For the time being, the police and the Land government did not intervene at Oberjägerweg. In fact, the police were reluctant to become involved at all, fearing that they would be blamed if the site occupation turned violent. The police union appealed to the Land government for a clear definition of rights, stating that the police did not want to get caught up in what was essentially a political problem. Otherwise, the "contradiction in political opinions will end up on the backs of the police."[23] The Spandau church organization wholeheartedly supported church workers' and pastors' involvement in the occupation, as long as their activities remained strictly nonviolent.[24] Although the site occupation was hardly unexpected, government authorities could manage no unified response to it. BEWAG denounced the Spandau District Assembly for obstructing the planning process and allowing time for the protest movement to develop. The Senat Administration for Health and Environmental Protection's Advisory Board for Environmental Questions announced that it supported Oberhavel as a site. Part of the FDP also now voiced opposition to Oberjägerweg.[25]

The Administrative Court Conflict

Meanwhile, the Land permit authorities cleared the way for construction. In early November, the West Berlin Land Parliament had approved the premature transfer of ownership of Oberjägerweg from Land Berlin to BEWAG, effective 1 December. The Land then granted BEWAG the exemptions from nature protection laws that would allow it to deforest the site, and an exemption from the Federal Construction Law that would allow it to proceed without a construction permit. BEWAG wanted to proceed piecemeal, applying for subsequent permits only after construction had begun and hoping that the courts would not halt a project that was already under way. This strategy would also spare the authorities the task of defending the project as a whole.

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22. BI Oberhavel/Oberjägerweg, "Wir bauen eine Hütte," 18–19.

23. Herrmann, "Chronologie des Planungsablaufes," 140–41.

24. *Der Tagesspiegel,* 30 November 1976, cited in Herrmann, "Chronologie des Planungsablaufes," 142.

25. Both are cited in Herrmann, "Chronologie des Planungsablaufes," 142, 144.

The exemptions finally gave the BI something to attack in administrative court. The group filed for temporary injunctions against both exemptions.[26] Protesters argued that no legal basis existed for a plant at Oberjägerweg. There was no paperwork whatsoever on the site: no properly zoned land-use plan, no construction plan, no construction permit, and no air quality permit. The BI argued that it was illegal to grant a de facto construction permit in the form of an exemption from a law.[27] The permit processes under federal construction and air pollution laws officially established a plant site. Until these processes were complete, the site was not legally set. By deforesting Oberjägerweg and thus establishing "irreversible accomplished facts," the Land would prejudice the outcome of those permit processes, part of whose task it was to determine the acceptability of the proposed site. According to the BI, BEWAG was trying to rush the construction start before citizen participation rights were legally expanded in January 1977.[28] Refusing to give the citizens a hearing now, when the law was set to go into effect in barely three weeks, would be distorting the intent of the law.

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26. The BI filed against the Land permit authorities in two chambers of the West Berlin Administrative Court: the nature protection chamber (First Chamber) and the construction chamber (Thirteenth Chamber).

27. BBauG, art. 31, par. 2. The law provides for such a permit only if the interests of the builder in a premature start of construction outweigh the public interest in following the construction plan. The Senat's argument that the public welfare was at stake was not enough, according to the BI, to exempt the government from having to write a construction plan. The public interest would not be served, the BI claimed, by destroying part of West Berlin's limited forest area. This emergency provision further applies if the planning is not significantly altered by granting the exemption. Clearly, no one could support the claim that a forest area would not be significantly altered by the construction of a coal-fired power plant: "there is absolutely no crasser and more antagonistic contrast imaginable than that between the Spandau Forest and the coal-fired power plant proposed by the Land" (Rainer Geulen, Antrag auf Erlaß einer einstweiligen Anordnung, 23).

An exemption cannot be issued in cases where a normal construction planning process is objectively possible (see BBauG, art. 31, par. 2). The only grounds the Senat gave for its claim that normal procedure could not be followed were that it would be impossible to carry out the project "on schedule" under normal procedure. The BI countered: "the incompetence of the responsible construction authority to conform to the legal construction planning process is no grounds for exemption" (Antrag auf Erlaß einer einstweiligen Anordnung, 23).

28. VwGO, art. 123 (temporary injunction) and art. 47 (expanded citizen participation). Based on an existing passage (art. 123), the BI wanted to delay the start those few weeks that it would take for article 47 to come into effect. Under the revision, anyone who would suffer a disadvantage through the proposed construction was entitled to raise objections against it. The BI had chosen two physically disabled people from the Johannesstift to make the complaint. The forest at Oberjägerweg was the only recreational area available to them—the paths were good there and it was close to the Johannesstift. One of the potential plaintiffs stated, "I am thoroughly convinced that I could suffer significant health and psychological threats if the plant is built at Oberjägerweg" (Antrag auf Erlaß einer einstweiligen Anordnung, 50).

In December, the West Berlin Administrative Court sided with the BI in nullifying both exemptions on the grounds that they violated citizen participation requirements of the Federal Immission Control Law and the Federal Construction Law. The court blasted the Senat for creating an energy emergency through faulty planning and then trying to use it to evade the laws. The projected energy shortage, according to the court, was "clearly the fault of the [Senat] itself through its own bureaucratic failures [and] cannot be considered an emergency situation of the kind that could justify an exemption from the existing planning obligations."[29] The court continued:

> Even if, as the [Senat] contends, the danger should exist that with every disruption in the area of the plant bottlenecks in supply would occur and it could come to "hour-long partial power outages," it still lies within the responsibility of the authorities and in the realm of their possibilities to find appropriate precautionary measures, which in the opinion of this court are conceivable and feasible, and furthermore to now quickly get on with the required planning process.[30]

The Senat announced that it would appeal the December decisions before the West Berlin Administrative Appeals Court. In the meantime the Senat, along with the West Berlin Chamber of Commerce and Chamber of Handicrafts, began a new publicity campaign in favor of the plant. The Land government also held an energy conference, which produced a statement that "the on-schedule addition of new plant capacity is essential in order to prevent bottlenecks in the provision of energy in [West] Berlin in the 1980s."[31]

Internal Conflicts in the BI Movement

The BI celebrated its first anniversary in February 1977. It had collected forty-five thousand signatures against the plant.[32] The weekly information walks continued throughout the winter, and the occupied site became home to a core group of people, while district group members took turns guarding the encampment. A second hut was built with more amenities, and the BI encouraged supporters to spend as much time there as possible. At

29. West Berlin Administrative Court decision, Thirteenth Chamber, VG 13 A 419.76, 14 December 1976.

30. Ibid., cited in BI Oberhavel/Oberjägerweg, *Infoblatt* 34, January 1977, 2.

31. Herrmann, "Chronologie des Planungsablaufes," 146.

32. BI Oberhavel/Oberjägerweg, *Festschrift*.

Oberjägerweg, as at Wyhl and other sites in the Federal Republic, the occupied site became the symbol of resistance, if not the center of BI activity.

It had been a bittersweet year for the group, a year in which many citizens had taken an active role in politics for the first time. The results were not always encouraging. Despite the recent successes, BI writings showed disillusionment with the prospects for exercising democratic rights in West Germany. In an essay commemorating the first anniversary of the BI, members expressed their shock and anger at the way they were treated for their opposition:

> Many were afraid at first to join the movement. That this fear was not totally groundless has been amply demonstrated since: certain BI members were threatened by their employers; no plenum session passed in which plainclothes policemen—often against their own will—did not spy on us; at demonstrations in the forest and on the street we were filmed and photographed [by the police]; the license plate numbers of our parked cars were taken down . . . thus were (and are) citizens criminalized who exercise their democratic rights.
>
> When the BI argumentation and its public popularity began to have an effect, this was defamed and criminalized—by the "responsible officials" and the press alike . . . When it became known that we would go before the administrative court, we were answered with further arrogance: he would like to see the judge that would dare to rule for the BI against the viability of Berlin, said one of the gentlemen in Spandau City Hall . . . Every decision is sold to us as the latest, highest knowledge. And if a citizen ventures to doubt that, then the lights will always all immediately go out and he is threatening the viability of Berlin. The politicians should not be surprised when they are faced with such massive distrust from the citizens.[33]

The legitimation issue emerged strongly during this period. Citizens' frustration with their powerlessness turned into a challenge to the legitimacy of government institutions and officials. These institutions and officials, activists argued, failed to articulate the popular will:

> The elected officials (*Wahlbeamten*)—put into certain offices by their political parties—claimed to have the monopoly on representation and interpretation of public opinion. They acted as though they were

33. Ibid., intro.

> authorized by the majority of the population to make such far-reaching, ruinous decisions . . .
>
> We have never disputed the politicians' mandate. But political mandate does not mean ruthless promotion of BEWAG and industry interests, but rather concern for the well-being of the citizenry. And political mandate does not mean legitimation on the grounds of estimates given by technicians and experts who cannot separate their own expert knowledge from economic and industrial interests.
>
> The danger is constantly complained of that the mob could take over the government . . . But the lobby in the city halls and in the Federal Parliament cannot exactly be described as the legitimate agent of parliamentary democracy either . . . This danger would not exist if the politicians were not wedded to industry . . . if the politicians would orient their actions toward the question of human survival and would discuss openly with us which changes and costs that would entail . . . that is part of [their] political mandate.[34]

The BI also tried to articulate its long-term goal of a government oriented toward political deliberation, in which both the goals and the means of policy would be open to discussion with the citizenry and the chasm between government and industry, on the one hand, and citizenry, on the other, would thereby be bridged:

> My dream is no more to have a state ruled by BIs than a state determined by industry and trade interests. My dream would be a government that would be guided by the question of human survival, that would not push the costs of our life today before it as an ever-growing mountain to the next generation, that would at least make an attempt to discuss the costs of current life and of survival with us, instead of playing us for fools, and that would discuss with us how these costs could be justly assigned . . . .[35]

To this point the BI had developed few specifics with regard to its long-term goals. In fact, after the initial victory, tensions within the BI deepened. The main membership consisted of two groups: the Spandauers, who founded the original BI, and the district groups (averaging about twenty core members each) with their coordinating committee. The weekly plenum

34. Ibid.
35. Ibid.

meetings offered everyone the chance to come together to discuss BI activities and develop the BI "concept." The Spandauers were the "establishment" wing, which included all ages and classes of people. The district group membership, by contrast, tended to be younger and on the whole more radical in its approach. According to one district group member, "the district groups are more *Spontis,* half-anarchists, *Stadtindianer,* students—a little more radical than the bourgeois Spandauers."[36] The plenum had been dominated from the beginning by the Spandauers, but during the Oberjägerweg period, the weekly meetings regularly drew several hundred people, making discussions chaotic and consensual decisions extremely difficult to reach. And the ideological differences within the membership began to take their toll as the BI faced the violence question.

The Question of Violence

The BI debate over violence illustrated the difficulties inherent in its members' dual role as critics of the system and participants in it, as well as the pitfalls of operating on both policy and legitimation dimensions at once. It was the first real test of the viability of BI organization as an alternative to technocracy. As the protesters settled in for a long winter in the forest, the threat of violence began to widen the rifts between the BI's various factions, rifts that were the flip side of the successful strategy of mass mobilization. Broadening the movement was crucial, in order to exert mass pressure and to signal the government that the BI enjoyed support from a wide range of the population. The BI thought it essential to win the trust of the majority of West Berliners who were opposed to violent protest. It had become apparent that the legal strategy would not suffice to save the forest, underscoring the importance of mass mobilization. But the resulting BI support contained diverse and ideologically opposed groups that could agree on saving the forest but on very little else.

The BI's commitment to grassroots democracy made it unable to effectively censure the more radical factions of its support. Representatives of various groups tried to use BI meetings as a forum for their own political causes. From the beginning, communist groups had worked in the BI, but now more radical groups infiltrated the meetings, calling for violent pro-

36. Herrmann, interview. Before the siting decision, the Spandau group was the far more important decision-making body. Participation figures are reported in *Spandauer Volksblatt,* 12 March 1976. The *Spontis* generally supported the Spandauers against the more radical factions in intragroup conflicts. They tended to be organized already in communal houses or neighborhood organizations, and their support, along with that of the Communist Federation, helped maintain the existing character of the BI against those who would radicalize it.

test.[37] The Spandauers insisted that the BI remain true to its original stated principle of nonviolent resistance, but with the addition of the more radical district groups, the composition of the BI had changed enough that the Spandauers feared they would eventually find themselves in the minority. The last thing the Spandauers wanted was a Battle of Brokdorf at Oberjägerweg. Violence could delegitimate the BI cause in the eyes of the broader public. Ironically, the strategy of including as broad a political spectrum as possible in the movement might in the end turn the West Berlin populace away from the BI if the BI became a battleground for ideologically committed radical groups.

The proviolence "undesirables" at Oberjägerweg consisted of three communist groups: the Communist Party of Germany/Marxist-Leninists, the Communist Federation of West Germany, and the Communist Party of Germany.[38] These groups did not by a long shot represent all communist organizations in West Germany; many of these shared the BI's opposition to violence. The Communist Federation, for example, had helped found the BI and had worked closely with the district groups from the beginning. The problem groups were those that attempted to gain control of BI activities by stacking the meetings with their members whenever an important vote was due. One Charlottenburg District Group member defined the differences between the "K-groups" (*Kommunistische Gruppen*) and the BI this way: "The K-groups started with *Systemkritik* and gradually arrived at a critique of the individual project [Oberjägerweg]. The BI started with critique of the project and found its way gradually to *Systemkritik*."[39] The BI's *Systemkritik,* however, was never as radical or potentially violent as that of the K-groups. The K-groups presented their ideas in a way that frightened or angered many BI supporters. The BI wanted to change the state, not destroy it. The K-groups' views found little resonance among the population.

Gradually the question of violence began to dominate BI discussions. The K-groups favored active battles against police in case of encroachment upon the occupied forest. The Spandauers and most of the district group members favored passive resistance, but whereas district group members wanted a mass demonstration approach, Spandauers argued for a "walk in the woods," or, if the police moved against the occupiers, a guerilla action, where members would disperse into the woods and practice passive resistance wherever they were confronted. This strategy, they reasoned, would

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37. Strehmann, interview. Strehmann claimed that many of these interlopers came from groups outside of West Berlin.

38. These were, respectively, Kommunistische Partei Deutschlands/Marxisten-Leninisten (KPD/ML), Kommunistischer Bund Westdeutschlands (KBW), and Kommunistische Partei Deutschlands (KPD).

39. Herrmann, interview.

make them more difficult to round up and would thus cause more disturbance. BI literature insisted that all actions remain nonviolent. "Nonviolent action" was defined as noninjurious action: "the political opponent may not be physically harmed, nor may the property of others be damaged. Barbed wire and barricades will of course be removed, but only if this can be done without injuring people."[40]

Ironically, as the fissures in the West Berlin BI widened over the violence question, the tumult in Brokdorf began to show positive results. Leading politicians, startled by the explosion of BI protest nationwide, hastened to recognize citizen initiative groups as a legitimate force in the political system and to show that they would "take seriously the reservations and fears of the population with regard to nuclear energy and to consider possibilities for expanding citizen participation."[41] A declaration by the federal government on 16 December underscored the government's willingness to recognize the protest movement. The document emphasized the necessity, however, of delineating legitimate citizen voices from "chaotics," "extremists," or "rowdies," whose activity was condemned (also by the BIs, for the most part).

The triumph of site occupation as a strategy was short-lived. At Brokdorf and Grohnde, police forcibly retook occupied nuclear construction sites. In February 1977, the announcement of another nuclear project in the town of Gorleben loosed a new wave of attempted occupations, which were crushed there and again in Brokdorf, Grohnde, and Malville, France, with increasing violence.[42] At Oberjägerweg, the disagreement on how to defend the forest blew into a crisis in late February when BEWAG began test drilling at the site.

Governing Mayor Schütz invited representatives of the action association and the BI to a meeting at city hall on 14 February to announce that BEWAG planned a series of test drillings at the Oberjägerweg site. He assured the representatives that the drillings did not constitute "construction measures" (which would make them illegal since the final siting decision

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40. Ibid. Also Strehmann, interview.

41. Rucht, *Von Wyhl nach Gorleben,* 89.

42. On 18 March, BI Oberhavel/Oberjägerweg sent a letter to the Grohnde initiative that demonstrates that the BI critique of growth had transcended individual projects: "we demonstrate with you in Grohnde against the energy program of the federal government. The Berlin plant is also an expression of this misanthropic growth ideology that also tolerates the dangers of atomic energy." The Grohnde demonstration was one of the most violent yet and a disaster from the perspective of the local BIs. After a short, "symbolic" occupation by protesters, police retook and heavily fortified the site. On 19 March, protesters charged the fence in a "senseless and bloody altercation." After another vain occupation attempt, they set up an "antinuclear village" across from the fenced-in part of the site; the "village" was cleared by police after seventy-two days (Rucht, *Von Wyhl nach Gorleben,* 90).

had not yet been reached) but were intended merely to determine the suitability of the site for a plant. One of the representatives promised, prematurely, that the BI would offer no resistance. Upon hearing of the meeting, BI members were up in arms. The majority at the next plenum session voted to resist, on the grounds that such drilling did in fact constitute preliminary construction measures. The BI called for members to converge on the site on 16 February. Realizing that the violence question had not been resolved, the plenum pled for passive resistance.

On the first scheduled day of the drilling, an estimated twenty to thirty protesters prevented the equipment from reaching the site by sitting in the roads and engaging the workers in conversation. On the second day, many more protesters appeared, and fights broke out when police began prodding the sitting demonstrators with their clubs. On the third day the police appeared in such numbers that the protesters could do nothing to stop the drilling. Participants claimed that some of the construction workers, upon hearing the BI story, were reluctant to continue drilling.[43] Many of the policemen dispatched to the site were evidently new trainees unfamiliar with the controversy and quite hostile to the protesters at first. Tensions grew with BI frustration at being unable to stop the drilling and police frustration with the disruptions.

Over the weekend the BI received a temporary respite, but drilling resumed the following Monday, 21 February. This time the police could not handle the several hundred protesters who turned out. Violence broke out, and seven people were injured, two severely enough to be hospitalized.[44] BI leaders continued to call for passive resistance. The following evening over twelve hundred demonstrators attended a rally against the drilling at Oberjägerweg. Police patrolled the site with horses and dogs in a "maneuverlike" manner, setting up a "field kitchen" and radio station. Their militarylike presence further exacerbated tensions, as citizens perceived an exaggerated state response reminiscent of Brokdorf.[45]

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43. Strehmann, interview.

44. *Spandauer Volksblatt,* 22 February 1977.

45. BI Oberhavel/Oberjägerweg, Charlottenburg District Group, "Kein Kraftwerk am Oberjägerweg," n. d., photocopied. Such events tend to have much different short-term than long-term effects. Some previously uncommitted citizens become resolute when they see the state quelling protest so violently. In 1986 at Wackersdorf, the local population won nationwide sympathy after police helicopters dropped tear gas on protesters and hundreds were injured (for an English-language description, see "The Battle of Wackersdorf," *Time,* 2 June 1986, 13). The BIs' critique of the nondemocratic state took on meaning for citizens when they saw their fellow citizens attacked.

Others are repulsed or frightened by the violence, seeing BIs as a disruptive force. Many would-be supporters of the individual action, that is, saving the forest, cannot support the larger goals if they are pursued by violent means. In the long run, as more recent events have shown,

At the Thursday plenum meeting the frustrations finally boiled over. The BI policy of nonviolent resistance, formulated by the Spandauers, was not working and was obviously not universally approved of. The protesters had been unable to stop the drilling and unable to prevent the outbreak of violence against their number. Many questioned whether it made sense to continue to resist the drilling (and by the same means) on the last couple of days. The majority at the meeting voted for continued resistance.

The Spandauers, led by one of the activist pastors, declared the vote invalid and walked out. The problem was not so much that the plenum had voted in favor of resistance, but rather the Spandauers feared that their interpretation of nonviolent resistance had been defeated by those favoring active battle with the police. The meeting that night was heavily attended by the communist K-groups, who swung the vote in favor of resistance. Indeed, the K-groups had long called for "battle actions," wanting to meet "state violence" with citizen violence. The Spandauers were angered by this challenge to their leadership. They claimed that the K-groups' participation violated the principles laid out by the BI charter in that these groups sought to use the BI to further their own political causes.[46] These people never participated in anything else, complained one Spandauer, they just appeared en masse when it came time for a vote. The Spandauers felt they had a right to determine what would come next because they did the bulk of the daily BI work. At the same time they realized that instituting formal membership rules or establishing a "leading" group would violate BI principles of grassroots democracy. Their dilemma consisted in trying to keep a group that was open to all from being taken over by "undesirables." In walking out of the meeting the Spandauers claimed they were trying to protect the BI's democratic principles from radical usurpers, but many questioned whether democracy could be protected by actions that were themselves exclusionary.

The vote to resist the drilling was more than a defeat on strategy. It was the first time the Spandau originals had been unable to prevail over the rest of the BI in internal conflicts. The Spandauers, feeling that their principles and their control had been compromised, seceded from the BI and

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this second perception tends to win out (see *Der Spiegel,* 9 November 1987, for several articles on violent protest). BIs involved in violence become perceived as subversive, which damages their cause in the eyes of the broader public. This is especially a problem because many BIs are unable or unwilling to separate themselves entirely from the most radical factions of their support, the "autonomous ones" (*Autonomen*).

46. "The BI 'Oberhavel Plant' is not prepared to subordinate itself to any political party or organization," according to the BI charter. Members did not in principle oppose communist groups. The Communist Federation had helped the BI from the beginning, and even the Spandauers supported its inclusion in the group.

formed their own organization. They sought legal rights to the name "BI Oberhavel/Oberjägerweg," and they set up membership rules for their own group in an attempt to keep the K-groups out.[47] At the next plenum, after heated discussion about whether to allow the Spandauers to continue to work with the others at all, participants agreed that the new organization would be treated as a district group, with two delegates to the coordinating committee. The reign of the Spandauers appeared to have reached an end. In seceding, they had abdicated leadership of the BI as a whole to the district groups and the coordinating committee.

The district groups did not worry as much about the K-groups. Their membership and voting system was much harder to influence than the open plenum that the Spandauers had directed. The district groups used a strategy of divide and conquer to prevent any group from dominating their activities.[48] They organized their membership such that decisions were made by majority vote in each individual group, which then sent one or two delegates with imperative mandates to the coordinating committee to vote. In order to win in the coordinating committee, the K-groups would have to first win in a majority of the district groups, a task for which their numbers proved insufficient. Thus, K-group success in the districts came only through coincidental majorities on individual questions.

The differences in structure between the two groups also led to differences in level of information. The Spandauers had a tighter internal structure than the district groups, more contact with the BI lawyer, and correspondingly better information. The loose organization of the district groups hampered their ability to disseminate information. Hence, "among the district groups reigned insecurity, stress, preparation for the day of reckoning," according to one member.[49] The district groups were not as aware of the legal technicalities and had little confidence that the project could be stopped on the basis of procedural violations rather than some wider grounds. The two groups thus saw the question of violence differently. There was an urgency to the site occupation in the eyes of the district groups that the Spandauers did not share.

After another BI rally at Oberjägerweg, BEWAG unexpectedly canceled the last two days of drilling; a spokesperson explained that the utility had collected sufficient samples and had no need to continue. The immediate external threat, and with it the immediate threat to the BI's internal solidarity, had disappeared. It had, however, left the group in disarray. Members

47. *Spandauer Volksblatt,* 25 February 1977. They set up a nonprofit public organization (*eingetragener Verein*).

48. Herrmann, "Bericht der BI Berlin."

49. Herrmann, interview.

were dismayed that at the time of greatest need for internal cohesiveness, ideological squabbles had nearly torn the group apart. BI Oberhavel/ Oberjägerweg, like other grassroots groups, had not yet been able to reconcile the competing needs for grassroots democracy and organizational control.

Dilemmas of Grassroots Democracy

In the aftermath of the drilling crisis, various BI factions formulated their own analyses of the problems. The split over the violence question had revealed several problems within the BI, some having to do with the group's organization and others having to do with the nature of grassroots citizen protest itself. In trying to analyze their own internal difficulties, BI members raised some general problems of grassroots action.

First, the drilling crisis had revealed a lack of coordination between different branches of the BI. The coordinating committee for the district groups had been formed in order to ease the load by consolidating district group decisions. But the competencies of the coordinating committee were never clearly delineated from those of the plenum, the permanent working groups, and the action association. Remedying this situation produced its own dilemmas. Some suggested more central coordination of BI activities. Disparate district actions, they insisted, must all be embedded in a single information campaign. Delegates from the working groups should be sent to the plenum, and delegates from the plenum should be sent to the coordinating committee in order to connect all groups. But they argued that the plenum should be the only major decision-making organ. On the other hand, the BI's current decentralized structure facilitated small-group discussions and consensual decision making. A centralized structure would be less deliberative, less democratic. This was a general problem of grassroots democratic groups. The spontaneity and direct democracy they valued often made coordinated action difficult. In the end, the BI structure remained the same.

A related problem raised during these discussions was bureaucratization. From the beginning, the BI, especially the district groups, had sought to avoid the problem of internal bureaucratization, or "expertdom" (*Expertentum*). The BI had to ensure that its organizational form offered a democratic alternative to the state apparatus the group opposed. In order to avoid specialization, a rotation principle was suggested and partially implemented. However, complaints emerged within the BI that the same people were always doing the same jobs. This complaint arose within other grassroots democratic organizations as well. The peace movement, for example, had no formal membership, no directors, and no voting; participants tried to reach all decisions consensually in plenary sessions. Once supporters

agreed on a particular action, they found it difficult to implement on a volunteer basis. The group lacked the structure to force people to help. Consequently, despite efforts to promote broad participation, a small core of activists did most of the work.[50]

It was difficult not to become routinized—after all, specialization was easier and more efficient than rotation, and it helped eliminate the need for constant recruitment of new volunteers. Specialization detracted, however, from the mass character of the movement. To solve this problem, the West Berlin group worked to make specific tasks more transparent, and to keep up mobilization efforts, even if professionalization would achieve faster or better results. It was essential, these members claimed, to behave consistently with BI principles of community action. Their legitimacy as an alternative to the bureaucratic-economic system depended upon it. Thus, the long-term goal of establishing alternative participatory forms took precedence in certain cases over the immediate goal of halting plant construction. Many BI members felt that only by reaffirming its commitment to the long-term goal could the BI remain intact to fight the plant. The tension between grassroots participation and professionalization reflected the tension between the policy and legitimation dimensions of BI protest. Professionalization would help on the policy dimension but would defeat BI goals on the legitimation dimension.

A similar trade-off was involved in the BI's choice of pursuing mass mobilization behind the lowest common denominator of saving Spandau Forest. The consequent diversity of membership made formulating a long-term vision difficult. Up to this point, the action had carried the BI. After the drilling incident, however, many argued that the group could not remain intact without such a vision; a common denominator needed to be found that would not dissolve in the face of outside pressure. One district group wrote: "BI activities will not be successful unless they build on each other and are consistent with a concept."[51] Ironically, the strategy that had proved so successful at rallying a large cross section of the West Berlin population to the BI cause was now blamed for the BI's inability to achieve internal consensus. Particularly the district groups showed growing impatience to overcome this "not in my backyard" politics and reassert the original purpose of the BI—to prevent any further plant construction in West Berlin by reorienting the goals of public policy making toward noneconomic quality

50. Christoph Butterwegge, Klaus Jakubowski, Ekkehard Lentz, and Siegfried Ziegert, eds., *Friedensbewegung—Was nun?* (Hamburg: VSA-Verlag, 1983), 150.

51. Reinickendorf District Group, "Diskussionspapier zur derzeitigen Situation der Bürgerinitiative," spring 1977. Charlottenburg District Group also complained of lack of clear BI goals and argued for more central coordination in a BI paper entitled "Zur Bedeutung des Plenums," spring 1977.

of life. These members objected to the fact that BI argumentation had concentrated on environmental questions rather than elucidating the economic and political interest relationships behind energy politics in general. In other words, members complained that the public policy dimension had motivated BI actions to the exclusion of the legitimation dimension. Some members now wished to reaffirm the importance of this second dimension.

BI members began to show frustration with the group's reactive posture. BI activity had begun as a reaction against the encroachment of government and industry into the natural environment. The administrative court complaints, discussions with politicians, petitions, and expert reports had helped further the BI cause, but in an important way they had also kept the group on the defensive. A district group document puts it this way:

> It is wrong . . . to follow this type of step as the main form of battle. In doing so we place ourselves in the dependency of courts, bureaucratic agencies, etc. . . . we let ourselves be put on the defensive and work politically only reactively—for example, we wait for court proceedings, press campaigns, drilling. A political concept would make us independent. We take action, and Senat and BEWAG must respond. [No one] has been able up to now to substantively weaken or defeat our arguments against the plant. Therein lies our strength, that we are convinced of the rightness of our arguments and actively stand up for them.[52]

Some BI members began to concentrate more on articulating their own alternative concepts and trying to realize them not just within their organization but in the broader society as well.

The Appeals Court Battle for Oberjägerweg

The Senat's appeal against the injunctions at Oberjägerweg was scheduled to go before the West Berlin Administrative Appeals Court in April 1977. In the meantime, BEWAG initiated the Federal Immission Control Law permit process by filing applications for preliminary permits.[53] The Senat

52. Reinickendorf District Group, "Diskussionspapier." Institutional difficulties and planning procedures contributed to this defensive position. The group proposed to escape defensiveness by pursuing an active policy of information, based on moral conviction—the "rightness" of BI arguments. Taking an active posture, however, meant dealing with problems of centralization and professionalization that militated against broad citizen participation in BI decision making.

53. BImSchG, art. 9 describes the preliminary permit (*Vorbescheid*) process. The process includes a mandatory two-month display and comment period (Herrmann, "Chronologie des Planungsablaufes," 147).

also tried to accelerate the other major permit process, under the Federal Construction Law, by limiting parliamentary involvement. The Spandau District Assembly had continued to block formulation of a construction plan for Oberjägerweg. The Senat responded by passing an amendment to the administrative instructions for carrying out the Federal Construction Law. Under the amendment, construction plans that involve "vital facilities whose importance transcends district boundaries" may be approved against the vote of the district assembly or in cases of the latter's "inaction."[54] The Senat had failed in its attempt to proceed without a construction plan. It now tried formulating one that would not require the district assembly's approval.

As the April decision date neared, BI supporters prepared for the worst. The violence question had not been settled. Losing the appeal could spark all-out war with the police at Oberjägerweg. BI members agreed to defend the occupied site and, in the event that it was cleared, to reoccupy it. The group printed self-defense pamphlets in preparation. The hut dwellers had been harassed by police, and their "village" had been ransacked more than once by violent gangs. On 28 April, the forest dwellers waited while their lawyer presented the BI case in the administrative appeals court.

On 2 May, the court rejected the Senat appeal, thereby forbidding the Senat to issue the exemptions that would allow deforestation.[55] Such permission would, according to the court, constitute a de facto siting decision. To submit a construction plan only *after* the necessary forest was cleared would violate the Federal Construction Law. The judge went beyond his narrow legal duties in adding that a construction plan can also be faulty if the "encroachment into the limited recreational area of a region is not imperative."[56] The court emphasized that the claim of energy emergency could not be used to circumvent the legal requirements for approval of the project. The Senat abandoned its plans for the Oberjägerweg site. BI Oberhavel/ Oberjägerweg had prevailed.

It was, however, as the BI quickly acknowledged, a partial victory. The court had not rejected the construction altogether. It had not supported BI contentions that further plants were unnecessary and that environmental considerations would not permit their construction; in fact, the judge had suggested that the legal chances of approval would be greater at the Ruhleben Meadow site the Senat had previously rejected. The BI had won the "not in my backyard" battle, but the outcome of the larger conflict was far from certain. The group had avoided the violence that was bringing the

54. *Spandauer Volksblatt,* 30 March 1977, and *Der Tagesspiegel,* 30 March 1977.

55. West Berlin Administrative Appeals Court, *Entscheidungen des Oberverwaltungsgerichts Berlin* (Carl Heymanns Verlag KG, 1980), 99–117.

56. Herrmann, "Chronologie Kraftwerk," 6.

antinuclear protest in disrepute. But it had not dislodged the Senat from its energy prognosis: the Senat announced it would seek another site as soon as possible in order to ensure West Berlin's energy supply.

The appeals court decision marked the end of the mass mobilization phase of BI activity. In a ceremony that coincided with Whitsuntide, the BI dismantled the huts in the forest and built from one a permanent information stand commemorating the protest at Oberjägerweg. The plenum was disbanded, and only the coordinating committee and the district groups still met. According to members, the coordinating committee meetings continued to draw about twenty people. Gradually activity in the more distant district groups ceased. BI Oberhavel/Oberjägerweg split eventually into two BIs. The Spandauers formed BI Oberjägerweg/Ruhleben Meadow. For the most part the people who had been active in the district groups drifted off into the antinuclear movement, until finally only Charlottenburg District Group (closest to Oberjägerweg and any new proposed site) remained. This group renamed itself BI Energy Planning and Environmental Protection.

Conclusion

The BI's definition of the energy problem led it to develop alternative forms of organization and action. The BI tried to offer an alternative to the economic and administrative system by basing its decisions on consensus rather than bargaining or technical criteria. BI members worked to develop internal structures consistent with their grassroots democratic principles. These evolved constantly as the group expanded its activities into all West Berlin districts. BI Oberhavel/Oberjägerweg was part of a wide spectrum of citizen groups arising in the 1970s to protest large state-sponsored industrial projects. As Habermas notes, they were initially largely defensive. The legitimation dimension emerged as citizens began to move beyond the project critique to articulate a critique of technocracy in general. Through the widely publicized actions of the antinuclear movement, citizen initiatives became recognized nationwide as a legitimate form of political organization and action. These groups attempted to maintain internal democracy while participating in the bureaucratized policy process.

In the West Berlin case, operating simultaneously on both policy and legitimation dimensions proved a difficult task. The group's insistence on following grassroots democratic principles at times hampered its ability to take decisive action. At other times, stopping the plant required actions that detracted from the group's attempts to develop an alternative politics. As the self-proclaimed mouthpiece for citizen concerns, the BI tried to draw support for its policy goal from a large cross section of the population. It also tried to act on the legitimation dimension by practicing grassroots

democracy within its membership. Its democratic structure, however, made it unable to control the proviolence radicals, whose presence threatened to alienate the group from the broader public. Likewise, the group's attempts to fulfill its democratic promise by avoiding professionalization and hierarchy hindered its ability to disseminate information and coordinate its activities. Finally, its efforts to mobilize as broad a cross section of the population as possible resulted in ideological conflicts that hampered its fledgling attempts to formulate a coherent alternative vision for society.

The BI found itself involved increasingly in a technical debate over permits for the plant. The Senat had used technical arguments in order to quell citizen opposition and fight disorder within its own ranks. The BI countered with a dual strategy of legal action and civil disobedience. Ironically, the Senat lost its appeal against the injunctions on its own legal, technical turf. As the plant controversy continued, the action centered on the administrative courts. BI members walked a fine line between participating in the system and critiquing it. Chapter 5 explores the attempts of a group organized along the lines of the lifeworld to participate in the decision-making environment of the system, and thereby to change it.

CHAPTER 5

Technical Debate in Administrative Court

The battle for Oberjägerweg was over. Mass citizen action had defeated BEWAG's plans for energy expansion in Spandau Forest. The conflict between bureaucracy and citizenry now moved from the streets to the legal arena, centering on the permit processes mandated by the Federal Immission Control Law and the Federal Construction Law. This new phase involved a crucial change in the character of the conflict. The political debate was partially displaced by narrow discussions of technical elements of the project. BI members' challenge was to achieve influence in the expert-oriented policy environment without sacrificing their grassroots principles. In an ironic twist of the Weberian problem, lay citizens not only held their own in the technical debate, they actually promoted it in order to expose the Senat's lack of technical justification for the project. They set out to defeat the Senat's claim to policy-making dominance on its own grounds.

The permit authorities faced difficult adjustments. On the public policy dimension, the new federal laws altered informational requirements and dispersed decision-making power within the Land bureaucracy. The senator for economy could no longer control the process as in the past; the lack of coordination between branches and the permit authorities' dependence on BEWAG for their information became more apparent when planners were forced to justify their technical choices during the permit hearings. The coordination and information problems affected the legitimation dimension as well. Senat authorities' handling of the permit processes began to undermine the bureaucracy's ideological claim to legitimacy, which had rested on its neutrality and technical expertise. The citizen challenge, previously expressed through mass mobilization, was now increasingly aimed directly at the bureaucracy's source of legitimacy—its technical expertise. Every inadequately answered technical question threatened to erode the Senat's authority in the eyes of the public.

The protesters, too, had to adjust from a broadly focused mass movement to a technically competent group capable of challenging the Senat and BEWAG in the administrative permit process. The mass action that had stopped the project at Oberjägerweg would not suffice at Ruhleben Meadow. The BI ceased its efforts at mass mobilization in favor of developing a legal and technical challenge. On the public policy dimension, BI experts filed objections at every stage of the permit process, pointing out flaws and omissions in the environmental measures for the plant. In doing so, they revealed the incompleteness of the environmental data upon which the Senat based its permit decisions. Citizen pressure began to stir both the administrative courts and parliament to cast a more critical eye on BEWAG and Senat figures. On the legitimation dimension, however, the narrow technical debate frustrated the BI's attempts to raise general questions regarding the form and goals of policy making. The administrative permit processes could not serve as the political forum the BI sought. Permit authorities were simply not required to take broader considerations of the goals of planning, the balance between industrial expansion and environmental protection, and so forth into account. Moreover, the bureaucratic permit procedures limited the possibilities for citizen participation. Remaining within the confines of the technical permit process would not further the goal of creating a democratic political forum for energy policy discussion.

At this stage the West Berlin Land Parliament found it necessary to redefine its role in energy matters. The BI critique increasingly targeted parliament for failing to provide an independent forum for energy debate. Fulfilling this role would require parliament to develop its own sources of expertise and to exercise its institutional right to oversee Senat policy making. The Senat, however, stonewalled subsequent parliamentary attempts to take up this overseer function. The Senat continued to define the problem technically and to resist its politicization. Parliament found itself caught between a restive citizenry and an unresponsive bureaucracy.

From Mass Mobilization to Technical Expertise

Before his rejection of Oberjägerweg, Judge Grundei had inspected the alternate sites under Senat consideration. According to one Senat authority, the judge made it clear that if the needed capacity were to be permitted at all, it would have to be at Ruhleben Meadow.[1] The planners took the judge at his word, concentrating all subsequent planning efforts on the plot of land next to the old Ernst-Reuter plant. They thereafter called this site Reuter-

1. Schröder, interview.

West. The senator for economy instructed BEWAG in September 1977 to investigate the site for a possible 600 MW plant.

In relinquishing the remote Oberjägerweg location, BEWAG lost some legal advantages as far as compliance with air quality standards is concerned. Oberjägerweg had been chosen in part because higher stacks could be built there; plant emissions would thus have had no significant impact on already excessively polluted inner city areas. From the standpoint of compliance with the Federal Immission Control Law, Ruhleben Meadow was the worst possible alternative. It lay upwind of the most problematic inner-city areas, and it fell within one of the air traffic safety zones; no high stack could be constructed to disperse plant emissions. During the initial siting debate, the Senat had rejected Ruhleben Meadow largely on these grounds. Now, however, the court had defined preservation of West Berlin's limited recreational areas as top priority; from this standpoint the new site was the only feasible alternative. Also, the site could be supplied with coal and other materials from both land (railroad) and water (Havel River), and residential heating from the site would be both technically and economically feasible.

The suboptimal siting choice would not exempt the Senat from air pollution control requirements. Given the plant's location, allowable emissions were practically zero. BEWAG and Senat authorities thus faced the challenge of holding pollution levels constant while adding a new source. Mass protest had delayed deforestation long enough at Oberjägerweg that the BI was able to expose omissions and violations in planning procedure. The Senat would not be so careless with Reuter-West. After two aborted project starts, at Oberhavel and Oberjägerweg, the responsible planners were determined to follow the permit process to the letter for Ruhleben Meadow: "each step had to be triple-checked. Indeed, this procedure took more time. But we wanted to ensure that [the] decisions would be unassailable."[2] This promised to be a high-profile permit process; planners could afford no technical or political mistakes.

The technical obstacles were formidable. Reliable pollution data hardly existed at the time. The Federal Immission Control Law established rules for identifying and monitoring heavily polluted areas.[3] The law required

2. Ibid.

3. According to the Federal Immission Control Law, heavily polluted areas (*Belastungsgebiete*) are areas "in which air pollutants occur or are to be expected, that because of 1) the frequency and duration of their occurrence, 2) their high concentrations, or 3) the danger of combined effects from various air pollutants can evoke harmful environmental effects of particular[ly great] magnitude" (BImSchG, art. 44, par. 2). Heavily polluted areas are designated by official decree of the Land government.

Land authorities to collect data on the general emission situation and on specific sources such as automobiles and industry. If the data indicated that harmful environmental effects through air pollution indeed occurred or were likely to occur, the Land must formulate an air quality plan with measures to alleviate the problem. Although the severity of West Berlin's air pollution problem was widely acknowledged, Land authorities had yet to take these legally required steps. BI lawyer Geulen claimed that other Länder had already completed emission reports and air quality plans. Moreover, in all other Länder, extensive, continuous measurements of SO_2, NO_x, CO, dust, and some heavy metals had been carried out for several years.[4] West Berlin had not even begun to revamp its aging and limited measurement network. Even the poor measurements were adequate to show, however, that especially SO_2 levels consistently exceeded legal limits in the inner-city districts of Kreuzberg and Wedding.

Importantly, time was no longer of the essence. Judge Grundei had flatly rejected the Senat contention that the city faced an energy crisis, stating that the Senat could not expect to circumvent the law by creating a crisis through inexplicably slow planning. According to Reinhard Schröder, who directed the permit process for the Senat Administration for Health and Environmental Protection, "the time pressure was gone the moment Oberjägerweg was gone."[5] Thus, priorities shifted to technical matters—ensuring that permits would be granted and, once granted, would stand up in court. Permit authorities could now wait for air quality data from the long-planned citywide measurement net to accumulate; they could fill the statistical gaps by commissioning expert reports. These measures had all been precluded for Oberjägerweg because of the alleged time pressure. Without the claim of energy emergency, the Senat had no grounds upon which to accelerate the permit processes and less compelling arguments for building the plant in the first place. The Senat would have to concentrate on developing technical arguments in favor of construction.

The arguments the authorities ultimately raised in favor of the plant had to do with covering rising energy demand and providing for modernization of older facilities. The Senat remained convinced that energy expansion even beyond Reuter-West would be necessary. Its experts were still predicting a 5.5 percent annual growth in energy demand (and 5.3 percent from 1980 on), despite the fact that BEWAG had conducted its own calculations and now considered an average annual growth rate of 4.5 percent to be more likely. At the same time, in response to legal changes and citizen pressure, the West Berlin government began for the first time to consider

4. Letter from BI lawyer Geulen to West Berlin Administrative Court, 9 December 1981.

5. Schröder, interview.

energy conservation measures. The senator for economy headed a new Senat committee to develop a program for energy saving.[6] In October, the Senat passed the First Land Program for Rational and Economical Energy Use, hailed by some parliamentarians as a sign of a "new [government] philosophy" of energy conservation.[7] The Senat also declared October 1979 Berlin Energy Conservation Month.

Land authorities also claimed that new construction would enable BEWAG to modernize or shut down older facilities. Senator for Economy Lüder asked BEWAG for a replacement plan for obsolete plants that would give the Senat an idea of the magnitude of the utility's modernization requirements. Old plants could not simply be taken off-line, he insisted; new facilities must be completed first to ensure adequate energy supply. Before BEWAG could remodel any West Berlin plant to provide residential heating, for example, it would have to build reserve capacity to cover the temporary shutdown. Reuter-West could not be used as a replacement for obsolete facilities because it was planned as a demand-covering baseload plant. Modernization would require new construction beyond Reuter-West.

Meanwhile, the remaining BI members prepared for a legal confrontation with BEWAG and the Senat. They, too, faced formidable obstacles in preparing for the technical debate. In the period of relative inactivity that followed the BI victory at Oberjägerweg, the loose coalition that had sustained itself on opposition to the felling of the forest dissolved. The remaining members, now split into two BIs, revamped their strategy. Mass mobilization was unlikely to work against Reuter-West; not only would it be difficult to sustain over a long period of time, but a plant at Ruhleben would not engender the emotion that had carried the day when Spandau Forest was at stake. Ruhleben Meadow was a barren plot of land in an already heavily industrialized area. Many BI supporters accepted the new site as the lesser evil; BEWAG would get its plant, but at least no forest would be destroyed.

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6. Other committee members were the Senat Administrations for Construction and Housing, Employment and Social Matters, Health and Environmental Protection, and Science and Research (West Berlin Senat, Document 8/185, 26 October 1979). New expert reports supporting the BI encouraged the government to concentrate on measures to save energy rather than new construction. One recommended local measures to lessen the one or two demand peaks per year, thereby avoiding having to build a large new plant to cover them (Burkhard Strümpel, *Berechnungen und Überlegungen zu einem alternativen Energiekonzept: Testfall Berlin,* September 1977). The other, released in February 1978 by Professors Strümpel and Fiebes, drew reference to local measures being tested in Bayreuth (Egbert Herrmann, "Chronologie Energiepolitik in Berlin West," n. d., photocopied).

7. West Berlin Senat, Resolution 337/79, 13th Session, 8 November 1979, and Document 8/185, *Mitteilung des Präsidenten Nr. 28 über Ergebnisse der Bemühungen um Energieeinsparungen, um rationelleren Energieverbrauch, und um den Einsatz neuer Energieerzeugungsformen* (6. Berichtsteil der Energiebilanz), 26 October 1979.

The BI had lost the active support of groups at the fringes of its stated cause; groups interested purely in saving the forest, as well as the radical antisystem communist groups, had largely dropped out. The remaining members were those who retained the two-dimensional goals of the BI founders—blocking the construction project and democratizing energy policy making. In the past, the activists claimed, state policymakers had responded only to the interests of industry. Democratization of energy planning would force them to weigh citizen interests as well, resulting, they claimed, in a more ecologically sound and politically legitimate energy policy.

BI members maintained that changing the form of policy making would help solve the energy problem on both its policy and legitimation dimensions. Their immediate task, however, was to force BEWAG and the Senat to comply with the new environmental protection laws. The battle against energy expansion could not be won in the streets alone, although the activists acknowledged the importance of keeping the potential for mass mobilization alive. Citizens would have to wage the battle in the legal trenches, through participation in the technical permit processes. They aimed to keep the broader population informed of the status of the project and if necessary to organize short-term mass actions to back up their legal and technical efforts. The remaining core members tended to be those who were technically skilled. These members prepared to challenge the Senat experts on their own turf.

The BI was not alone in its move toward a strategy of legal and technical challenge. Other groups nationwide were also finding that, while mass mobilization attracted public attention to their cause and delayed construction of industrial facilities, only by challenging projects in administrative court could BIs hope to defeat them. The BIs at Wyhl in the Black Forest, for example, had started a public education campaign early in the conflict and had subsequently won a legal challenge to the proposed nuclear power plant. Their education program continued thereafter, on the grounds that an informed, active populace was the only weapon that could keep industry at bay over a long period of time.[8]

The BI cause suffered a setback in February 1978, when the Federal Administrative Court weakened the influential Voerde decision.[9] The court ruled that in "normal cases" the TA-Luft standards were a sufficient measure of the levels at which a facility could be expected to produce no harmful effects in terms of the Federal Immission Control Law. That is, where

8. See Dieter Rucht, "Wyhl: Der Aufbruch der Anti-Atomkraftbewegung," in Linse et al., *Bittschrift,* 128–64.

9. Federal Administrative Court, Voerde-Urteil, BVerG 1 C 102.76, 17 February 1978.

permit authorities had decided that the TA-Luft standards were adequate for a project, the administrative courts were not obligated to review them. The court also declared that "besides the determination of whether the individual ambient air quality limits of the TA-Luft have been exceeded, the [citizen] demand for an overall consideration of the combined effects of various air pollutants is not required in the permit process under the Federal Immission Control Law."[10] In other words, a new facility would be permissible as long as air quality standards were met, whether they were met by cutting emissions at existing facilities to offset the new source or building taller stacks and distributing discharges over a wider area.[11] This decision limited the types of complaints that the Reuter-West opponents could raise against the West Berlin project under the Federal Immission Control Law.

Senat Energy Bureaucracies

In winter and spring 1978, planning officially got under way for Reuter-West, with a target completion date for the first 300 MW block of winter 1983–84. The Federal Construction Law required BEWAG and the Senat to initiate a new construction plan permit process for Reuter-West. The Federal Immission Control Law required the utility to apply for permits for the combustion plant and cooling tower. Changes in the federal laws had dispersed licensing responsibilities within the Senat. The major branches responsible for evaluating parts of the project under these two major laws are described below. They shared certain characteristics and problems that became important as the permit processes unfolded. These include a shortage of skilled personnel, arising partly from the way in which plant-licensing duties were added to existing responsibilities after changes in federal law; a dependence on BEWAG for information relevant to licensing; and a lack of significant connection to either the Land parliament or the citizenry at large.

The Senat Energy Department

Before new energy projects begin, the Federal Energy Law requires that they be deemed necessary by the supervisory authority for energy policy, which in West Berlin was the Energy Department, under the senator for economy. The Energy Department was created to ensure that the purposes of the Federal Energy Law, namely to provide a secure and economical

10. West Berlin Land Parliament, Document 8/400, *Vorlage—zur Beschlußfassung—über den 11. Änderungsplan zum Flächennutzungsplan von Berlin vom 30. Juli 1965,* 2 May 1980, 7.

11. Knödgen, "STEAG Power Plant," 24.

energy supply, were followed and that "the utilities do not undertake projects that are not in the public interest."[12] It had a purely administrative function; there were no provisions in the law for public or parliamentary participation in the department's deliberations.

The Energy Department was large as such bodies go, with ten employees: two physicists, two economist-engineers, a lawyer, and several case workers. Director Ingo Volland claimed that this division had an unusually high percentage of technically skilled employees. Much of the technical work could thus be completed in-house. Where the department lacked necessary information, it commissioned outside experts to supply it.[13] Under the law, the department could force the utility to submit whatever information was needed, under penalty of fine. Problems with the proposal were solved cooperatively in closed meetings between the Energy Department and BEWAG. The Energy Department, as part of the Senat Administration for Economy, shared closer institutional ties with the utility than did the other licensing authorities.

In April 1980, the Energy Department awarded Reuter-West its first important administrative "permit." After receiving the project proposal from BEWAG and requesting additional energy demand predictions from several outside experts, the department gave its clearance to the project.[14] Director Volland, in announcing the approval, also expressed the opinion that the project would fulfill the permit requirements of the Federal Immission Control Law.

The Land Office for Worker Protection and Technical Safety (LafA)

LafA was the industrial inspection board responsible for licensing and monitoring all combustion plants that posed a particular safety risk, including the combustion plant for Reuter-West. LafA functioned as an independent agency, although it fell officially under the jurisdiction of the senator for employment and social matters.[15] With the passage of the Federal Immission

12. Ingo Volland, director of the Energy Department, interview by author, 23 June 1986.

13. Bureaucratic authorities tend to be consistent about their information sources; each has "its" experts. Jürgen Wichmann of LafA claims that this is inevitable; there are few independent experts in any one technical aspect of planning, and these tend to be well known. No one brings "surprise" experts (Wichmann, interview).

14. The outside sources consulted include the Institute for the Energy Industry (Energiewirtschaftliches Institut) in Cologne, the Institute for Economic Research (Institut für Wirtschaftsforschung), and Professor Schäfer, who wrote the earlier expert report advising expansion, from the Institute for the Energy Industry at the University of Munich.

15. LafA is now under the senator for health and social matters. It is responsible for facilities that require monitoring under the Federal Immission Control Law (pars. 4ff., 22ff.).

Control Law, ambient air quality protection was added to LafA's general duties without a corresponding addition of personnel. Jürgen Wichmann, who directed the permit process for LafA, claimed that his branch had been forced to neglect its other duties in favor of air pollution matters as a result.[16] Along with Wichmann, LafA had only three to four other employees to handle its considerable responsibilities in energy matters.

LafA was a technical as opposed to an administrative authority (the other permit authority, the Senat Administration for Health and Environmental Protection, was an administrative authority). Employees were required to hold technical degrees and have experience in industry. They were also required to be trained in administrative procedures—a double training load that took some three years to complete—in order to conduct the various licensing procedures. Besides reviewing permit applications, their many duties included meeting with industry applicants, citizen opponents, and other bureaucratic authorities regarding permits and appearing before the Land parliament as expert advisors.

LafA's job was to determine whether a utility's proposal conformed to air pollution law and to set emission limits for the particular project. The Federal Immission Control Law and the TA-Luft[17] established maximum allowable emission limits, but LafA had the authority to make them more stringent in individual cases, depending upon the state of technology and current ambient air quality. Given West Berlin's marginal air quality, in the Reuter-West case only minimal additional amounts of SO_2 could be allowed. LafA also determined when a permit application was complete. It could require the utility to submit additional information, or it could order expert reports to fill in any gaps.

The senator for employment and social matters (now health and social matters), under whose authority LafA fell, could override the latter's decisions with a direct order, but this rarely happened. The energy group did feel "pressure from above," exerted by other Senat branches on behalf of BEWAG, especially with regard to deliberation time. The law required LafA

These include mainly combustion plants as parts of generators (Feuerungsanlagen als Teile von Dampfkesselanlagen—vergl. Par. 2 der 4. BImSchG Verordnung, nach der Berliner Verordnung über die Zuständigkeiten der Ordnungsbehörden [DVO-ASOG] vom 30.8.78 [*Gesetz-und Verordnungsblatt für Berlin,* 1900]).

16. The most recent personnel reorganization took place in 1969–70; although air pollution rose to paramount concern in later years, LafA was not able to hire permanent new experts. In a 1986 interview, Wichmann said LafA had six people working on air pollution matters, some informally (see also Herr Fuhrmann, LafA, interview by Robert Brammer, 25 February 1981).

17. These were supplemented in 1983 by the Thirteenth BImSchG Executive Order on the Reduction of Emissions from Large Combustion Facilities (Großfeuerungsanlagenverordnung).

to complete its deliberations as quickly as possible; for existing facilities, the time limit was six months. LafA officials often found themselves pressed for time, since the law also required them to solicit participation from other administrative branches that shared responsibility for aspects of a project. LafA alone, however, issued or denied the permits.

As part of the Senat bureaucracy, LafA was more closely connected to the utility than to the West Berlin population. LafA's duties were defined by federal law and did not change with the city's political tides. It was thus insulated from the influence of parliamentary authorities, and parliamentarians reportedly seldom contacted LafA for information. LafA was dependent upon the utility for much of the relevant energy information and in general enjoyed a good relationship with BEWAG. But LafA was not completely insulated from countervailing citizen pressure. Under the Federal Immission Control Law, LafA must hear and respond to all citizen complaints, although it is not required to take them into account in its final decisions. According to Wichmann, many BI members took advantage of this legal provision.

The Senat Administration for Health and Environmental Protection (SenGesU)

The Senat Administration for Health and Environmental Protection was the licensing authority for the cooling tower for Reuter-West. Environmental protection had received few resources and low priority in the Senat in the years before the Reuter-West project. Until the passage of the Federal Immission Control Law in 1974, environmental protection lay within the Senat Administration for Economy's jurisdiction, where a certain predisposition against environmental controls existed. The Senat subsequently shifted environmental responsibilities to SenGesU, where environmental duties had to compete with established duties in the field of health policy.

The Senat Administration for Health and Environmental Protection was assigned to produce the pollution statistics and reports required by the Federal Immission Control Law. These included an air quality protection plan (*Luftreinhalteplan*) and emission reports on automobiles and industry (*Emissionskataster*). SenGesU was also responsible for establishing a new air pollution monitoring network in order to comply with TA-Luft measurement requirements.[18] SenGesU was a large administrative branch in comparison to LafA. However, like LafA, more of its personnel were allotted to its other duties (health matters) than to environmental protection. And like LafA, environment was added to its other duties without corresponding institutional enlargement. An estimated thirty employees handled energy planning.

18. Weidner and Knoepfel, *Luftreinhaltepolitik.*

Of these, about half had technical training, while half were administrators. The administrative staff, headed by Reinhard Schröder, conducted SenGesU's portion of the permit process.

Thus, where the LafA people in charge of licensing the combustion plant were technical experts, the SenGesU people in charge of the cooling tower were administrators. The environmental authorities found themselves at a disadvantage with regard to information. SenGesU did have some technical expertise. In-house experts helped evaluate BEWAG's permit application on matters of air and noise pollution control; they also helped the administrative staff commission and evaluate additional expert reports. But SenGesU permit authorities faced greater information deficits than LafA authorities; in fact Schröder listed information as his branch's greatest problem. At the time of the preliminary permit process, little statistical information on air pollution and little in-house expertise were available. SenGesU had to order numerous expert reports to supplement the poorly equipped West Berlin measurement system.

The lack of information put SenGesU in a subordinate position both to LafA and to BEWAG. SenGesU's duties in the permit processes, like LafA's, were spelled out in federal law and subject to review by the administrative courts but not by parliament. SenGesU employees considered political considerations improper grounds for Senat policy. BEWAG, on the other hand, traditionally exercised what Schröder described as unilateral influence on energy decisions. SenGesU had to legally force its participation in BEWAG affairs; the utility tended to ignore its recently acquired environmental authority.[19] SenGesU was given legal responsibility for environmental protection without adequate information sources or personnel and without acknowledgment by BEWAG of its new authority.

Institutional Coordination Problems

Although the administrative permit authorities were insulated from parliamentary input, other factors made it difficult for them to produce coherent policy. In addition to the above-mentioned information and personnel problems, the distribution of responsibilities among the various bureaucracies left some gaps in the planning process. "The administration is organized," said one administrator, "so that each person has his narrow responsibility, and right away you have no-man's land between the responsibilities."[20] No

19. According to Schröder, BEWAG's attitude before Reuter-West had been "you are allowed to give this a permit, and if possible within fourteen days" (interview). This assessment is supported by Weidner and Knoepfel, *Luftreinhaltepolitik.*

20. Volland, interview.

individual branch could examine a project as a whole, yet the permit process demanded a synoptic perspective. Informational requirements overlapped, even if administrative responsibilities did not. Administrators often expressed concern that, because of institutional fragmentation, crucial aspects of planning whose omission sometimes led to rejection of a project would be overlooked.

In order to compensate for dispersed responsibilities in energy planning, the participating branches formed committees in which expertise could be shared and projects cooperatively planned. Some of the responsible administrations consisted of bureaucratic personnel, however, and some of primarily technical personnel. The approval process required both kinds of expertise. The various experts could try to coordinate their activities, but they could not verify each other's information, nor did they consider it their responsibility to do so. There existed no technical checks and balances in the approval process. In the case of Reuter-West, the technical details of construction and pollution control had not been finalized. Thus, to some degree the validity of the early project approvals depended upon information that was not yet at hand. Initial approval of the project was based largely on faith and information supplied by BEWAG and the Senat Administration for Economy.

In the permit discussions a certain dynamic emerged. Each authority gave its approval to the project in anticipation of the others' approvals. The validity of each separate permit hinged on the validity of all others. For example, the construction plan could be deemed invalid on the basis that the underlying land-use plan was invalid. Moreover, any subsequent permits that were tied directly or indirectly to the construction plan might also be nullified. The stakes were high; a mistake in the early going was potentially very costly.

At the same time, no administrative branch could control the activities of another; each had to act on limited information. The first administrative body to give clearance, the Energy Department, did so on the basis that the two licensing authorities (LafA and SenGesU) anticipated no problems in granting their respective approvals. The same was true of the responsible parliamentary committees, which agreed to the plan also on the basis that other authorities anticipated no snags. Once the Energy Department gave its approval, the other agencies could cite it as basis for their own, although the Energy Department's approval was based on anticipation of theirs. In sum, the mode of decision making created a situation in which a project could pass the initial permit stages on very little concrete information. One flaw, however, could bring it to a halt.

Fragmented responsibilities also caused tension between the Land parliament and the planning bureaucracy. Parliament found itself caught be-

tween an angry citizenry and an unresponsive bureaucracy. Parliament was answerable to the electorate for government planning decisions. It therefore had an interest in making Senat planning procedures and criteria more transparent. The Senat had shut parliament out of its deliberations since before the siting decision. It had been scheduled to report to parliament on energy supply but had postponed the report until well after the siting deadline, angering the representatives and underscoring the irrelevance of parliamentary input to Senat decisions. Parliament was required to approve many Senat policy proposals but had no independent sources of information (besides considerable BI evidence) and little internal expertise with which to judge the technical merit of Senat decisions, which were themselves based largely upon information supplied by BEWAG. This had not posed a problem in the years before the Oberjägerweg–Reuter-West project, when citizen protest had been negligible. Now, however, the parliamentary parties feared the political fallout that could result from the Senat's decisions. They would be put in the awkward position of explaining and defending decisions to the public that they had had little influence in reaching. Parliamentarians wanted clearer Senat accountability.

FDP representative Kunze complained that BEWAG hindered parliamentary progress through its "narrow-mindedness and lack of imagination." Politicians, he added, must free themselves from thinking that what the utility suggested was the only set of alternatives. In particular, parliament worried about the inflexible Senat demand predictions, which were the center of the BI attack. The BI argued, and many parliamentarians agreed, that demand could be changed through conservation measures to meet available supply, rendering further expansion unnecessary.[21] In the previous year demand growth had failed to reach the predicted level, further eroding parliament's faith in the Senat predictions.

If parliament wished to exercise more control over energy policy, it would have to make both the Senat and BEWAG more responsive to political goals. The first step would be to loosen the tight relationship between the utility and the permit authorities, especially the senator for economy. The FDP fraction suggested altering the contract between utility and Land to weaken BEWAG's monopoly status. BEWAG would then be compelled to share the concession with other energy suppliers (such as the natural gas utility). This would ideally make the Senat more responsive to political interests and BEWAG more responsive to economic incentives, which could be structured to pursue political aims. The current contract, complained

21. SPD representative Momper, for example, made this argument. Earlier the CDU fraction had accused the SPD of choosing its demand figures in accordance with the amount of capacity it found it was able to build in Spandau.

legislators, gave BEWAG no incentive to make energy saving a priority. A CDU representative suggested that greater Senat accountability could be achieved by concentrating duties for power plant construction and planning in one Senat branch instead of the current several.[22]

In general, parliamentary suggestions to increase administrative accountability met with Senat hostility. Senat officials resented what they considered misguided attempts to politicize essentially technical matters. Political interference, some argued, would destroy the credibility of the technical work. Moreover, the licensing authorities were required to follow the technical guidelines of the law. These could not be compromised in order to satisfy political constituencies—otherwise, the permits would not stand up in court. The licensing authorities saw themselves as nonpolitical bodies responsible for ensuring that planning followed legal requirements. Although they agreed that BEWAG's control of much of the information was a problem, they argued that politicizing the process would not be a viable solution. Why should BEWAG, a private joint stock corporation, appear before parliamentary committees to explain its decisions? asked LafA official Wichmann.[23]

The Construction Plan

A beleaguered West Berlin Land Parliament began nevertheless to demand more of a role in the zoning process for Reuter-West. The Federal Construction Law first required the authorities to submit an appropriately revised land-use plan, from which the new construction plan would be drawn. This time the Senat had the Spandau District administration's cooperation, and the proposals were completed quickly. The district then sent the revised

22. CDU representative Palm made this suggestion (West Berlin Land Parliament, transcript, 9th Session, 13 September 1979, 248). This was also recommended by Herrn Kolb, Institute for Futures Research (Institut für Zukunftsforschung). Ingo Volland of the Senat Energy Department countered in a later interview that such concentration would entail its own problems. Permit-granting authorities are responsible for many different facilities, of which power plants are only a fraction: "I believe it is better the way it is, because the person who gives the plant permit should be a professional and issue the permit by the same maxim used to approve other facilities." LafA has since been given responsibility for all preliminary permits. During the controversy over the preliminary permit for Reuter-West, the administrative court suggested a reorganization to concentrate Senat powers and expertise in a single branch (Wichmann, interview).

23. After all, Wichmann asked, typifying the attitude of the Senat administration, "what business does BEWAG have in parliament or in parliamentary committees? BEWAG is a [private] joint stock company and [as such] is controlled neither by the Senat nor by parliament" (interview). This argument recalls the accusations by citizen groups that power companies are able to use their private status as joint stock corporations to argue against regulation, even though they are in fact mostly government owned.

land-use plan to parliament for discussion, where it was debated in May 1980.[24] Here parliament balked on the issue of ensuring that the project conformed to the best-available-technology clause of the TA-Luft. This clause allows licensing authorities to set stricter standards than those in the TA-Luft as technological advances permit. The parliamentary deliberations took an unusually long three days. The committees wanted reassurance from the bureaucracy and the utility that environmental considerations would have priority. The Senat Administration for Employment and Social Matters, as supervisory authority over LafA, declared that LafA would bind the utility to the best available technology and to environmental protection in its permit decision.[25] The BEWAG representative agreed to this condition, and the committees and subsequently the full parliament approved the plan by a large majority. The responsible parliamentary committees continued to meet thereafter to negotiate problems of siting and air pollution control. Parliament clearly intended to take an active role in the approval of Reuter-West.

In August 1980, the Senat passed a resolution to approve the construction plan for Reuter-West, stating, "for the viability of [West] Berlin it is of particular importance, because of [the city's] 'island status,' that electrical energy be available at all times in sufficient quantity."[26] The bureaucracy had legal responsibility to ensure the availability of sufficient energy. Even if demand should stagnate, the resolution continued, the plant was a necessary step toward the goals of modernization and decreasing West Berlin's oil dependency. The plan was displayed at the Spandau District Office, where objections to the plan itself or to the approval process could be filed within one year.

Approved construction plan in hand, BEWAG applied in January 1980 for two partial construction permits (*Teilgenehmigungen*) in order to begin the construction of Reuter-West. These could be approved legally without public announcement, insofar as they did not rule out additional changes that might arise during the remaining permit processes. The race against time had begun anew.

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24. See West Berlin Land Parliament, Document 8/400, *Vorlage—zur Beschlußfassung—über den 11. Änderungsplan.* The Committees for Construction and Housing, Economy, and Health and Environmental Protection shared parliamentary responsibility for the approval of the land-use plan.

25. West Berlin Land Parliament, transcript, 30th Session, 26 June 1980, 1357.

26. West Berlin Land Parliament, Document 8/521, *Vorlage—zur Kenntnisnahme—über die Festsetzung des Bebauungsplanes VIII-200,* 12 September 1980, 2.

Public Hearings under the Federal Immission Control Law

The Senat began the long environmental approval process for Reuter-West by applying for a preliminary permit (*Vorbescheid*) under the Federal Immission Control Law. The preliminary permit is optional; the utility is entitled to apply in cases where project feasibility is in doubt. The preliminary permit does not exempt the utility from the main permit process. Rather, this process tests the acceptability of the project under air pollution law. The procedure saves time and effort by enabling the applicant to determine, at minimal cost, whether the proposed project will meet legal requirements. Specifically, the permit authority examines whether:

> through the facility harmful environmental effects or other dangers, serious disadvantages, or serious nuisances to the public and the vicinity may be produced, and whether precautions against harmful environmental effects, especially through emission control measures conforming to the "best available technology," will be taken.[27]

The preliminary permit offers the applicant a means to determine the plausibility of a project before making a large investment in it: "only through the issuance of a preliminary permit can planning and investment risks involved with facilities of this type be limited to a justifiable quantity."[28] This way the applicant can avoid planning and ordering parts for the facility in vain.

No technical particulars are required at this point, just a "rough total concept." The utility must state its intention to build a plant of a certain size, burning a certain combination of fuels, containing a certain size and number of blocks. The particulars—manufacturer, type of filters, and emission data on particular substances, for example—are covered later in the main permit processes. In issuing a preliminary permit, the Senat agencies must simply give the parameters within which the applicant must remain in order to comply with the law at a certain site. It is the applicant's task to see that the proposed project is made to conform to those parameters.[29]

Since LafA was responsible for the combustion plant and SenGesU was responsible for the cooling tower, BEWAG would have to acquire two separate preliminary permits. These two authorities conducted the permit process jointly. The Federal Immission Control Law mandated a two-month public-display period for the application as well as hearings to address

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27. LafA, preliminary permit, 29 October 1980, 38–39.
28. Ibid., 71.
29. Wichmann, interview.

citizen concerns about the project. Only after the licensing authorities responded to objections received during the display period could they make a final decision. BEWAG filed its applications on 31 July 1978. The public-display period ran from December 1978 to February 1979. Nearly three hundred objections, containing approximately 3,420 signatures, were filed. In accordance with the law, all objectors were invited to the subsequent hearing. It promised to be a lively affair.

The preliminary permit hearing was scheduled for 20 March. On 19 March, having received an alarming technical report, BEWAG requested a postponement. LafA had commissioned the report to determine whether plant emissions would conform to TA-Luft standards. Researchers at the Technical University built a model to simulate the combined effects of steam from the cooling tower and stack emissions in the immediate area of the plant.[30] The model revealed that under certain conditions, pollutant concentrations in the neighboring residential area of Haselhorst would reach near-lethal levels. The permit agencies halted the process in order to conduct further investigations and to correct the Haselhorst situation. BEWAG resubmitted its proposal in January 1980. Changes in size and placement of the various plant components, the utility claimed, would resolve the emission problem. LafA and SenGesU set a new joint hearing date for 8 July.

The major obstacle to the preliminary permit was SO_2 pollution, which exceeded or approached legal limits in much of the inner city. The new proposal mentioned several possibilities for desulfurization equipment but did not commit BEWAG to a final choice. BEWAG did commit to achieving the legally required 80 percent desulfurization, which translated to 850 mg/m^3 SO_2 emissions, a figure that was eventually lowered still further by LafA. BEWAG stated that the plant would burn coal with an average sulfur content of 1 percent (a very low estimate). Reuter-West could actually alleviate the SO_2 problem in the inner city, according to the utility, by providing heat for fifty-five thousand homes. These homes could then cease heating with coal, a major source of inner-city air pollution.

The new preliminary permit application and supporting materials were displayed for public comment. This time each permit authority received approximately 240 objections.[31] On 8 July 1980, the long-delayed joint public hearing finally took place. Under the law only citizens who have filed

30. Giese-Strömungstechnik GmbH made these tests in the wind tunnel (*Grenzschicht-windkanal*) of the Hermann Föttinger Institute at the Technical University of Berlin. This model is also described in the preliminary permit, 23–25, and in the preliminary permit application of 31 January 1980 (4. Anlage zum neuen Vorbescheidantrag—Feuerungsanlage und Kühlturm).

31. Berlin Senat figures. The Senat Administration for Health and Environmental Protection received seven individual objections and 231 group objections containing approximately 1,885 signatures; about the same number were filed with LafA.

objections during the public-display period must be invited, but the planning authorities granted many additional BI supporters permission to attend. The BI came prepared with its own experts, including professors from the two West Berlin universities. A throng of additional BI supporters simply appeared at the door. BEWAG and administration representatives also arrived in force.[32] Not a single senator or parliamentary representative attended, however, a fact that evoked bitter criticism from BI members.

BEWAG's basic arguments had changed little. The utility's top priority was security of energy supply: all environmental and other measures "find their limits where the facilities' safety of operation or the security of energy supply for the city is endangered."[33] BEWAG also argued that the new plant would actually be a boon to environmental protection. Residual heat from the plant would be piped to area residences, enabling them to switch from heavily polluting coal-oven heating. The project would also decrease West Berlin's oil dependence, a topic of major concern since the oil crisis of the early 1970s. The additional capacity, argued BEWAG, would also enable it to close some of its obsolete facilities and modernize others.

The activists countered each of these arguments and added some of their own. Their major legal arguments centered on the Federal Immission Control Law and the TA-Luft. The activists claimed that BEWAG had not submitted enough pollution information to allow planning authorities to judge whether the plant could be made to conform to the law or not. Under the Federal Immission Control Law, West Berlin had been declared a "heavily polluted area." The Land government was thus obligated to conduct extensive measurements of air pollutants and to formulate an air quality plan. Neither of these information-gathering requirements had been fulfilled. Not only was information unavailable for many substances, but for others the Land had failed to follow the measurement methods designated by the law.[34] The emission reports that BEWAG had submitted in support of its application were largely based on 1976 data, and the sparse recent data available showed that SO_2 emissions especially had increased significantly in the meantime. The utility had made no attempt to predict what would happen during West Berlin's frequent inversion periods after Reuter-West went on line. Many argued that the Senat should proceed from the worst-case pollution values—if those exceeded the legal limits, the plant could

32. According to Wichmann, interview, sixteen BEWAG representatives attended (BI witnesses claimed there were more). There were also a number of plainclothes policemen in the room, which prompted a heated argument between BI and Senat representatives (Herrmann, "Chronologie Kraftwerk").

33. From the preliminary permit application.

34. Letter from Peter Haushalter, Action Association for Healthful Air (Aktionsgemeinschaft Gesunde Luft) to the West Berlin Administrative Appeals Court, 6 December 1981.

not be approved. The supporting documents BEWAG did file offered conflicting or misleading evidence on some points.[35] In short, argued the activists, information essential for judging the permissibility of the project did not exist in complete enough form to allow such a judgment to be made.

Not only can a new facility be denied a permit when ambient air quality already violates legal standards,[36] but those standards themselves, published in the TA-Luft, are subject to change. A new TA-Luft was expected to take effect by the time construction on Reuter-West began. Permit applications for new plants, argued activists, should anticipate the lowered limits that the revised TA-Luft would contain. The law left room for flexibility in a positive but not a negative direction. The best-available-technology clause gave licensing authorities discretion to set stricter standards than those in the TA-Luft in individual cases. BI members wanted to use this clause to force planners to become activists for air pollution control. They wanted to ensure, for example, that health effects from plant emissions were taken into consideration in planning.[37] But since BEWAG had conducted no public discussion of alternatives, published no cost-benefit analysis, and made no clear statement of decision criteria, they had no clear points of attack. Given the lack of public information, it was impossible to tell whether the proposal conformed to the best-available-technology clause or not.

In addition to their challenges on the basis of air pollution law, the activists also raised the admittedly more remote possibility that the project violated the federal constitution (Basic Law) and the Federal Energy Law. The Basic Law states, "every [citizen] has the right to life and freedom from bodily injury."[38] A new pollution source, claimed BI activists, would result in bodily injury. Moreover, the Federal Energy Law requires energy supply to be "as secure and inexpensive as possible." Security of supply was

35. Supporting information submitted by TÜV and BEWAG conflicted in several places. The BEWAG application, for example, stated that in the first year of operation, no desulfurization equipment would be used. Thus, the emission and ambient air quality values in the TÜV report, which assumed the presence of such equipment, were inaccurate. The actual values would be much higher than the documents claimed.

36. Under certain circumstances, new facilities may be built in areas already in violation of TA-Luft ambient air standards. This involves a trade-off—the utility must agree to limit pollution from some other source so that overall levels will not increase. See Knödgen, "STEAG Power Plant," 12.

37. The activists claimed that the firing method (*Stufenverbrennungsverfahren*) planned by BEWAG might pose a health hazard. This method does not produce enough oxygen to prevent emission of certain harmful substances. Frequently mentioned also were carcinogens such as benzopyrene (one of a group of substances that go under the name PAH', *polyzyklische aromatische Kohlenwasserstoffe*), which attach themselves to the fine dust that the electromagnetic filter cannot trap. This dust is then breathed into the lungs (transcript, public hearing, 8 July 1980, 93).

38. Grundgesetz, art. 2, par. 2.

BEWAG's main argument in favor of the plant. The newest BEWAG plant at Lichterfelde, however, completed in 1974, was already notorious for its breakdowns. As for cost, West Berlin had among the highest consumer energy costs in the Federal Republic, and BEWAG had recently announced yet another price increase. Energy in West Berlin had proven neither secure nor inexpensive, argued BI members, and West Berliners had no reason to expect that a new facility would serve either of these ends.

Aside from the legal challenges, the activists continued to question the necessity of the plant. Judge Grundei had stated in his decision against Oberjägerweg that the city faced no immediate energy shortage. Demand had stagnated in the years since 1976, when BEWAG had formulated its prognosis. Based on actual demand, West Berlin now had 45 percent overcapacity, a figure the utility did not dispute. BEWAG's stubbornness on the demand question revealed a faulty philosophy, claimed the BI, based on increased consumption and continued use of dated technologies. Far from being innovative, Reuter-West harked back to the obsolete policy of constant expansion and encouragement of high consumption.

The activists also questioned BEWAG's claims regarding modernization. The utility's argument that extra capacity would allow it to modernize would only carry weight if BEWAG provided evidence that it actually intended to shut down certain facilities and modernize others. BEWAG and the Senat had offered no such plan. Activists noted that BEWAG's reserve capacities in the past had been adequate to enable the utility to modernize without new construction, yet no steps in this direction had been taken. What reason did citizens or authorities have to believe BEWAG was serious now? BEWAG's argument about heating confronted similar public skepticism. If Reuter-West was in such an ideal spot to supply heat, why wasn't the old Reuter plant, which stood in practically the same spot, hooked up to a heating network? The utility's past actions made its present claims dubious.

In general, plant opponents argued, BEWAG could not credibly claim that this plant was in the public interest. The public interest should be defined in terms of preservation of human life rather than promotion of economic activity. Policymakers must take environmental protection and human health more seriously. A broad ecological perspective should inform energy decisions. Instead, the Senat and BEWAG continued to practice high-smokestack politics—exporting the pollution problem rather than devising methods to eliminate it. If everyone behaved in this self-serving way, the activists argued, all would ultimately lose. Hazardous substances, like public policies, have combined effects that can only be analyzed from a broad perspective. The fragmented energy process represented to activists a mentality that took no account of consequences, that treated problems as

though they could be broken down and dealt with in small parts and thus never considered as a whole. Instead of being solved they would pile up, generation upon generation, until they threatened human survival itself.

Politics vs. the Permit Process

The BI faced two major obstacles in the permit process, which were revealed in its arguments during the hearings. One was the problem of technical expertise. In order to force the authorities to be more critical of BEWAG, the protesters had to bear the burden of technical proof themselves. The second problem was that the permit process was too narrowly defined to include many of the considerations the BI found important. The hearing made clear that citizen concerns ran deeper than demand figures and best available technology. To many, the planners' failure to satisfy technical requirements indicated a deeper failure to reconcile economic and ecological concerns. Within the structure of the permit process, however, a broad perspective was not required and indeed would have been impossible to achieve.

The activists questioned not only BEWAG's calculations, but its methods and data sources, in an effort to prompt Senat authorities to turn a more critical eye toward utility proposals. They complained that the utility controlled the administrative authorities, not the other way around. The activists cited BEWAG's monopoly status, based on its supply contract, which allowed it to pursue policies that a private firm in a competitive market could ill afford. The Senat, they argued, must compensate for BEWAG's lack of market incentives—it must force the company to modernize, to operate economically, and to concentrate on energy saving rather than expansion. It was a difficult undertaking for the BI. In order to convince the authorities to be more critical, the BI had to shoulder the burden of technical proof itself. It had to cast doubt on BEWAG's documents by exposing their legal and technical weaknesses. In order to challenge the project on the basis of the best-available-technology clause, for example, citizens would have to show that the proposed technologies were not state-of-the-art, a daunting task at best.

BI members complained that the utility and Senat had failed to consider alternatives to the construction in their deliberations. And this was certainly the case. Within the framework of the administrative permit process, however, such consideration was not required. LafA and SenGesU were responsible for approving or denying a permit based on the proposal at hand. Only the utility, the senator for economy, parliament, or BIs could propose alternatives. In fact, no administrative policy forum existed in which the most important general citizen concerns about reconciling economy and ecology

could be discussed. The activists' insistence on debating these concerns may actually have detracted from the effectiveness of their arguments in the permit hearings. The permit authorities warned that a general discussion would have no effect on the permit decision, but the participants devoted a good deal of their discussion time to it nevertheless.

The licensing authorities defined the process narrowly. Indeed, they had little choice. Administrative decisions could not find their justification in popular opinion—if so, they would be nullified by the administrative courts (in the suit BEWAG would surely file). If BEWAG fulfilled the legal conditions, it *would* eventually win permission to build. The structure of the planning process made the synoptic perspective favored by the BI impossible in any case. Given the division of responsibilities, planning authorities could not have taken a broad perspective even if they had wanted to. BI demands would have been difficult to fulfill, even without the problems inherent in a rigid, fragmented bureaucracy. Plant opponents urged that every possible effect from the construction be taken into account, every possible piece of air and water pollution data be collected and constantly updated.

The preliminary permit, the authorities reminded objectors, did not require detailed technical information such as air pollution statistics. The preliminary permit was just that: an early statement that the responsible authorities considered the construction capable of receiving the necessary permits. They argued that many of the points raised by citizens should therefore be held until the main permit process. Waiting to air their concerns, however, entailed risks for BI protesters. The preliminary permit was a rather ambiguous legal document. Although the authorities insisted that it did not constitute a final decision, they tended to treat it as binding. It functioned as a signal to the utility that a project would eventually receive full approval. Although a preliminary permit did not give permission to build, the Federal Immission Control Law stipulated that objections were no longer valid in subsequent permit processes that could have been raised within the prescribed time period of the preliminary permit process, based upon the documents at hand.[39] The Senat insisted that the preliminary permit process required no hard data on air pollution or plant specifications, but plant opponents faced the devastating possibility that their objections would be discarded if they waited until the main permit process to voice them. The ambiguity of this clause made skeptical BI supporters unwilling to accept the Senat's assurances that the details were unnecessary at this point.

In short, the energy policy process offered inadequate institutional

39. West Berlin Administrative Court decision, Thirteenth Chamber, VG 13 A 18/81, 17 December 1981, 16.

voice to concerned citizens. It provided no forum in which they could air their broader concerns and in which they could implement their political program of establishing a dialogue on energy policy. Some BI members tried to pressure BEWAG internally by buying single shares of stock and appearing at the annual shareholders' meetings, where attendees had opportunities to question the executive board.[40] Such pressure, however, proved weak at best.

Having reviewed the application and the objections, the Senat Administration for Health and Environmental Protection issued a preliminary permit for the Reuter-West cooling tower on 28 October 1980. The next day LafA issued a preliminary permit for the combustion plant. The authorities had concluded that, in accordance with the TA-Luft and the Federal Immission Control Law, BEWAG could guarantee that the construction would comply with legal standards and that no disadvantages or nuisances could arise from the project.[41] LafA attached several conditions to its permit. The sulfur content of the fuel was limited to 1 percent, but the permit stipulated that higher sulfur fuel could be used if desulfurization kept emissions below the limits. The main blocks were to be fired with bituminous coal and some lignite. The permit stipulated that 100 percent of the emissions must be treated by a desulfurization device, which would remove 80 percent of the sulfur.[42] LafA stated that the preliminary permit could be withdrawn if the

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40. According to one interviewee, BI shareholders interrogated the BEWAG executive board for six hours at the 1985 meeting (Schwilling, interview).

41. The procedure for issuing a preliminary permit is outlined in article 10 of the Federal Immission Control Law and in the Ninth Executive Order to the Federal Immission Control Law (9. Verordnung zur Durchführung des BImSchG vom 18.2.77, geändert durch Verordnung vom 27.6.80). Inasfar as the preliminary permit application touched on their areas of jurisdiction, the following administrative authorities gave their approval:

1. Senator for Construction and Housing
2. Senator for Health and Environmental Protection
3. Senator for Economy
4. Spandau District Office, Construction Department
5. Spandau District Office, Health Department
6. Charlottenburg District Office, Health Department
7. Reinickendorf District Office, Health Department
8. The documents were also given later to the Wedding District Office, Health Department, for review (LafA, preliminary permit, 26–27)

42. LafA, preliminary permit, 15. The permit stipulated that, for a three-year period after the plant began operation, emissions could deviate from the requirements up to a maximum of two months per incident, if the desulfurization device failed. The following requirements were valid in all cases:

1. SO_2 emissions must not exceed 530mg/m^3
2. NO_2: 833 mg/m_3

best available technology changed significantly, if additional information was discovered that affected permissibility, or if the utility violated the terms of the permit. BEWAG had requested permission to open the plant before the desulfurization equipment was completed; LafA denied this request.[43]

Objections to the permits must be filed with the permit-granting agency within one month of issuance. On 14 January 1981, the law firm Schily/Becker/Geulen notified the senator for employment and social matters (under whose authority LafA lies) that it was representing six clients who had filed against the preliminary permits for the Reuter-West project.[44] The BI strategically chose some plaintiffs from Wedding and Kreuzberg, the two areas in greatest violation of ambient air quality standards. It also chose plaintiffs from the immediate neighborhood in Spandau, who would suffer from noise, impaired visibility, and other nuisances. As previously mentioned, class action suits were not possible under West German law. In order to bring a case before the administrative court, a potential plaintiff had to show that he or she would be directly disadvantaged by a particular act or circumstance.

In May, BEWAG filed an "objection" of its own, requesting that its permit be altered to allow the burning of higher sulfur coal, since the desulfurization equipment under consideration would be effective to higher than the 80 percent level mandated by the permit. In other words, BEWAG wanted to offer a higher degree of desulfurization in return for permission to burn dirtier fuel. In addition, the utility requested that allowable chlorine

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3. CO: 250 mg/m^3
4. Chlorine: 30 mg/m^3
5. Fluorine: 5 mg/m^3
6. Carcinogenic substances: 5 mg/m^3
7. Dust emissions: 50 mg/m^3

The permit required that the boiler be equipped with automatic measuring devices for these substances.

43. Ibid., 68.

44. The six plaintiffs were:

1. Housewife Strehmann, Spandau
2. Protestant church assistant (*Gemeindeschwester*) Albrecht, Spandau
3. Child Lore Grohmann, Wedding
4. Student Apitzsch, Wedding
5. Postal employee Schröder, Wedding
6. Student Haushalter, Kreuzberg

(letter to West Berlin Administrative Court [VG 13 A 18/81 and VG 8 A 110/81] from Schily/Becker/Geulen, 21 May 1981)

and fluorine emission levels be raised, and that provisions for exceptions (in case of temporary malfunctions) be made more flexible. The senator for employment and social matters announced that his administration intended to change the preliminary permit in accordance with the BEWAG request.[45]

BI Energy Planning and Environmental Protection immediately filed a grievance to halt the proposed changes, claiming that they violated the best-available-technology clause of the TA-Luft. Chlorine and fluorine emission limits were actually being lowered in the new TA-Luft, and sulfur emissions as well could be lowered farther than BEWAG had originally intended. The preliminary permit (since the recent changes) now mandated 85 percent desulfurization, which, according to the plaintiffs, still fell short of the best available technology.[46] Best available technology, they claimed, mandated the use of *both* low-sulfur coal and a highly effective scrubber. The proposed permit alterations, the BI argued, would allow BEWAG to move in the opposite direction, violating the intent of the law. The BI also collected three thousand signatures against the proposed changes, which it

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45. The intended changes included the following:

1. Higher sulfur oil would be permitted (1.4 percent instead of 0.3 percent) on grounds that the scrubber could be guaranteed to desulfurize to 85 percent instead of the 80 percent required in the preliminary permit
2. Allowable emissions of chlorine and fluorine were raised on the grounds that these higher values appeared in the draft for the new federal law covering large combustion facilities (GFAVO). In addition, the dry-scrubbing technology under consideration allowed higher emissions of these two substances, and BEWAG wished to have the choice between dry and wet scrubbers
3. A passage requiring installation of automatic SO_2 measuring devices in the facility to automatically reduce boiler heat output when limits were exceeded was struck on the grounds of insufficient supporting documents. Details on this equipment would be left until the partial permit processes
4. A passage allowing higher sulfur fuels to be used provided emission limits were not exceeded was made more specific. The new version read, "Bituminous coal with a higher sulfur content (up to a maximum of 1.2 Mass.-percent) may be used up to a time period of four months." Grounds: the yearly average will remain at 1 percent
5. In case of failure of any field of an electromagnetic filter, the emission limit of $75mg/m^3$ (for each field) was changed to $100mg/m^3$ (except for situations of high dust content in the gas) on grounds that this type of failure occurs rarely—two to four times a year—so it can be tolerated over short periods (Senator for Employment and Social Matters, "Amtliche Bekanntmachung über den Widerspruch der BEWAG hinsichtlich des Verfahrens in der geplanten Feuerungsanlage," *Berliner Morgenpost; Der Tagesspiegel;* and *Spandauer Volksblatt,* 8 May 1981)

46. Evidence that a higher degree of desulfurization was possible came from an expert report by Dr. Martin Jänicke, who referred to a study by the Federal Environment Agency, *Air Pollution by* SO_2.

presented to LafA. BI objections notwithstanding, the Senat made some changes to the preliminary permit in response to BEWAG's request.[47]

The Appeal against the Preliminary Permits—Federal Immission Control Law

The six BI plaintiffs had filed a variety of objections to the preliminary permits. The arguments were much the same as had been raised at the hearing the previous summer. Most importantly, ambient air quality was too poor to permit construction of a new polluting source. The preliminary permits set no limits on heavy metal emissions, although expert reports indicated that cadmium and lead levels in certain areas exceeded legal limits.[48] Lawyer Geulen submitted evidence that Reuter-West emissions would further exacerbate the problem. In addition, recent figures showed that NO_2 and dust emissions also threatened to exceed legal limits. Furthermore, the air quality data and the TA-Luft standards upon which the preliminary permits had been granted, claimed the BI, were obsolete. The new TA-Luft (scheduled to be adopted within two years) would lower limits on these substances, rendering any new emission source illegal.

The plaintiffs also objected to the Senat's measurement methods, which themselves, they argued, violated the best-available-technology requirements of the law. For example, although ambient air limits on dust were exceeded at three individual points, the current TA-Luft values applied to a measurement *area* as a whole, not to levels at individual measurement points.[49] Thus, lower values at other measurement points within the designated area allowed an overall figure that complied with the TA-Luft. The new TA-Luft, however, would decrease the size of individual measurement areas, eliminating the present possibility that air quality could violate legal limits at certain measuring points within an area but conform to the law overall. The new

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47. The changes:

1. Coal with a sulfur content of 1.2 percent could be fired without special permission up to a period of four months. Thereafter, special permission was required
2. Dust content in the flue gas, in case of malfunctioning of one of the electromagnetic filters, would be permitted to rise as high as 100 mg/m^3
3. Heavier oil could be used in the reheating process, as long as emissions did not rise
4. Emission limits for chlorine and fluorine compounds were raised from 30 mg/m^3 and 5 mg, respectively, to 100 mg/m^3 and 15 mg/m^3 (*Der Tagesspiegel,* 9 May 1981)

48. Expert report from P. Ergenzinger, SenGesU Berlin; see also *Der Tagesspiegel,* 19 September 1981, and *Süddeutsche Zeitung,* 12–13 September 1981. Further supporting articles were submitted by Geulen.

49. Federal Health Office data, preliminary permit, 63.

TA-Luft proposed measurement areas of 1 km^2, as opposed to the old system of 16 km^2 units. If ambient air quality were measured according to the new version, which the plaintiffs claimed defined the best available technology, the levels in areas where some of the plaintiffs lived would be in violation of the law.[50]

The plaintiffs also challenged the nonspecificity of the preliminary permit requirements. They claimed that the permits were void because they failed to set out the legally required measures to reduce emissions. The permits gave no details on desulfurization equipment or the shutdown of obsolete facilities. The plaintiffs argued that the Federal Immission Control Law required environmental protection measures, and these should be included in every permit application.

Finally, the plaintiffs tried to link the validity of the preliminary permits to that of the construction plan. The preliminary permits were invalid, they argued, because they were based on an invalid construction plan. The construction plan failed to provide for the mandatory desulfurization device.[51] The way the site was currently zoned, no desulfurization device could legally be constructed there. In addition, the device itself would cause emissions that would violate air quality standards in the neighborhoods of some of the plaintiffs. Since the desulfurization device affected the environment, the law required its builder to apply for a permit. The preliminary permits, argued Geulen, could not replace this formal approval process. He claimed that the Senat was playing exactly the same trick that it had tried at Oberjägerweg. There it had tried to deforest the site before receiving the necessary permits. Here it was using the preliminary permits to establish the site for the desulfurization equipment before the required approval process was completed. At Oberjägerweg, once the trees were felled, no one could seriously protest that location; in the present case, once the plant was built, no one could seriously raise objections regarding the scrubber.

The West Berlin Administrative Court took the BI's objections seriously; the judge agreed that the applicants had presented too little information to allow a final permit decision to be reached. The court asked the lawyers representing Land Berlin to submit additional information on SO_2

50. Similarly, two inner-city measuring points (Wedding and Kreuzberg) showed significant violations of ambient air quality standards. The current TA-Luft required, however, that ambient air quality effects be considered only within a certain radius of the polluting source. These two measurement points lay outside the area relevant to the permit decision under the TA-Luft (but not outside the reach of plant emissions). The expert report from Professor Martin Jänicke (*Die Schwefeldioxid- und Staubbelastung von Berlin (West) im Vergleich zu westlichen Industriestädten*) offered further evidence that the Senat measurement methods fell short of the best available technology. It also claimed that SO_2 pollution in West Berlin exceeded that in almost all comparable industrial cities in the world.

51. This objection was based upon BImSchG, art. 9, and BBauG, pt. 1, art. 24.

at the critical measurement points in Wedding and Kreuzberg.[52] The judge also requested information on how the values would be affected by the opening of a desulfurization device on one of the blocks at the Lichterfelde plant. In addition, he asked whether the shutdown of one of the old Reuter blocks could be timed to coincide with the opening of the first Reuter-West block and whether heat supplied by the plant would replace coal-oven heating to a degree that would improve air quality in heavily polluted inner-city areas. The judge wanted to be aware of all the options in order to determine how to lower emissions or deem them low enough to allow the new pollution source to open.

On 15 December, the hearing began. The proceedings were open to the public. The arguments centered on the ambient air quality problem in Kreuzberg and Wedding. In two days of testimony, BEWAG could not convince the court that Reuter-West emissions would have no damaging effect on residents in these areas. Finally, BEWAG proposed to trade new emissions for a shutdown of one block of the old Reuter plant. The utility promised to cut SO_2 emissions from Reuter enough to at least offset the added emissions from Reuter-West.[53] The Land (the defendant in this case) agreed to change the preliminary permit for the combustion plant to include this stipulation, and BEWAG agreed to abide by the revised preliminary permit. On 17 December, the court dismissed the citizen complaint. The judge stressed that, even though pollution levels might currently exceed legal limits, the court had merely to determine whether adding the new facility would significantly increase pollution. With the new BEWAG agreement, the court could confidently answer in the negative. Again, the narrowness of the permit process had put the BI at a disadvantage. The court was not required to consider West Berlin's pollution situation as a whole. The BI had lost its case on a technicality. The plaintiffs filed an appeal to the West Berlin Administrative Appeals Court soon thereafter.

The court had rejected the plaintiffs' attempt to link the permit processes under the Federal Immission Control Law and the Federal Construction Law. The judge stated that even if the construction plan were nullified in the impending construction permit process, the preliminary per-

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52. 2 December 1981 letter from West Berlin Administrative Court to Bräutigam and Partner, attorneys for Land Berlin. The court was primarily concerned with three measurement points in Wedding and Kreuzberg. The judge wanted figures on immission levels at those points in the past year, along with information on how these levels would be affected by the newly installed desulfurization equipment at the large Lichterfelde plant as well as the possibility of closing one of the blocks of the old Reuter facility when Reuter-West opened (signed by West Berlin Administrative Court head von Feldmann).

53. West Berlin Administrative Court, transcript, Thirteenth Chamber, 17 December 1981, 8.

mits would still stand—contrary to the beliefs of both licensing authorities and the BI, the court ruled that the two permit processes were not inextricably linked.[54] Of course, no project could receive a construction permit without a valid construction plan, so any weaknesses in the plan could be caught in the main permit process.

The Appeal against the Construction Permits—Federal Construction Law

In addition to air pollution law, construction law presented the BI plaintiffs with an opportunity to stop the project. They filed objections to the construction plan on the basis of the Federal Construction Law. In addition, they applied to the West Berlin Administrative Appeals Court for review of the construction plan under a new procedure (as of 1977) called "review of standards" (*Normenkontrollverfahren*).[55] First, they claimed that the planning failed the test of necessity required by the Federal Construction Law. Second, the site had not been carefully considered; it lay in an already heavily polluted area containing thirteen other major polluting sources. Such "significant" lack of consideration constituted grounds to declare a plan void under the Federal Construction Law. Finally, the plaintiffs charged that the Land had made procedural mistakes during the construction plan process that could void the plan under the law.

The various legal actions did not prevent the start of construction early in 1982. On 25 January, BEWAG received its first two partial construction permits and began to break ground for the plant. No sooner had the work begun than it was brought to a halt by a legal objection filed on behalf of BI members against the permits. Allowing construction to proceed, claimed the plaintiffs, would prejudice the outcomes of the pending appeal under the Federal Immission Control Law of the preliminary permit as well as the review of standards. LafA countered on 3 March with an administrative order for the immediate implementation of the two permits. The West Berlin Administrative Court sided with BEWAG and LafA, stating that the company understood it was building at its own risk and would bear the cost if the project were later vetoed.[56] Further, the court stated that immediate

54. Ibid., 58.

55. This procedure is based on article 47 of the Administrative Court Regulations (VwGO): "(1) The administrative appeals court decides on petition within the framework of its jurisdiction over the validity of statutes that are enacted according to the provisions of the Federal Construction Law and the City Planning Promotion Law, as well as executive orders on grounds of art. 188, par. 2 of the Federal Construction Law." From Schulz, *Deutsche Umweltschutzgesetze,* vol. 3, through 1 May 1985 (Percha am Starnberger See: Verlag R. S. Schulz), Law 970.

56. West Berlin Administrative Court, Thirteenth Chamber, 15 March 1982.

implementation of a project potentially harmful to some could be administratively ordered in cases of an overriding public interest. With this decision, Reuter-West got under way at last.

Disheartened plant opponents doubted the possibility of stopping the project now even if the two pending suits should prove successful. By failing to halt the groundbreaking, the BI had lost an important edge. This time, there would be no site occupation. Too much time had elapsed since Oberjägerweg; too many people had resigned themselves to the new plant. The further the project progressed, the more it would be accepted by planners and public alike as an accomplished fact. The BI was holding its own in the permit process, showing what it intended to show, but the process itself was proving too narrow an arena for the group's complaints. The BI was left with only the legal and the discredited parliamentary routes for protest in a race against time.

Conclusion

With the Reuter-West project, the conflict between bureaucracy and citizenry moved from Spandau Forest to the West Berlin Administrative Court. Mass mobilization against the felling of the forest gave way to technical debate over air pollution measurements and control technologies. The legal permit processes altered the language and substance of the debate. Both administrative authorities and BI activists had difficulty adjusting.

Institutional structure inhibited Senat policy making under the new legal requirements. Previously, the senator for economy, together with BEWAG, had controlled energy policy decisions. The new Federal Construction Law and the Federal Immission Control Law required projects to win the approval of environmental authorities (in West Berlin, these were LafA and SenGesU) as well. The new laws dispersed and politicized energy policy making within the Land bureaucracy. When the court struck down the senator for economy's attempt to retain control by declaring an energy emergency, these three Senat branches were forced to work out a new relationship.

Their new duties afforded the permit authorities increased power and required them to generate increased information. The informational requirements proved especially problematic. LafA and SenGesU, under time pressure at Oberjägerweg, had not set up the measurement system, required by the Federal Immission Control Law, that would allow them to judge the environmental effects of a new polluting source. They tested the preliminary permit process, seeking to delay the requirements for technical information, especially on air pollution, until later stages. They sought to begin construction as quickly as possible in order to ensure the project's eventual approval.

Although this strategy brought some success in the initial permit processes, the Senat was hindered by a second feature of the new federal laws: their increased provisions for citizen participation. These provisions politicized energy policy making from without and exacerbated the tensions within the administration. BI members used the new legal opportunities to file numerous complaints against the project. These slowed the approval process by requiring the authorities to generate enough technical information to convince the administrative court that the project conformed to the law. BI members actively promoted the technical debate in order to expose the inadequacies of Senat planning for Reuter-West. They proved themselves able to discuss the technical details of power plant construction and air pollution measurement. Although they could not prevent the issuance of some permits, their participation ensured that the permit authorities would follow the Federal Immission Control Law and TA-Luft requirements to the letter. The evidence indicates that they would not have done so otherwise.

Thus, ironically, BI members partially remedied the Weberian problem by championing the technical discussion. The area of authority most foreign to citizen rationality and experience was the one they tried to pull into the political realm. Given the information deficit, this was a daunting task. It was also a test of whether the BI could retain its organization and its principles while operating in the technocratic policy-making environment. BI members saw few alternatives; policymakers would not discuss the matter on the BI's terms, and the group needed to stop the project.

BI members sought to participate in the permit process and critique it at the same time. They continually tried to break free of the constraints of the narrow technical discussion. It was, after all, technical procedure—the manifestation of technical rationality—whose expansion most directly threatened their role as political beings in a community and thereby ensured the subordination of their environmental concerns to the systemic imperatives of economic growth and bureaucratic expansion. Their attempts to force a broad value discussion, however, fell largely on deaf ears. Given the fragmented and narrow structure of the permit process, bureaucratic authorities could not have responded adequately to the BI challenge even if they had wanted to. The permit process did not allow consideration of the project as a whole. BI members insisted on conducting a general discussion, but the narrowness of the permit requirements precluded the courts' accepting some of their major points.

Despite these frustrations, the citizen challenge had a symbolic importance for the legitimation question. The Senat's coordination and information problems, revealed publicly by means of repeated citizen challenges, undermined the bureaucracy's claims of technical expertise and neutrality. As Weber explained, such claims formed the very basis of its legitimacy as

a nonpolitical authority; they justified its separation from politics, its removal from citizen influence. Now, the BI was challenging Senat authority with some effect. It was forcing the courts to take pollution concerns seriously. Through its lack of independent technical information, the bureaucracy revealed itself in the BI's eyes to be neither expert nor neutral. Instead, it had used these ideological claims as a facade to hide its promotion of industrial expansion. The BI wanted an admission from the bureaucracy that all policy making served political interests, an open discussion of those interests, and a citizen choice as to which interests a policy would serve.

In addition to its challenge to the legitimacy of bureaucratic experts, the technical debate posed serious legitimation problems for BI supporters as well. The administrative permit debate was their first attempt to change policy making from within the institutional system, through the administrative courts. Although they held their own, their participation laid bare the conflict between the short-term policy goal of stopping the plant and the long-term legitimation goal of creating a broad dialogue for energy policy. The permit debate was a capitulation to the economic-administrative system in both form and content. The technical language discouraged broad citizen participation and obscured the political nature of the debate. The permit processes allowed only a narrow discussion of technical points. Thus, the decision on whether to build the plant would rest on BEWAG's conforming to legal procedure rather than on a consensus about the goals of energy policy. The permit process excluded the discussion of goals in favor of an argument about means. Citizen efforts to expand the discussion had largely failed in this arena.

This form also limited citizen participation to those relative few who could keep up with the technical arguments. Citizen participation in the administrative permit process tended at this stage to *promote* technocratic praxis even as it delegitimated technocratic ideology. BI supporters' use of technical arguments to push their own position perpetuated the legitimacy of this form of rationality even as it destroyed the Senat's monopoly on technical expertise. Acquiescing in bureaucratic form did not help the BI counter the displacement of politics by bureaucracy. It was a necessary step toward the short-term policy goal of defeating the Reuter-West project. Pursuit of the short-term goal, however, may have worked against achievement of the long-term goal of democratization. In any case, the court battle failed to solve the legitimation problem; it did not offer the needed forum for citizen concerns. Realizing this, the BI tried its luck in the parliamentary realm, through the actions of the Alternative List. Some parliamentarians had responded to public pressure by trying to increase parliament's role in

energy policy making. They had enjoyed little success so far. Chapter 6 describes the BI's and Alternative List's efforts to activate parliament as a forum for political dialogue.

CHAPTER 6

Broadening the Discussion: Energy Planning in Parliament

By December 1981, the Reuter-West project had received preliminary permits for the combustion plant and cooling tower, and the construction plan had been approved. Activists continued their legal assault on the project thereafter, winning an important decision against the construction plan. Despite some success on the policy dimension, however, BI supporters found the strategy of legal and technical challenge inadequate; it might delay or even prevent plant construction, but it would not by itself accomplish the broader long-term legitimation goal of democratization. Neither mass mobilization nor the courts could offer the political forum for energy discussion the activists wanted. Parliament was the official channel for citizen input on these matters. Parliament had, however, been conspicuously absent as a relevant policymaker.

BI members generally considered parliament to be part of the problem, an institution that, by abdicating its liaison function, had helped produce and perpetuate technocratic policy making. Now, some BI activists turned to the parliamentary arena as a possible forum for energy dialogue. If parliament could be reshaped and activated, citizens would have an institutional setting in which the broad questions of policy-making goals and form could be addressed. They would also have an institutional lever by which to pry apart the bureaucracy and utility. None of the established political parties could offer an alternative program. Thus, local BIs joined to form their own voting list. The Alternative List (AL) won seats first at the district level and then in the West Berlin Land Parliament. The AL saw itself as the parliamentary arm of the citizen initiative movement, a critical participant that sought to change institutionalized politics while participating in it.

On the policy dimension, largely through the efforts of the AL, the setting of the energy debate shifted during this phase to parliament, where a political as opposed to technical discussion evolved. With prodding from

the AL, parliament took up its responsibilities as overseer of Senat policy making, forming two commissions to investigate energy planning and recommend policy changes. The Alternative List helped parliament emerge as a relevant participant in energy policy making. The BI ultimately lost its long battle against Reuter-West; after some difficulties, both blocks of the plant were on line by early 1989. Through their participation, however, the activists made two important contributions to West Berlin energy policy. They insured that Reuter-West was built with the most modern environmental protection equipment of any West Berlin plant, exceeding legal standards in a number of areas. Also, through the AL's efforts, the Senat and parliament formulated a long-range energy plan for West Berlin.

On the legitimation dimension, the actions of the BI and AL helped reverse the slide into irrelevancy of parliamentary politics and partially restore the legitimacy of parliament as a policy-making institution. The role of parliament as opposed to direct citizen action remains controversial, however. The BI's informed grassroots action debunked technocratic ideology and weakened the legitimacy of nonparticipatory forms of decision making, but it is not clear that parliament can function as the platform citizen groups want. In any case, the Alternative List's actions in the West Berlin Land Parliament helped promote a political discussion of energy policy alternatives and generally raise the level of public information. Indeed, it helped instill a sense of public responsibility even in the technical issue areas that had previously been the acknowledged territory of bureaucratic experts.

The Alternative List: Institutionalizing Grassroots Activism

By the end of the 1970s, citizen action had reached a crossroads nationwide. The citizen initiative movements in other federal states had evolved in a similar way to the West Berlin group and had voiced much the same critique of the established political institutions. Everywhere, unpopular administrative decisions affecting local environments, generally in the form of state-sponsored industrial projects, had prompted the development of the citizen initiative and ecology movements. These groups in turn focused constant attention on state planning "errors," calling into question not only the decisions themselves, but also the conventional forms of political decision making that had produced them.[1] Citizens increasingly aimed their critique at the established political parties, in particular the federal SPD-FDP coalition, which seemed unable to cope with the economic, social, and political problems of the 1970s. The government appeared to function more as a "crisis

1. Burkhard Schaper, "Die Entstehungsgeschichte der AL," in Bühnemann, Wendt, and Wituschek, *Die Alternative Liste Berlin,* 52.

manager" than as a leader. Fanned by publications such as the Club of Rome's report *The Limits to Growth,* the view spread among citizen activists that the crisis phenomena were not merely a passing phase but indicated instead "a long-term structural crisis, whose cause lies in the industrial-technocratic growth society itself."[2]

Grassroots groups like BI Oberhavel/Oberjägerweg continued to experiment with alternative forms of internal decision making (grassroots democracy, consensus) and enjoyed some success in fighting government projects. Robin Wood, for example, a group formed in 1982 to save West Germany's endangered forests through "spectacular actions," developed a decentralized structure with thirty regional and topical groups that met several times a year to discuss their activities. There was no central authority; each local group organized and conducted its activities in its own way.[3] Robin Wood remained outside the realm of institutionalized politics, but as they broadened their critique to include the political system as a whole, some of these groups found the extraparliamentary arena too restrictive a forum. Like many in the West Berlin BI, they reasoned that the necessary change would require a degree of institutional restructuring that could only be accomplished through their direct participation in parliamentary politics.

The groups that had worked together in the Action Association Oberjägerweg began to discuss the desirability of founding a political party. West Berlin groups were encouraged by the success of newly formed local green voting lists in Lower Saxony and Hamburg, whose evolution had been very similar to that of the West Berlin citizen movement and who had both received over 3 percent of the vote in their respective Land-level elections in 1978.[4] The left-wing periodicals *Zitty* and *Radikal* held several meetings to discuss forming a list of candidates for the March 1979 Land elections. These first meetings were chaotic. Some blamed the many conflicts on the unusual degree of fragmentation among the West Berlin citizen initiatives. Elsewhere in West Germany, diverse groups had been able to unite behind the antinuclear movement. In West Berlin, Oberjägerweg had been the only overarching cause, and it had proven insufficient to unite activists behind a single vision of the public good or against a single public bad.

Many who favored forming a voters' association opposed the idea of a political party. BI Energy Planning and Environmental Protection and *Sponti* groups, for example, expressed strong reservations.[5] At a July meet-

2. Ibid.

3. Reiner Scholz, *Betrifft: Robin Wood* (München: C. H. Beck, 1989), 39.

4. Lower Saxony: Grüne Liste Umweltschutz; Hamburg: Bunte Liste Hamburg.

5. Those who took part in the early meetings included WUB of Zehlendorf, upon whose organization the new group was modeled, various third world and anti-imperialism groups,

ing with nineteen BIs present, three voted against any form of electoral participation, nine favored such participation only at the district level, and only four supported campaigning for seats in the Land parliament. A document written by one prominent BI articulated the reservations of many.[6] A party organization, argued the group, would promote hierarchy, destroying the alternative, democratic organizational forms the citizen initiatives were trying to build. Citizen initiative groups could not legitimately critique bureaucratic form, it stated, while adopting that form themselves. In addition, electing an alternative set of parliamentary representatives would not solve the basic problem, which lay not with the parliamentarians, but with their *role* in the political system. The structurally determined inefficacy of parliaments, especially at the district level, had become abundantly clear in the past few years. Extraparliamentary action in the form of BIs arose partly in response to the failure of parliaments to ride herd on technocratic planning. The parliamentary form of participation had proven ineffective, not because of the representatives but because of their irrelevance to policy making. To now want to participate in those parliaments contradicted BI goals and experience.

It was erroneous to believe, argued some, that BIs could make more information available to the public through parliamentary participation: "not the parliaments, but the bureaucracies are the essential information holders, and in the bureaucracies occur also the major portion of politically relevant decisions."[7] The current fight against Reuter-West revealed both the seriousness of the information deficit and the importance of the administrative permit process, rather than the parliamentary arena, as the channel for citizen participation in energy politics. Not representative government, but self-determination was the aim of BI activity—to mobilize disadvantaged groups to participate directly in politics themselves. By this argument, extraparliamentary participation was the form most consistent with BI goals: where individual groups would be coordinated through self-run umbrella organizations such as the Land and Federal Associations of Citizen Initiatives for Environmental Protection.

These arguments did not discourage some local groups from continuing to work on forming a political party. All participants agreed that nonparliamentary citizen initiative groups would remain the dominant form of politi-

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women's groups, renters' initiatives, remnants of the student movement, alternative groups, and the two left-wing journals, *Zitty* and *Radikal* (Schaper, "Die Entstehungsgeschichte der AL," 55–60).

6. This essay was authored by BI Westtangente, a long-standing group that organized to protest a freeway expansion (Bühnemann, Wendt, and Wituschek, *Die Alternative Liste Berlin,* 74–76).

7. Ibid., 75.

cal activism. The AL was designed as the parliamentary arm of the BI movement; its founders intended it to educate the public and win support for extraparliamentary participation, not to replace it:

> The bureaucratic apparatuses and the executive offices of the businesses are from the alternative viewpoint the true rulers over established politics. These can only be dealt with through extraparliamentary protest, extraparliamentary movements of the affected population. The starting point for alternative electoral participation was simply the notion to achieve a greater audience for [our] own ideas and thus to work in support of the extraparliamentary movements and initiatives.[8]

The bureaucracy and BEWAG remained, at least for the time being, the only relevant policymakers. Even if the AL succeeded in activating parliament as a partner in the energy debate, many claimed that the latter was too entwined in the existing power structure to act as a critical force.

Membership posed another obstacle to the formation of a new political party. Many who were not in principle opposed to the idea balked at the possible inclusion of communist groups, especially the German Communist Party (KPD). Given the experience at Oberjägerweg, it was widely feared that these groups would undermine the nonpartisan nature of the proposed voter initiative. Indeed, in Hamburg the heavily represented Communist Federation appeared to dominate the new local voting list. Several important groups and individuals threatened to withdraw their support if the KPD were not banned from participating in the West Berlin group. In spite of such opposition, at a July 1978 meeting approximately one thousand people threw their support behind formation of a voter initiative. They created a committee to work out a platform for the upcoming elections. On 5 October, thirty-five hundred activists announced the foundation of the Alternative List for Democracy and Environmental Protection Berlin.

Only about three hundred of those present actually joined the Alternative List. Parties or similar groups could not become members of the AL (party members could only participate as individuals), but any individual, "regardless of his/her worldview, . . . who advocates democracy and environmental protection can participate."[9] The refusal to ban communist groups, especially the KPD, led to the resignation of the influential Voters' Association of Independent Citizens (WUB) and prominent lawyer Otto Schily (later of the national-level Greens) from the AL.

The AL was organized along the lines of BI Oberhavel/Oberjägerweg.

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8. Ibid., 185.

9. Schaper, "Die Entstehungsgeschichte der AL," 57–58.

Approximately thirty district and "theme" groups (*Bezirks-* and *Bereichsgruppen*) were formed. The interests of the individual groups would "flow together" in a delegate council (*Deligiertenrat*), in which each group would receive one imperative mandate per ten members. The delegate council was the most important political decision-making body. The highest party organ was the plenary assembly (*Mitgliedervollversammlung*), composed of all members, which would meet every six months. In order to conform to West Berlin election law, the founders elected a nine-member managing committee (*geschäftsführender Ausschuß*). They assigned it, however, no political powers.

The Alternative List next set out to formulate an election program. Disagreements between some of the Communists and other members made the work difficult. The Communists' stands on many issues, especially foreign policy, proved unacceptable to more moderate members. The radicals, however, were loath to compromise their positions. The impasse resulted in, as one analyst put it, a "radical democratic program without an ecological orientation."[10] The program was more a collection of political demands and goals of the extraparliamentary opposition than a unified, ideologically stringent party program. In March 1979, the AL won 3.5 percent of the vote in the race for the West Berlin Land Parliament. Although it failed to clear the 5 percent hurdle at this level, in four of the district assemblies the AL won a total of ten seats.[11]

New alternative and green voting lists were showing increasing promise elsewhere, too. In June a loosely organized group calling itself the Greens (*sonstige politische Vereinigung—die Grünen*) received 3.2 percent of the vote in the first direct elections to the European Parliament. This result encouraged its founders to continue their efforts to form a national-level green party. In fall 1979 in Bremen, amid renewed antinuclear unrest at Brokdorf and Gorleben, a green voting list entered a Land government for the first time. This group was followed in March 1980 by a new green delegation in Baden-Württemberg.[12] The airport controversy in Frankfurt prompted the mobilization of a green voting list in Land Hessen, which soon won seats in local elections.[13] Throughout the nation, BIs that had been founded to fight industrial projects spawned new green parties and voting lists that gave them direct representation in government for the first time.

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10. Ibid., 59.

11. Ibid., 59–60.

12. Bühneman, Wendt, and Wituschek, *Die Alternative Liste Berlin,* 13–20.

13. Hubert Kleinert, *Aufstieg und Fall der Grünen: Analyse einer alternativen Partei* (Bonn: Dietz, 1992), 18.

Changes in the Land Government

In the spring of 1981, the faltering SPD-FDP Land government was forced to call an early election. The next parliamentary election was not scheduled until 1983, but a proposal by the CDU fraction to call a referendum to dissolve the government prematurely won the necessary two-thirds majority in parliament.[14] The proposal found large public support as well. Rather than awaiting the results of a citywide referendum, the SPD and FDP fractions agreed to call a new election.

In the 10 May vote, the CDU (48 percent) fell short of the expected majority, but the SPD (38.3 percent) and FDP (5.6 percent) together failed to garner enough votes to form another coalition government. The FDP refused to enter into a coalition with the CDU, but five of the six FDP senators agreed to support a minority CDU government.[15] For the first time since the 1950 election, the SPD found itself in the opposition. It was joined by the Alternative List, which entered the West Berlin Land Parliament for the first time with 7.2 percent of the vote.

As the alternative and environmental movement grew nationwide and the first national-level party, the Greens, was founded in 1980, AL members played an integral role in organizing its first campaign for the Bundestag. The Greens were composed of a broad spectrum of people, from left-wing groups to value-conservative environmentalists, who saw themselves more as an arm of the citizen initiative movement than as a political party.[16] Like the AL, the new Greens developed practices such as the imperative mandate, rotation, and nonspecialization, in order to keep the party attached to the grass roots. Subsequent discussions arose over whether to bind the AL formally to the national party. This question caused continuous disagreement among the West Berliners, largely over the Greens' position on the violence question. Many AL members could not support the statement in the Greens' federal program binding them to the tradition of "radical pacifist" nonviolence.[17] The discussion culminated in an AL proposal to remain independent but to sign a "contract" outlining the formal relationship, the areas of coop-

14. The referendum is provided for by the Berlin constitution, art. 39, par. 2. See details, Berlin Land Headquarters for Political Education (Landeszentrale für politische Bildungsarbeit), *Wahlen in Berlin am 10. März 1985,* 4.

15. Ibid. The FDP fraction entered into a governing coalition with the CDU only after the 1983 elections.

16. Spretnak and Capra divide the Greens' membership into four categories: visionary/holistic greens, eco-greens, peace movement greens, and left-wing or communist greens (Charlene Spretnak and Fritjof Capra, *Green Politics,* rev. ed. (Santa Fe: Bear and Company, 1986), 6–7. The membership of the national party differed from that of the AL in that the value-conservative wing was more strongly represented in the Greens at first.

17. Bühnemann, Wendt, and Wituschek, *Die Alternative Liste Berlin,* 127.

eration and autonomy, with the Greens. By 1983, however, when the Greens entered the Bundestag with 5.6 percent of the vote, no formal contract had yet been agreed upon.

Even before the election, the SPD-FDP government's attitude toward the Reuter-West project had shown signs of change. Senator for Health and Environmental Protection Ueberhorst (SPD) stated to the press that the necessity of the project was an open question. Moreover, the Senat now expressed doubts that the plant could be opened by the latest 1985–86 target date. The Senat had revised its energy demand projection downward from 5.3 percent annual growth until 1985 to a mere 2.7 percent. Senator for Economy Brunner (FDP) stated that "in light of the projected developments in electricity demand this [delay] is no catastrophe."[18] Once in opposition, more SPD and FDP members began to express policy positions similar to those of the BI and Alternative List.

Some administrative reshuffling accompanied the change in government. Environmental duties were moved from the Senat Administration for Health and Environmental Protection to the newly formed Senat Administration for Urban Development and Environmental Protection (Stadtentwicklung und Umweltschutz). This change had a subtle symbolic importance. Environment would be considered by the new government not in terms of human health but in terms of city planning. LafA was placed under the new Senat Administration for Employment and Business (Arbeit und Betriebe). The duties of the permit-granting authorities, according to a LafA representative, remained the same; the duties of the Senat administrations to which they were assigned, however, did not.[19]

Upon entering parliament, the AL wasted no time in making its impact felt. In accordance with the law, BEWAG had applied to the Land government for a price increase. The AL fraction vocally opposed the increase, launching in return a series of parliamentary inquiries into BEWAG pricing policy. It also proposed formation of a parliamentary commission to discuss energy policy. The time had come, the AL stated, for parliament to take seriously its overseer function.

The AL and the Grassroots

The Alternative List's unique organization allowed it to convey the positions of grassroots citizen groups directly to the legislature. The "theme groups," which formed the acknowledged core of the AL, worked directly with local BIs on specific political topics. Much of the AL's expertise in energy ques-

18. West Berlin Land Parliament, transcript, 50th Session, 12 March 1981, 2205.
19. Wichmann, interview.

tions, for example, derived from its contact with the activists opposing the Reuter-West project. The AL made defeating Reuter-West part of its platform, which it remained even as the plant was built. The BIs continued their own work; many of their supporters still opposed parliamentary participation, and all agreed that party politics alone would not suffice to accomplish BI goals—the activist wellspring would have to be maintained.

The AL took pains to avoid developing structures and functions autonomous of the citizen initiative movement. AL members adhered to a list of principles designed to keep the party anchored to the grass roots. The most publicized of these was the rotation principle (also followed by the national-level Greens). Members of the parliamentary fraction agreed to give up their mandates after two years. Rotation was designed to avoid hierarchy and "expertdom"; rigid work roles and star personalities would not arise as in the established parties. For the most part, rotation functioned smoothly in West Berlin. A few of the BI activists complained that just as the parliamentarians learned the ropes in a particular political area, they were replaced by others who had to be taught all over again. The requirements of grassroots democracy and political expertise proved difficult to reconcile at times. The AL wanted no entrenched experts and no political stars, but institutionalized politics functioned more smoothly with both. As the BI protest against Reuter-West entered its expert stage, members registered frustration with lukewarm AL technical and moral support.[20] In general, however, the AL retained a close cooperative relationship with the grass roots.

The AL also adhered to the controversial imperative mandate; parliamentary representatives were bound by the decisions of the party base. There was much disagreement over the amount of flexibility representatives should have. As time passed, however, complaints about the imperative mandate arose most often from the parliamentary AL members, who claimed that the grass roots failed to give clear directions, or indeed any directions at all, to its representatives.[21] Especially at the district level, the citizen initiative movement had already begun to weaken, an ominous sign for the parliamentary fraction, whose organization depended upon a strong grassroots base.

The AL had the same seemingly paradoxical relationship to technical expertise that characterized the BI—it opposed the power of technical experts while promoting increased citizen expertise. The AL recognized that political empowerment required public information. It tried to promote par-

20. For example, Wolfgang Jurisch from BI Rudow stated: "Through the rotation principle, again and again new people must acquaint themselves with our problems" (Bühnemann, Wendt, and Wituschek, *Die Alternative Liste Berlin,* 147).

21. Ibid., 187.

liamentary expertise in energy questions as a means to create an open public discussion. Its first goal was to force BEWAG to disclose its decision-making and interest structure, to clarify the behind-the-scenes relationship between the utility and the West Berlin Senat. The several parliamentary inquiries into BEWAG's cost and price structures served this end. Many citizens had complained that, although BEWAG received more than the usual amount of subsidies for its projects (because of special investment incentives to promote the local economy), it charged "by far" the highest energy prices, especially for household energy, in the country.[22] Construction costs for Reuter-West had exceeded early estimates by a wide margin. BEWAG now estimated the plant would cost over DM 2 billion, nearly six hundred million of which was directly covered by Land and federal subsidies.[23]

The AL fraction questioned the fact that little of the cost savings BEWAG achieved through these subsidies was passed on to the consumer. In fact, BEWAG included some of its subsidies as costs in making its price calculations, thus driving up energy prices, objectors claimed, on the basis of expenditures that were in fact carried by the Land government rather than the utility. BEWAG pointed out that its pricing policies complied with federal and Land laws as well as general utility practices. Nevertheless, the AL-led inquiries damaged the utility's standing with both the general public and parliamentarians, who viewed subsequent utility cost arguments with skepticism. Transcripts of these sessions reveal a new style of questioning on the part of parliamentarians: caustic, accusatory, and technically specific.

By publicly linking the Senat to the increasingly unpopular utility, the AL also forced senators to reconsider their ties to BEWAG. After publicizing BEWAG's cost structure and pricing policy, the AL asked Senat representatives whether the Senat would help lower costs by forcing the utility to recalculate its cost figures to take account of subsidies, or would at least

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22. Enquete-commission meeting, 10 June 1983; and West Berlin Land Parliament, Document 9/484, *Große Anfrage der Fraktion der AL über die unwirtschaftliche Kostenstruktur der BEWAG,* 8 April 1982, and Document 9/630, *Große Anfrage der Fraktion der AL über die Kostenstruktur der BEWAG,* 29 June 1982.

23. BEWAG received subsidies in accordance with the following laws:

1. Eighth Electrification Law (8. Verstromungsgesetz): DM 195 million max.
2. Law for the Promotion of Employment and the (West) Berlin Economy (Berlinförderungsgesetz): DM 385 million
3. Investment Subsidies Law (Investitionszulagengesetz): DM 6 million (West Berlin Land Parliament, *Große Anfrage über die Kostenstruktur*)

BEWAG estimated that 15–20 percent of the cost of Reuter-West would go to environmental protection measures (BEWAG, *Annual Report* 1981–82).

attempt to remedy its regressive pricing policy (household energy prices were highest, industrial energy prices lowest). By answering in the negative, the Senat somewhat unwillingly placed itself in the utility camp as a villain in the energy conflict. Its representatives subsequently made more effort to distance themselves from BEWAG positions. Through such publicity, the AL manipulated the Senat and BEWAG onto the defensive, something the BI alone had tried and failed to do. At the same time, AL activism put parliament in the forefront of the energy debate, not because of its expertise, but rather because the AL exploited parliament's previously unclaimed political right to oversee Senat policy making.

The Construction Plan Approval Process under the Federal Construction Law: Review of Standards

The context of West German energy policy making had changed dramatically in the space of a few years. Not least because of the efforts of environmental groups, substantial data had become available on the severity of air and water pollution problems as well as on health effects of environmental pollution.[24] The concern rose to near panic proportions with the mysterious death of the fabled German forests (*Waldsterben*). The *Waldsterben* began with a few thousand hectares of forest, but quickly spread to millions, until over half of the total forest area was afflicted. Experts were initially unsure of the cause, but evidence mounted that air pollutants, especially SO_2 and NO_x, had so weakened the trees that they became susceptible to disease and infestation. Environmental groups and green and alternative parties jumped on the issue, suggesting, "First the forest, then human beings?"

Politicians, alarmed by the proportions of the problems and the increasingly hostile populace, hastened to implement more stringent antipollution laws. The new, much stricter and broader federal environmental regulations that appeared in 1983 reflected the sharp rise in public concern over environmental problems. The long-awaited new TA-Luft became official in September. In addition, the important new Executive Order on the Reduction of Emissions from Large Combustion Plants of July 1983 revised Federal Immission Control Law guidelines for, among others, coal-fired power plant

24. The Senat Administration for Health and Environmental Protection had published the legally required air quality control plan (*Luftreinhalteplan*) for SO_2 as well as an emissions report (*Emissionskataster*) for automobiles in 1981. In addition, various organizations had begun to collect and publish environmental statistics nationwide. An example is the popular press annual *Die Lage der Nation* (The state of the nation), an environmental atlas containing comparative pollution statistics for all the federal states, including statistics on *Waldsterben.* This publication first appeared in 1983. *Statistisches Jahrbuch BRD* (Statistical yearbook of the FRG) also contains information on *Waldsterben.*

emissions. It required all plants to be fitted with desulfurization equipment by 1993. Concern over air pollution would affect all subsequent permit processes in the Reuter-West case, even those having to do with construction law as opposed to environmental law. The activists sought to force administrative authorities to evaluate environmental impacts of a project in all aspects of planning.

In August 1983, the review of standards, whose purpose was to review building plans under the Federal Construction Law, went before the West Berlin Administrative Appeals Court. The judge, once again, was Professor Grundei. The BI plaintiffs had requested the review, claiming that the construction plan for Reuter-West should be declared void on several grounds. First, they argued, BEWAG could show no convincing evidence that the project was necessary. Second, the plan failed to set guidelines for the required desulfurization device. Moreover, it contained insufficient environmental measures: it listed no emission limits for NO, CO, chlorine, fluorine, and fine dust and no ban on harmful air pollution emissions; it specified no measures to control noise pollution or to supply residential heating; and it even left open the placement of the various buildings on the site. These omissions showed, the plaintiffs claimed, that the Senat had failed to address essential construction planning questions.

The senator for construction and housing, who was ultimately responsible for the plan, argued that the plaintiffs had no legal right to the complaint. Their legal rights would be violated only if the construction plan itself caused them direct personal harm. This would be virtually impossible to demonstrate. Further, the Senat continued to argue that the construction plan approval process was an inappropriate setting for airing BI concerns. This process was designed to evaluate the validity of the construction planning, whereas the BI complaints centered on possible problems with the operation of the plant. Plant operation, the senator argued, was covered under the Federal Immission Control Law permit process, not the construction plan process. The construction plan process did not require separate guidelines for desulfurization equipment, since this equipment was an integral part of the combustion plant. As far as emission limits, these had nothing to do with construction law. Not all environmental problems, the senator reminded the court, could be fused under the planning instrument of the Federal Construction Law.

Once again, underlying the disagreement was a grassroots challenge to the structure of Senat policy making. The controversy stemmed from the narrowness of the permit process and the dispersal of environmental competencies among the administrative branches. The activists wanted each permit authority to take a wide variety of factors into account. The Senat, on the other hand, advocated a very limited, distinct set of considerations for each

permit process. Indeed, the Senat's line of argument looked like an attempt to evade the environmental discussion altogether. Its representatives had interpreted environmental responsibility narrowly in all the permit processes. Their response to many citizen complaints was that such considerations were not part of the legal process at hand. When finally environmental considerations *were* deemed part of the process, the Senat argued that if the project proposal had not dealt adequately with environmental concerns, it would not have cleared the previous administrative hurdles. Further, any objections the activists had not raised earlier could not be raised now. With this line of reasoning, the Senat would never have to defend the project on environmental grounds.

On 19 August the court, siding with the BI plaintiffs, declared the construction plan void. The Land, stated Judge Grundei, had failed to take required environmental factors into account in construction planning. The Senat could not delay all environmental considerations until the permit hearings under the Federal Immission Control Law. Environmental decisions must be integrated into the planning process from the beginning. If Senat agencies had done so, stated the judge, the process would not now be in such disarray:

> Public and private interests are to be weighed justly against and among each other. To these interests belong . . . demands for healthy living and working conditions, the interest of environmental protection, the preservation and security of natural necessities of life, especially the air. The planner[s] have concentrated the question of environmental pollution in its entirety in the air pollution permit process . . . [which constitutes] an error in the consideration procedure, that has affected . . . the outcome.[25]

The Federal Construction Law required planning authorities to formulate the construction plan according to air pollution control standards.[26] In this case, such standards were especially important, not only because of West Berlin's status as a heavily polluted area, but also because the proposed plant stood next to an existing plant, both five hundred meters away from residential neighborhoods. Estimates of additional air pollution caused by the plant were available for consideration, but the Senat had bypassed them. The whole debate about allowing a new polluting source in an area

25. Transcript of the West Berlin Administrative Appeals Court decision (2. Senats des Oberverwaltungsgerichts, Bebauungsplan VIII-200 vom 4 August 1980), review of standards, 29 August 1983, 10–11.

26. BBauG, art. 9, par. 1.

already in violation of air quality standards was ignored in construction planning, an inexcusable omission in the court's view.

The judge also chastised BEWAG for reneging on its promise to shut down old facilities. BEWAG plainly intended to continue operating the old Reuter plant at full capacity after the opening of Reuter-West, stated Grundei, quoting several utility statements to this effect. But the court had upheld the preliminary permits (under the Federal Immission Control Law) on the condition that BEWAG compensate for emissions from the new plant by shutting down certain older facilities. BEWAG had violated the agreement by failing to offer a binding shutdown plan. This plan, according to Grundei, must also be part of the considerations upon which construction permit decisions were based.

In sum, the court ruled that the Senat could no longer put off a binding commitment to environmental protection and that environmental protection measures must be incorporated into every permit application. Any permit issued without weighing environmental factors and committing the builder to specific standards and actions would be void under the law. To the Senat's objection that it was impossible to weigh so many factors at once, Grundei chided the authorities:

> Contrary to the opinion of the defendant, the planners are not overtaxed by a [requirement for] stipulation of measures to avoid or minimize harmful environmental effects, such as reduction or shutdown orders [for old plant capacity], emission limits, noise pollution abatement measures, establishment of a ban on the use of certain heating fuels, as well as the stipulation of the position of certain buildings on environmental grounds.[27]

All the details of the proposed project were known and available, concluded Grundei; air pollution reports lay at the Senat's disposal. Because the Senat failed to avail itself of this information, ignoring a vital part of the planning process, the construction plan was ruled invalid.[28]

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27. West Berlin Administrative Appeals Court decision, 29 August 1983, 17.

28. Land Berlin later asked the Federal Administrative Court to examine the review of standards decision. Land authorities claimed that the original decision should be declared void because the West Berlin Administrative Appeals Court had failed to submit the matter to the federal court before reaching its decision. According to federal administrative law, such a measure is required when the legal matter has "fundamental meaning," that is, when it touches on the principles of the Basic Law (VwGO, art. 47, par. 5). The Land claimed, and the court agreed, that the case could serve to clarify the legal relationship between construction planning and the newer air pollution permit process, a matter that had not yet been addressed by the federal court. Administrative court personnel worried that the West Berlin decision would place too great a burden of expertise on construction permit authorities. These authorities would have

This decision increased the pressure for institutional change. The Senat's actions brought home the point that the fragmented, narrow bureaucratic decision process was ill suited for consideration of environmental problems. Such consideration required a more synoptic, overarching perspective that could only be achieved through a more integrated decision structure. The review of standards decision left the utility with a partially completed power plant and no valid construction plan. It proved a Pyrrhic victory for the activists, however. In order that the project could continue, LafA issued BEWAG exemptions from construction law that would allow it to proceed without a construction plan, on the basis of a "construction use plan" that had existed before the Federal Construction Law was passed in 1960.[29] In fact, a new construction plan was never filed.

Energy Enquete-Commission Future Energy Policy

The challenge to Senat policy making and the demand for BEWAG modernization also began to come increasingly from political quarters. The AL's well-publicized push for a special commission to consider energy policy, along with the other parties' desire to restore the legitimacy of parliament as an energy policymaker, resulted in the formation of the Enquete-Commission Future Energy Policy in January 1982. Parliamentary enquete-commissions are temporary bodies designed to research and report on particular problems that require a higher level of expertise than normal parliamentary committees can generate. The energy commission's duties were "to examine the various possibilities for the long-term development of [West] Berlin

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to anticipate what technical stipulations would be required by the air pollution permit authorities in the later permit processes. It was also unclear whether the air pollution authorities could later sharpen the stipulations of the construction plan, or whether the plan itself would have to be altered to keep pace with changes in the best available technology. In order to clarify these questions, the court stated that the West Berlin Administrative Appeals Court should have submitted the case to the federal authorities. This omission did not nullify the review of standards decision, however. The review of standards offered no legal opportunity for appeal. The Land was in effect asking the federal court to create one, a request the court could not grant. The court found the Land's complaint inadmissible (Federal Administrative Court decision [BVerwG 4 B 191.83, OVG 2 A 3.881], review of standards, 17 February 1984).

29. Zoning had previously been based upon the construction use plan. The Senat claimed that this plan could be considered a transitional construction plan. The Senat had tried to use this argument in 1976 to avoid writing a construction plan for Oberjägerweg in the first place, but the administrative court's decision against the Senat in May 1977 had convinced the authorities to drop this argument. Now that the construction plan had been voided, the argument arose anew. Importantly, if the construction use plan were accepted as a substitute construction plan, the approval process, with its citizen participation requirements, could be avoided. LafA grounded its argument on BBauG, art. 31, par. 2, nos. 1, 2, and Berlin Construction Regulations (Bauordnung Berlin vom 1958), art. 9, no. 7, 22 March 1984.

energy policy and to formulate for parliament guidelines and recommendations for future decisions subject to ecological, social, economic, and [West] Berlin-specific considerations."[30] Importantly, these guidelines and recommendations would not be binding; they were designed merely to help parliament formulate policy.

The commission consisted of eight members of the Land Parliament: four from the governing CDU fraction, two from the SPD, and one each from the AL and FDP, along with eight cooperatively chosen nonparliamentary expert members.[31] The commission often invited members of the Senat, BEWAG, and the BI to participate in meetings and answer questions. It thus became the first general forum for discussion of energy policy, combining technical and political competencies. Through these debates, all involved parties became familiar with the technical and procedural matters.

In June 1983, the energy enquete-commission met to discuss BEWAG's plans for power plant renovation. Invited to the session was Dr. von Gersdorff, the BEWAG executive board member in charge of the technical planning division. The meeting provided a rare opportunity for parliamentarians to question BEWAG representatives directly about planning, a topic normally negotiated between the utility and the Land bureaucracy. The commission asked how BEWAG intended to comply with the law; that is, which plants would be retrofitted with equipment and which would be shut down. The utility's answer came as a shock to many. Gersdorff stated that in the foreseeable future, nothing would be shut down. Moreover, although all plants would be fitted with desulfurization equipment, he claimed, many would be difficult to retrofit because of their age. BEWAG therefore intended to apply for exemptions from the legal deadline for most of its facilities. AL member Jänicke protested that demand growth was now so low (even the Senat and BEWAG now proceeded from a 1 percent maximum mean annual growth prediction) that BEWAG would have ample reserve capacity (77 percent) to close down older, more polluting facilities once Reuter-West opened. In fact, BEWAG and the Senat had cited shut-

30. West Berlin Land Parliament, Document 9/1329, *Bericht der Enquete-Kommission "zukünftige Energiepolitik,"* 7 October 1983, 7.

31. The original members were: Kittner, Palm, E. Schmidt, and Wohlrabe (CDU); G. Lorenz and R. Ueberhorst (SPD); Prof. Dr. Jänicke (AL); Prof. Dr. Kunze (FDP); Dipl.-Ing. Gibbins (independent architect and urban planner); Prof. Dr. Jäger (Power Plant Union Berlin); Prof. Dr. Jansen (Institute for the Energy Industry at the Technical University of Vienna); K. Pommeränig (Public Service, Transport, and Commerce Union Berlin); Prof. Dr.-Ing. Schaefer (Professorial chair and Laboratory for the Energy Industry and Power Plant Engineering at the Technical University of Munich); Dipl.-Ing. Sommer (BEWAG); Prof. Dr. Strümpel (Institute for Market and Consumer Research at the Free University of Berlin); and Dr. Ullrich (Energy and Society Project at the Technical University of Berlin) (West Berlin Land Parliament, *Bericht der Enquete-Kommission "zunkünftige Energiepolitik,"* 7).

down of older facilities as a reason for wanting to build Reuter-West in the first place. Parliamentarians were bewildered to learn that BEWAG had no such concrete plans.

SPD member Lorenz raised a question that had troubled critics of the plant for some time. Were 300 MW blocks too large to be economical? In case of a malfunction, reserve capacity must run alongside the normal capacity. The larger the blocks, the greater this reserve capacity had to be in order to cover for a malfunction (a fairly frequent occurrence). Gersdorff attempted in his answer to place the blame on the Senat. He said that BEWAG had proceeded from demand projections, which the Senat Administration for Economy had shared, of 5.5 percent annual growth in demand. The figure was gradually revised downward, but BEWAG had followed the Senat's lead, Gersdorff claimed, in making relatively high projections the basis for the dimensions of the Reuter-West plant. High demand growth would have made 300 MW blocks reasonable; in fact, BEWAG had planned yet another 300 MW expansion by the end of the century. But "from today's point of view," he stated, "I would also say, no, that went too far." Given the data BEWAG had at the time of the decision, Gersdorff claimed, the blocks were appropriately planned. In the current situation, however, both the blocks and the expectations of demand growth appeared too large. Gersdorff stated, "we would have planned differently if someone . . . had told us in a binding fashion that growth would remain so low."[32]

These statements met with incredulity. For practically a decade evidence had rolled in that the Senat and BEWAG's growth predictions were too high. The BI, along with myriad technical experts, some commissioned by Land authorities, had piled up technical reports refuting the official figures. Now BEWAG itself admitted its figures were mistaken, but to claim that no serious counterevidence had existed at the time was simply false. Angry commission members asked whether BEWAG had any modernization or pollution control plans at all. A company representatve answered that in fact BEWAG planned two programs, one for environmental protection (retrofitting scrubbers) and one for renovation (modernization or shutdown). The renovation plan was to be implemented over a fifteen-year period for the first three plants, a time frame that would now have to be drastically shortened as a result of the legal changes. BEWAG had not yet developed an environmental plan: "if we could give you a solution now, we'd have the 'concept'—but we don't have it yet!"[33] Again, commissioners were outraged. For years BEWAG had justified the Reuter-West project in terms of its integral function in an environmental protection and modernization plan.

32. Transcript of the energy enquete-commission meeting, 10 June 1983.

33. Ibid.

In fact, no such plan existed, and BEWAG had made no effort to formulate one. The BI had accused BEWAG of having no plan during the administrative court hearings, but government authorities had not seen fit to investigate the matter. Now, members of parliament who had supported the Senat and BEWAG in good faith felt they had been duped. How could they explain to the public their support of a nonexistent policy?

CDU commissioner Palm tried to come to the rescue of the BEWAG representatives. Commission members, he pleaded, should take this opportunity to learn from BEWAG rather than pretending to have the expertise to critique its policies themselves. Parliament, he said, never needed expertise before; Senat policies passed without question. In its new role, however, parliament would need a degree of technical competence that it could not expect to acquire overnight. Members should therefore try to support BEWAG for the time being. Palm's plea enraged other commission members. SPD member Lorenz countered: "It has really become clear in the course of this meeting that BEWAG would be happier today if parliamentarians had been more critical when the question came up whether we wanted 150 MW or 300 MW blocks."[34]

Other comments revealed that parliament no longer accepted the technicality of the issues at hand as an excuse to avoid turning a critical eye toward information given it. Commission expert Strümpel (who had earlier produced an environmental report on the proposal) replied to Palm that in his judgment the commission was appointed to facilitate parliament's political control over planning and to give it insight into this difficult policy area. To that function, he continued, belonged the responsibility to avoid equating the interests of BEWAG, which surely had much technical expertise but was, after all, a private firm with the corresponding private interests, with the public good. "Therefore," he concluded, "we have no choice but to also include the important questions—even the technical questions—in our deliberations, if we want to fulfill our duty."[35] Commission expert Ullrich noted that a variety of problems previously considered to be purely technical were now recognized as politically guided. In keeping with this important development in public consciousness, part of the purpose of the commission was to sort out the political interests that clothed themselves as technical imperatives.[36] AL member Jänicke echoed the discontent of the others at their treatment by BEWAG:

> What frustrates us here is simply the fashion in which you treat us and feed us arguments about which we know from experience . . . that they

34. Ibid.
35. Ibid.
36. Ibid.

> are skewed in every direction, and arbitrarily this way or that way and always different and always somehow technical. In the end everyone knows, after a year when one recalls the whole thing, that a year ago everything that was said was wrong.[37]

Part of parliament's overseer function was to challenge questionable Senat decisions; members began to view it as irresponsible not to do so. This represented a major change in parliament's perception of its role in policy making.

To those who had more extensive relations with BEWAG, Gersdorff's comments revealed a widening rift within the company. Gersdorff represented the technical planning division on the executive board. Some of the engineers had expressed doubts about technical aspects of Reuter-West, among them block size. It appeared that the technical experts had been overruled in this case by the executive board, which had final word on all company policy. Large block size made sense only in conjunction with a high rate of demand growth. Encouraging demand had long been a common policy of the executive board and the senator for economy but was less of a consideration to the technical divisions. Several interviewees noted that there often appeared to be confusion between BEWAG technical people and the executive board.[38] Final decisions, however, rested with and reflected the positions of the board.

After the meeting, AL commission member Jänicke met with the AL parliamentary fraction, which held a press conference to publicize the BEWAG representative's admission that Reuter-West in its present form was a mistake. Jänicke supplied AL speakers with a transcript of the meeting, whose sessions were supposed to be closed to the public. Although this was a breach of parliamentary protocol, the press devoured it, and the story caused an uproar among the populace. Perhaps more importantly, it caused an uproar in parliament and the Senat. Members of the government who had steadfastly supported BEWAG and the senator for economy were dismayed at the incomplete or false information they had accepted. Soon after the meeting, Gersdorff was temporarily removed from the BEWAG executive board.

The meeting was a watershed in utility-government relations. The pub-

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37. Ibid.

38. Schwilling, interview; Wichmann, interview. None of the outside observers interviewed claimed to know, however, exactly what the relationship between the technical branches and the board was. The BEWAG board members interviewed claimed there were no tensions, and BEWAG engineers were unavailable for comment. In general, the company's inner workings were painstakingly hidden from public scrutiny. Gersdorff's quick removal after these comments reveals the company's distaste for public discussion of its internal difficulties.

licity it received forced Senat and parliament alike to try to generate their own information, rather than relying solely on BEWAG. Publicity, claimed Jänicke, "is everything"—one must expose the way decisions are really made in order to be able to change them. The energy enquete-commission had taken a step away from accepting technocratic justifications for policy choices. Relentless questioning at commission meetings eroded the ability of BEWAG and the senator for economy to stand as a block and legitimate their activities by virtue of their expertise and power position. Members now proceeded from the assumption that energy decisions were *political* in nature and should thus be subject to the authority of parliament. The commission forced Senat representatives to justify their support of utility decisions and, in so doing, prompted them to develop independent sources of information and analysis. Further, parliamentarians could for the first time assess and critique policy making from an informed standpoint. BEWAG, too, largely abandoned its efforts to block the questioning in favor of explaining and justifying its preferences.

The revelations also affected Senat relations with lesser bureaucratic authorities. After the court voided the original construction plan for Reuter-West, the Senat ordered the Spandau District administration to write a new one. The district agreed but refused to take action before receiving technical details on pollution control. The Spandau administration stated that it, along with a great deal of the population, had significant doubts that the planned construction in its present dimension, in view of stagnating demand, could still be justified. A district assembly member agreed:

> When even competent BEWAG representatives present the view [that] with current knowledge Reuter-West would not have been planned the way it was, it is self-evident that the question of actual demand be put at the forefront of every subsequent deliberation . . . we were obedient and faithful to BEWAG declarations for a very long time; we even defended the illusory prognoses until we [had to be] taught otherwise.[39]

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39. Spandau District Assembly, transcript, 23 November 1983. Specifically, the Spandau District Office requested the following stipulations:

1. Binding orders for reduction or shutdown with regard to Reuter and Oberhavel, the two existing Spandau plants, in order to comply with the Federal Immission Control Law requirement to "avoid or minimize harmful environmental effects"
2. Establishment of emission limits as maximum values that may be lowered in later regulations for the most important substances, SO_2, NO_x, chlorine and fluorine compounds, and dust
3. Follow-up order for a certain minimum number of housing units to be supplied with residual heating
4. Establishment of allowable sulfur content of coal

On 30 September 1983, the energy enquete-commission submitted its report to parliament.[40] Its recommendations reflected the influence of the citizen protest movement. The commission favored energy conservation measures; it emphasized goals of demand reduction and efficiency, stating that achieving these goals would require significant policy changes. The commission submitted recommendations for energy saving in homes, industry, water heating, household appliances, and transportation. It also made suggestions for cost and price restructuring in electrical heating, natural gas, and electricity markets; promotion of new technologies for energy saving; use of renewable energy sources; and other environmental protection measures.

The commission insisted that, in addition to information and education programs, various institutional changes would be necessary in order to achieve its energy-saving goals. First, the relationship between the utility and the Land government should be restructured. This could be accomplished by altering the supply contract to eliminate BEWAG's monopoly on energy supply, to encourage efficiency and lower prices through competition. The Senat energy authorities should be charged with coordinating electricity, gas, and heating in a local and regional energy-use plan that would also encourage the use of alternative energy sources. The plan would require parliamentary ratification.

Second, the commission recommended that state energy policy be revised to reflect the changed relationship between citizens and policymakers. The West Berlin government should investigate more closely the positive role citizen participation could play in achieving policy goals. The commission claimed that participation by energy users could aid government implementation of the goal of an environmentally and socially more acceptable, as well as more rational, energy use. The commission suggested creating a utility board on which energy users would be represented.

Third, the commission recommended that the Senat reorganize policy authority in order to promote coordination among its branches and coopera-

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5. Rules for disposal of waste from the scrubber and storage of coal
6. Establishment of precautions for noise protection in regard to the construction of the cooling tower
7. Establishment of the position and height of the plant buildings in order to reduce ambient air problems and problems of plumes from the cooling tower mixing with stack plumes near the plant

A district assembly member stressed that *none* of the above information had been given to the district office in any binding form. Therefore, the Spandau District authorities would wait to decide on critical aspects of planning until they had the facts.

40. West Berlin Land Parliament, *Bericht der Enquete-Kommission "zukünftige Energiepolitik."*

tion between Senat and parliament. The commission recommended that the Senat prepare a report for parliament outlining its possibilities and intentions in this direction. In the course of the preliminary permit battle, the administrative court had recommended that Senat responsibilities for plant licensing be concentrated in a single authority. The Senat agreed, transferring licensing responsibility for the cooling tower and all major power plant components from the Senat Administration for Urban Development and Environmental Protection to LafA.

Finally, the commission recommended increasing parliamentary ties to the planning bureaucracy, binding the Senat more closely to the political arena and at the same time facilitating a more comprehensive treatment of the energy problem. To this end, the commission suggested that parliament investigate creating its own permanent energy authority. Some of the commission members recommended an energy advisory council under Senat energy authorities, to which various citizen experts would belong and which parliament would choose.

The commission report was forwarded to the Senat for examination. In spring 1984, the Senat proposed to use the report, along with a newly submitted BEWAG modernization plan, to prepare a recommendation to the West Berlin Land Parliament. But here the limits of the enquete-commission's influence became clear. Bureaucratic authorities largely opposed the commission's suggestions for institutional change. BEWAG also resisted the efforts of political authorities and lay citizens to involve themselves in the utility's planning decisions, expressing doubts that the "information deficit" could be erased through closer contact between these groups.[41] In the Senat's final version, the suggestions for institutional change had disappeared.

Modernization Proposals: BEWAG vs. BI and AL

The revelations at the enquete-commission meetings prompted BEWAG to develop a modernization plan, which it presented in November 1983.[42] The plan showed that BEWAG had taken the commission's recommendations to heart. The utility tried to respond to parliamentary and public pressure. At the same time, BEWAG authorities wished to leave themselves room to

41. Müller and Lutz, members of the executive board, BEWAG, interview by author, 4 July 1985.

42. A detailed analysis of BEWAG's modernization concept can be found in West Berlin Land Parliament, Document 9/1732, *Mitteilungen des Präsidenten Nr. 191 über Modernisierung und Stillegungskonzept für Altanlagen der BEWAG und Wärmeversorgungsplanung,* 15 May 1984. In addition to modernization, BEWAG also presented a proposal for a city heating network and expansion of natural gas supply, both of which would aid in reducing air pollution.

maneuver according to changes in energy demand and fuel prices. They maintained that the construction of Reuter-West was necessary to enable the company to shut down other facilities temporarily or permanently. The BEWAG program proceeded in two steps. Step one proposed air pollution control measures for six of BEWAG's eight existing plants in order to bring them up to the new legal standards. BEWAG would still have to apply for exemptions from the legal deadlines in several cases. As the commission had strongly recommended, BEWAG's proposed pollution control measures were more stringent than current legal requirements. The second step involved shutdown and renovation decisions. BEWAG adopted the commission's recommendation to shut down without replacement the oldest block of the Reuter plant and part of the Moabit plant within six months of the opening of Reuter-West. But the utility avoided committing itself to more specifics. Parliament had demanded that BEWAG offer different variations of its plan, so that parliament could evaluate the alternatives itself. In compliance with these demands, BEWAG's plan described the energy situation—block sizes, ages, and choices for modernization or shutdown—and offered several alternative scenarios for step two of its program.

BI Energy Planning and Environmental Protection, meanwhile, sought to keep the pressure on the Senat and utility by formulating its own modernization proposal, which the AL presented to the Senat in January 1984.[43] Subsequent meetings were set up between BEWAG and BI representatives to discuss their respective proposals and to try to reach a consensus on measures, an unprecedented if largely symbolic concession to public opinion on the part of the utility. The BI program differed from that of BEWAG in several important respects. The BI claimed that it would be possible to reduce energy consumption by almost a third by the year 2000. The drop in consumption, however, would not by itself solve West Berlin's air pollution problem. The BI proposed an immediate construction stop for Reuter-West. The funds slated for that project, claimed the authors, could be better spent modernizing and adding environmental protection equipment to existing plants. In all, the BI program proposed to replace 663 MW of older facilities with 450 MW of new facilities at existing sites, retaining the desired reserve capacity without adding a new plant. The BI plan emphasized the use of new, less polluting firing technologies that would reduce both SO_2 and NO_x emissions, saving the expense of building extra equipment for NO_x. Moreover, the greater efficiency of the new technologies would provide additional savings. The BI also proposed a much shorter implementation time than BEWAG had, calling for all modernization mea-

43. BI Energy Planning and Environmental Protection, *Modernisierungs- und umweltpolitisches Sofortprogramm für die Kraftwerke der BEWAG,* Reinhard Großman and Dirk Heinrichs, authors, January 1984.

sures to be completed by winter 1989–90. The BI estimated that its program would cost at least 10 percent less than BEWAG's. The BI program would rely more heavily on expensive heating oil, but the expense would be more than offset, claimed members, by the elimination of the capital expenditures for Reuter-West.

The authors of the BI proposal tried to structure energy costs so as to shift utility incentives toward conservation. BEWAG's plan, they argued, was designed to promote high capital investment (and thus subsidies that could be written off as costs) and low operating costs, favoring expansion of energy capacity. BEWAG proposed to raise capacity significantly, which would be profitable only if demand also rose. The BI wanted to rely more on West Berlin's older existing plants. It proposed higher operating costs and lower fixed costs, which would give BEWAG incentive to promote reduced energy use.

Both plans were forwarded to the Senat Energy Department, which was responsible for approving energy projects, for review. The Energy Department criticized the BI plan for its "unrealistic" estimates with respect to cost, technological feasibility, and implementation time. Department experts pointed out that the BI plan would leave little reserve capacity to use while older plants were being modernized or in case one of the larger plants malfunctioned. They also criticized the BI plan's reliance on the older, oil-burning, less reliable, and more heavily polluting plants. BI members, after meeting with the Energy Department, agreed to rework their proposals for shutdown and modernization but stuck to their guns on the other issues. Stopping Reuter-West remained a cornerstone of the program, as did the shorter time frame for implementation, which the Senat also favored. The Energy Department received the revised proposal too late, according to authorities, to analyze it in detail before the official Senat evaluation of BEWAG's concept went to press. Senat authorities added that they saw no compelling reason to change the BEWAG proposal in light of the alternatives suggested by the BI.[44] The BI would have to find other avenues for its proposals.

The Federal Immission Control Law Permit Process: Appeal of the Preliminary Permit

On 29 September, LafA issued BEWAG a partial permit to construct the desulfurization facility for Reuter-West. In accordance with the new federal guidelines and over the objections of BEWAG engineers, LafA set emission limits more stringent than those in the preliminary permit. Maximum SO_2

44. West Berlin Land Parliament, *Mitteilungen des Präsidenten Nr. 191,* 16.

emissions, for example, were cut to 400 mg/m^3 and NO_2 to 800 mg/m^3.[45] In accordance with the new TA-Luft and BEWAG's own modernization plan, LafA ordered the utility to take one block of the old Reuter plant off line within six months of the opening of Reuter-West; it also set limits on allowable future emissions from the older facility.

On 30 March, the citizen appeal against the original two preliminary permits went before the West Berlin Administrative Appeals Court. It would be, as all participants knew, the last decisive battle over Reuter-West. If the permits stood, plant opponents would have no further legal means by which to stop construction. The nullity of the construction permit had changed little, since LafA had exempted BEWAG from having to produce a new construction plan. Only a withdrawal of the Federal Immission Control Law preliminary permits could send the project back to the drawing board.

The BI appealed the permit decision on both technical and procedural grounds. The procedural argument centered on due process. The plaintiffs claimed that the administrative court had violated their due process rights in dismissing of their earlier complaint solely on the basis of a last-minute verbal deal struck with BEWAG by which the utility would compensate for added SO_2 emissions from Reuter-West by lowering emissions from other facilities. This "surprise decision" had left the plaintiffs no time to analyze the consequences of the deal for other pollutants besides SO_2. The deal would not, for example, solve the problem of excess NO_2 levels. The plant opponents felt that throughout the planning process the burden of proof was placed unfairly upon their shoulders. The Land and BEWAG would simply state that they had taken environmental factors into account, and it was up to plant opponents to prove that they had not. BEWAG and the Senat controlled most of the available technical information. The BI's evidence was mostly prepared by students at the Technical University, along with some professors and any other volunteers they could find. Despite some success in forcing the administrative courts to investigate Land and utility decision making more thoroughly, the BI plaintiffs could not generate the necessary evidence in time to prevent the plant from receiving various permits.

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45. The SO_2 limit corresponds to that set out in the GFAVO of 1983. The NO_2 limit corresponds to that recommended by the Environmental Ministers' Conference of 1984. BEWAG's objections were expressed in a presentation by Dr. jur. Wilm Tegethoff, speaker of the executive board, 11 April 1985. Tegethoff explained that West Berlin's "island status" presented special engineering problems and did not allow the utility the luxury of experimenting with risky technologies. He declined to give details of these special problems. Wichmann of LafA also noted in an interview that BEWAG had strongly objected to the terms of the permits and had filed an administrative grievance against him, which was rejected by the senator for employment and business.

The BI's technical objections centered on the utility-Senat deal itself, by which parts of the old Reuter plant would be shut down upon the opening of Reuter-West. Harking back to the Voerde case, the plaintiffs claimed that such a trade-off would be valid only if West Berlin air quality were not already in violation of TA-Luft standards. In the West Berlin case, even a net addition of zero emissions would not bring air quality into compliance with the law. Interviewees noted, however, that West Berlin representatives had written a clause into the TA-Luft in order that Reuter-West and similar projects could be licensed in areas where air pollution exceeded legal limits. This clause stated that a permit may not be denied on the grounds that air pollution levels were already too high if the additional pollution did not exceed 1 percent of the long-term legal limit.[46]

The BI maintained that, despite the protective clause, the Federal Immission Control Law rights of the two plaintiffs from Spandau would be violated by the construction in that pollution levels in their area would rise by more than the acceptable percentage. BEWAG and Land Berlin called in several experts to refute the citizen claims. By the fifth day of testimony it was becoming clear that the citizen appeal would fall short. BI testimony closed with an emotional lament over citizens' disadvantage with regard to informational "weapons" and the strategic use of experts by the Land to present "one-sided evidence." On 5 April, the West Berlin Administrative Appeals Court dismissed the BI appeal. The Land authorities had convinced the court that the project would indeed remain within the limits of the TA-Luft clauses in question. The Land therefore had no choice, stated Judge Grundei, but to issue the permits. He continued that the original "surprise decision," although procedurally questionable, did not constitute grounds for accepting the citizen complaint. Any further delay of the construction would cause unacceptable hardships for BEWAG, punishing the utility for what was in the end a legally sound permit application for a vital project.

The activists were crestfallen. They knew they had reached the end of a long road—many had fought the plant since the days of Oberhavel. The judge was clearly baffled by the bitterness of the plaintiffs and their unwillingness to accept the construction on any terms. It was regrettable, he stated,

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46. TA-Luft 1983, no. 2.2.1.1 b and bb. The long-term value is the mean value of all individual measurements at a particular measuring point (a 1 × 1 km area) over the period of a year. Furthermore, the permit must contain the stipulation that within six months after the new facility goes on line, measures to reduce emissions at other facilities belonging to the permit applicant or others will be taken that are designed to reduce the median yearly pollution level in spite of the additional emissions from the new plant. Also, in case of violation of the short-term legal limit (the value below which 95 percent of the measurements fall), a facility may not be denied a permit if the company undertakes measures that sink the yearly median value.

that they had refused an "amicable" settlement: "the plaintiffs have achieved in this [judicial] process the maximum that can be realized environmentally in a city whose energy supply is determined by its 'island status'; and [the Land and BEWAG] have given the maximum that can be conceded to environmental protection in the framework of a secure energy supply for [West] Berlin."[47] The judge reminded the plaintiffs that the new plant would be far more environmentally sound than the original plans had called for: the partial construction permit for the scrubber tightened anew the emission limits, the planning was now based upon the stricter 1983 TA-Luft standards for new plants, and long-term modernization and shutdown measures were now provided for. Grundei continued:

> A court could not have awarded the plaintiffs more. The plaintiffs can unfortunately not be convinced that by continuing their battle they would much more likely endanger [West] Berlin's generous renovation and modernization concept. With a successful suit they would have achieved the opposite of what they set out years ago to achieve: the obsolete and emission-heavy power plants would have continued to shower us for many more years with their pollutants. The renovation concept devised by the plaintiffs themselves, over whose feasibility nothing should be said here, can in any case not be implemented through court decisions.[48]

In this statement, the judge had inadvertently put his finger on the problem. Not only the renovation "concept," but the kind of energy policy making in general that the BI envisioned could not be implemented through court decisions. The administrative courts could not provide the forum for broad energy discussion that the plaintiffs sought. What the judge did not understand was the broader mission of the BI on the legitimation dimension. To him, depending on the courts to weigh evidence and arbitrate among competing interests constituted an acceptable form of citizen participation. The BI had, however, wanted something very different. The difference between energy dialogue and judicial conflict was the difference between "solving" and "getting" discussed in chapter 1: while court suits were concerned with getting, the BI, with its long-term vision of a deliberative politics, was concerned with solving.

BI lawyer Geulen wanted to appeal to the Federal Administrative Court, but the plaintiffs were willing to pursue the cause no longer. In a

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47. From the transcript of the judge's decision, West Berlin Administrative Appeals Court, 2 B 35.882, Kraftwerk Reuter-West, March–April 1984.

48. Ibid.

poignant letter to Geulen, plaintiff Peter Haushalter explained that he saw no point in continuing the legal battle against Reuter-West.[49] The construction was by this time so far along that its completion could not be prevented legally. Mass support for the BI's struggle had long since dwindled, along with financial resources. After the two defeats on the preliminary permits, the demoralized group, whose motto had been "Every new power plant in Berlin is a plant too many," had given up on the legal process. Support could also not be expected from the AL or the SPD after this latest defeat. The policy battle seemed over, but the legitimation issue, the search for a forum, continued.

Second Energy Enquete-Commission Berlin Energy and Power Plant Policy

The activists were left with the parliamentary realm; the AL would have to keep the grass roots mobilized enough to pursue the long-term goal of democratization there. The enquete-commission had been a step in the direction of the political dialogue the BI wanted: members had participated more or less as equals, unencumbered by the power relationships that shaped their interaction in other settings. Although their meetings had often been confrontational, in the end the members had been willing to learn from each other. In March 1984 the AL and SPD parliamentary fractions voted to create a second enquete-commission to handle the following topics:

1. the possibilities for modernization and shutdown of environmentally harmful BEWAG plants;
2. the block size for Reuter-West;
3. the use of new, environmentally friendlier and cheaper technologies for producing electricity and heat.[50]

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49. Letter from Peter Haushalter to Reiner Geulen, 25 June 1984.

50. West Berlin Land Parliament, Document 9/2367, *Bericht der Enquete-Kommission "Berliner Energie-und Kraftwerkspolitik,"* 3. In addition, the new commission was charged with researching problems the first commission had not completed:

1. A socially just distribution of energy costs, especially with regard to customer prices
2. Evaluation of a West Berlin "local heating concept" and recommendations for its implementation
3. Evaluation of energy-saving potential and recommendations for concrete steps in this direction
4. Investigation of the structure of the primary energy sector, especially with regard to costs and security of supply

The formation of the second enquete-commission encountered more resistance than the first. According to an SPD member, the CDU and FDP fractions would have preferred that these themes be handled in a subcommittee of the parliamentary economy committee. The SPD and AL prevailed only because formation of enquete-commissions is a minority right in parliament.[51] The commission was chaired by CDU representative Palm, who had drawn criticism for defending BEWAG in an earlier meeting. Many of the members of the first commission also participated in the second.[52] In addition to the regular members, others were invited to participate in both commission and corresponding parliamentary committee meetings. These included representatives from the Senat Administrations for Economy as well as Urban Development and Environmental Protection. BEWAG executive board speaker Tegethoff and head of the technical planning division Mareske, as well as a BI representative, also attended regularly. Here the BI energy concept, which had been pushed aside by the Senat experts, got a hearing; the AL fraction submitted the new version to the commission for discussion.

The commission issued its report in January 1985. It took the position that West Berlin energy policy would have to be oriented much more to the goal of environmental protection than had been the case in the past. Urgently needed were measures to improve the city's ambient air quality, especially during the winter months. Recent winters had been particularly bad, prompting complaints by the populace and experts alike. The commission argued that investments in energy use would make more sense than continued emphasis on investments in energy supply. Although all sides had shown support for measures to encourage more reasonable energy use, implementation of a program that transcended simple pricing policy had encountered much resistance from entrenched institutional interests. The commission noted that energy suppliers had substantial funds for investment in supply techniques at their disposal, while energy users had little or none. Moreover, energy suppliers were supported in large part with public funds. As long as this imbalance existed between energy supply and energy-saving investments, the recommendations of the first enquete-commission, or any

51. Reinhard Ueberhorst, personal position statement. Ibid., 48.

52. The members of the second enquete-commission were CDU: Kittner, Manske, Palm, Schmidt; SPD: Lorenz, Ueberhorst; AL: Freudenthal; FDP: Swinne. Expert members were WissDir Dipl.-Ing. Beck (Federal Environmental Agency); Dipl.-Ing. Flurschütz (retired, formerly of Bielefeld City Works); Prof. Dr. Jäger (Power Plant Union); K. Pommeränig (German Association of Trade Unions [Deutscher Gewerkschaftsbund]); Dr.-Ing. Restin (GASAG); Dr. Ullrich (Energy and Society Project at the Technical University of Berlin); Prof. Dr. Winje (Department of Energy and Raw Materials Industry at the Technical University of Berlin); and Dr. Ziesing (German Institute for Economic Research) (ibid.).

moves toward energy saving in general, would have little chance of success. Energy saving must be made more attractive financially.[53]

The commission assailed the utility's claim that energy demand was an uncertain field, and that power plant planning must proceed from worst-case assumptions. On this point the commission supported the long-time BI claim that energy policy should proceed on the basis of strict legal limits that the utility and Senat would have to work to achieve, rather than treating demand as an independent variable around which legal requirements should be structured. Demand had in fact long been politically manipulated.

The commission found that BEWAG's modernization concept left room for improvement as far as reduction of certain pollutants. BEWAG had made no provisions for NO_x reduction. Further, the commission stated repeatedly that the exemptions from legal emission requirements that BEWAG intended to apply for would be unacceptable, and even compliance with the law would not go far enough toward reducing West Berlin's extreme pollution situation. Much greater reduction was now technically feasible and should be required by the Senat.[54] Considering the severity of West Berlin's air pollution problem, the commission stated, it was not out of the question to require an SO_2 emission limit of 200 mg/m^3 instead of the legally required 400. The commission also criticized BEWAG's time frame for implementation of its modernization plan. Retrofitting existing plants with scrubbers, claimed the commission, could be accomplished faster in most if not all cases. The Senat should retain independent experts and scientists to monitor the program throughout the modernization period.[55]

The commission also evaluated the BI concept in some detail. It found that the BI plan left too little time for implementation of environmental measures, especially with regard to new technologies. It did not take into account the difficulties inherent in introducing new methods and did not allow for breakdowns and adjustments. Its cost estimates, partly for this

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53. West Berlin Land Parliament, *Bericht der Enquete-Kommission "Berliner Energie- und Kraftwerkspolitik,"* 24.

54. There was some disagreement among commission members as to how much stricter these limits should be. The commission officially recommended, for example, an SO_2 limit of 300 mg/m^3 and 90 percent desulfurization, but a subgroup of commission members, consisting of experts Beck, Ullrich, Ziesing, and Winje, as well as parliamentarians Freudenthal (AL), Lorenz, and Ueberhorst (both SPD), recommended 200 mg/m^3 and 90 percent. This group also stated that new technologies would allow yet greater SO_2 reduction—95 percent desulfurization was no longer out of the question, and such a rate would produce only 75 mg/m^3 SO_2 emissions. A new large plant in Mannheim, for example, had measured levels under 150 mg/m^3 (ibid., 45).

55. The commission recommended following the example of Baden-Württemberg, where such a group of scientists and independent experts was retained by the government in its energy planning (ibid.).

reason also, were too low. Its goal of reducing NO_x to the greatest technically feasible degree, however, argued the commission, should be incorporated into BEWAG planning. Its technical recommendations as well should be seriously evaluated, especially as more data on the effectiveness of new firing methods became available. In short, the commission found BEWAG's concept too conservative in its assessment of the possibilities for environmental protection; the BI concept it found too optimistic.

The commission could make no conclusive statement about Reuter-West block size, its second major investigative task. It did question BEWAG's choice, stating that the energy situation had developed in a predictable direction that should have been anticipated by BEWAG in its planning. The commission concluded that new construction (Reuter-West) was necessary in order to facilitate modernization and desulfurization measures. Smaller block size, however, might have resulted in a more economical energy supply, provided demand continued to grow slowly.

The commission fulfilled its third task by recommending environmentally friendlier firing techniques as well as end-of-pipe (scrubbing) technologies for air pollution reduction. It also responded to the BI's suggestion that economic incentives should be restructured to achieve energy savings. The commission recommended that GASAG, the Land-owned natural gas utility, expand its share of the heating market, offering competition to BEWAG and in many cases a more economical heat supply. Although many of these suggestions were not adopted as Senat or utility policy, the fact that they were raised in public is significant. Whereas the Senat had long presented its decisions as technical imperatives, within the context of the enquete-commissions a real discussion of the advantages and disadvantages of various alternatives occurred for the first time. The participants got a much clearer idea of the spectrum of possibilities and the possible drawbacks. The real accomplishment of the commissions was to make the discussion of alternatives a part of public dialogue.

This marked the end of the energy enquete-commissions. No permanent institutional forum followed, and for years many of the suggestions of the two commissions languished in the Senat, despite the continued public salience of the issue. Still running on a platform that included opposing Reuter-West, the AL captured 11.6 percent of the vote in the 1985 Land elections and as much as 28 percent in certain constituencies (Kreuzberg).[56] The other parties, particularly the SPD, adopted some positions consistent with BI energy policy goals and arguments. The energy issue made headlines again after the 1986 Chernobyl nuclear accident, but grassroots mobilization

56. (West) Berlin Land Headquarters for Political Education, *Berliner Wahlergebnis 1985 unter der Lupe,* September 1985.

dropped off in subsequent years. BI Energy Planning and Environmental Protection, its membership having all but disappeared, disbanded in spring 1991. There remained the Energy Policy Advisory Group (Energiepolitischer Ratschlag), composed of numerous local energy-related and environmental citizen groups and political party organizations. This group continued to ride herd on energy matters and, by means of regular meetings and newsletters, functioned as a liaison between interested citizens and the government.

BEWAG's modernization program got underway in the 1980s, and by 1990 the utility had installed desulfurization equipment on six of its nine plants and had rebuilt another block at an older plant with a new, more environmentally friendly firing technique.[57] The proportion of Berlin air pollution emissions produced by BEWAG has sunk accordingly. BEWAG's SO_2 emissions sank by 80 percent between 1980 and 1989. The company made less progress and experienced many delays in the removal of NO_x. BEWAG has successfully resisted all challenges to its monopoly structure. After unification, the company signed an agreement with a restructured East Berlin power company, now called EBAG, and retains its cooperative (and dominant) relationship with the two natural gas companies, GASAG and the eastern Berlin Natural Gas Joint Stock Corporation (Erdgas AG). The BI's vision of natural gas suppliers offering competition to BEWAG has not materialized. Likewise, attempts by local communities to privatize and decentralize energy production in both the new and old federal states have been all but defeated by the large Western firms.

The institutionalized energy debate continued to be carried by the AL, and it reached a new high point when the AL entered a short-lived governing coalition with the SPD in 1989. Under the red-green coalition government, a new Energy Division (Energieleitstelle) was established in the Senat Administration for Urban Development and Environmental Protection.[58] This was an attempt to coordinate the Senat's dispersed energy policy activities and extract them from the control of the Senat Administration for Economy. The new division's first assignment was to set up an energy advisory committee (*Energiebeirat*) that included representatives from the major interest groups, including utilities, scientists, trade unions, and environmental groups. Aside from various pilot projects and consulting activities, the major task of the Energy Division is to compose an energy concept for Berlin for the year 2010. The division has thus reintroduced the dormant debate regarding the various energy plans. For all of its activities, division staff caution that the organization serves a largely symbolic function, having

57. BEWAG, *Modernisierung der Kraftwerke,* October 1990.

58. Maria Rosaria Di Nucci Pearce, "Policy Overview," Energy Division, 1991.

neither the personnel nor the finances to implement its programs. Its resolutions are not binding on Senat policymakers; it serves in an advisory capacity only.

The new government also passed a long-awaited energy-saving law in October 1990.[59] The law binds the Land government to energy-saving measures in planning and operating public facilities. It also obligates the government to promote research in energy-saving methods, to set up energy-counseling facilities for citizens, and to establish energy commissions in every Berlin district to carry out the necessary inspections to implement the law. These measures were cast in doubt by the AL's withdrawal from the red-green coalition in late 1990 and the establishment of a CDU-SPD coalition after the subsequent Land elections. The new government has not implemented the 1990 law.

German unification has complicated grassroots environmental politics considerably. While the AL lost votes in west Berlin in 1990 for the first time in its history, it made a good showing in the former East Berlin, where a lively environmental scene had developed since 1989. After the election, part of the delegation from the new eastern districts chose to remain separate when the two green fractions merged, thus producing a rather fragmented green Land coalition, only some of whom are committed to the original goals and activities of the AL.[60] In general, green and alternative parties have remained strong at subnational levels while suffering a setback at the national level. For the December 1990 national election, the western Greens campaigned separately from the eastern coalition of the Green Party and Alliance 90.[61] Green forces in east and west were unable to agree on a formal merger before the election; the decision came only after the disastrous results were in. The West German Greens fell below the 5 percent hurdle, losing their representation in the Bundestag. The Green Party–Alliance 90 voting list gained 6 percent of the vote in the new Bundesländer and, according to the special rules of this election, in which East Germany was treated as a separate voting area, won eight seats in the Bundestag.

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59. Gesetz zur Förderung der sparsamen sowie umwelt- und sozialverträglichen Energieversorgung und Energienutzung im Land Berlin, 2 October 1990, in *Gesetz- und Verordnungsblatt für Berlin,* 46:72, 13 October 1990, 2144–49.

60. The AL coalesced with the Greens, Alliance 90, and the Independent Women's Association in the Land government. A group of four representatives from Berlin's eastern districts formed an independent alternative parliamentary group, New Forum/Citizen Movement.

61. *Der Tagesspiegel,* 4 December 1990. Alliance 90 included several groups formed in East Germany before the fall of the government there, including New Forum, Democracy Now, and the Initiative for Peace and Human Rights.

Conclusion

During the final phase of the Reuter-West conflict, BI supporters expanded their participation in the parliamentary arena while continuing to fight the project in administrative appeals court. They tried to overcome their defensive posture by implementing an alternative politics not just within their own group, but also in the broader political system. They thought that such a politics could, through its grassroots democratic form, reconcile policy and legitimation dimensions of the energy problem. That is, they tried to develop policy solutions that, because of the deliberative form of policy making, would be legitimate in the eyes of the newly skeptical populace.

The activists attempted to rebuild the political bridge between state and citizenry, using the AL as their mouthpiece and the West Berlin Land Parliament as a forum. This was a substantial departure from their earlier actions, which evoked Offe's worst-case scenario of state and society acting in mutually disconnected spheres. BI members had previously rejected parliament as a forum for discussion, partly because they perceived it as irrelevant to policy decisions and partly because they considered it illegitimate as a democratic institution. But it had gradually become clear that, while the legal debate challenged the technical claims of energy policymakers, only by initiating the parliamentary discussion could the BI challenge the form of energy policy making directly and in so doing aim to reverse the separation of bureaucracy and politics that Weber saw leading inevitably to the dominance of bureaucracy. A bureaucratic decision process, the BI argued, could not legitimate policies because it could not guide a choice between political alternatives. Parliament *should* have functioned communicatively; it should have been part of a public sphere that mediated between system and lifeworld. Instead, it had functioned as an instrument of the system. It had rubber-stamped bureaucratic decisions in support of economic growth, even when those decisions threatened the quality of life of the local community.

The BI wanted to remedy the problem Offe described by developing a politics in the Habermasian sense. The BI wished to rebuild the bridge between state and society, but in order to be legitimate, the bridge would have to be structured along the lines of the lifeworld rather than the system. Parliamentary participation was risky—it would be difficult to participate in institutionalized politics without being co-opted into the system. Some argued that grassroots democratic politics, demonstrably difficult to achieve even within a single BI, would be impossible within an institutionalized setting; activists could not expect to achieve systemic change by creating another, if differently structured, party. It was vital to keep the extraparliamentary grass roots of the AL alive, to retain it as the center of AL organiza-

tion and action. Only in this way could the AL retain its critical perspective while working within parliament. The activists attempted to avoid the pitfalls of party politics by structuring the AL as an arm of the citizen initiative movement. Only insofar as the AL succeeded in transferring BI organization and goals to the legislative arena did the BI support parliament as a legitimate potential political forum.

The AL's promotion of energy debate prompted hesitant legislators from the other parties to plunge into energy policy making. At this point, they had little choice. Parliament had been caught between bureaucracy and citizenry, taking criticism from the BI for its inactivity and lack of expertise, and from the bureaucracy for its attempts at supervision. AL members, through relentless questioning during parliamentary sessions and constant solicitation of media coverage, promoted the interinstitutional power struggle. If each institution had to defend its decisions separately, they reasoned, all would be more likely to develop independent sources of information and be more open about the political interests underlying their choices. Indeed, this phase saw a decoupling of the Land parliament, the various Senat authorities, and BEWAG, each taking a more critical stance toward the others. Bureaucratic encapsulation was no longer possible. Moreover, the controversy enhanced the authority of Senat environmental authorities relative to BEWAG and Senat economic authorities. Parliament could no longer shield itself from the political consequences of bureaucratic decisions. BEWAG, too, was forced to accept political monitoring of its planning decisions. Its status, somewhere between private corporation and public utility, shifted in terms of its accountability toward the latter. Although not required by law, BEWAG found it politically necessary to discuss its modernization plans with interested citizens. Through the enquete-commissions, the utility also became accountable directly to energy consumers for the first time.

The parliamentary discussion, although broader in scope than the permit debates, also centered on technical questions. Nevertheless, the case study shows that its themes evolved in the direction the BI desired. Energy demand in particular, upon which the battle had centered, was gradually acknowledged to be a political variable, whose value at any one point was as much influenced by the choices of policymakers as by independent technical criteria. The discussion, long sought by the BI, of the political and economic goals of energy supply emerged during this phase. Moreover, participation in this discussion, especially through the efforts of the enquete-commissions, grew to regularly (formally or informally) include all interested parties.

Administrative court judges and enquete-commission members alike emphasized that a more streamlined and environmentally sound energy pol-

icy could only be achieved by altering the structure of interests, that is, the institutional framework of energy policy making. The need for a more synoptic outlook became particularly clear during the legal battle. The cases won by the BI involved in every instance the failure of Senat policymakers to take a broad view of planning decisions. Oberjägerweg was defeated because policymakers had neglected environmental considerations in the siting choice. The construction plan was voided because the Senat had failed to address the air pollution problem in formulating it. The Senat had repeatedly tried to compartmentalize its decisions in keeping with its own traditional decision-making structure. Few of the enquete-commissions' recommendations for institutional change were implemented. Parliamentary commissions, mass mobilization, and administrative court suits are all temporary solutions. The energy problem persists at the level of both institutional politics and citizen participation. Old decision-making forms have lost their sway, yet they have not been replaced by new forms. As a result, citizen participation remains largely outside the established legislative channels and fluctuates between mass protest and apathy.

Although the BI ultimately lost the long court battle, and while no permanent institutional setting for energy discussion was found, the BI idea of a broad view of energy questions repeatedly won the support of the courts. Likewise, the open discussion of interests—how, for example, environmental and economic concerns should be weighed—became part of the legal as well as the parliamentary discussion. It was now considered irresponsible for parliamentarians not to question Senat and utility planning decisions; the energy debate increased the public accountability of parliament. The recognition that energy policy involves conscious choices between political goals, is in part the achievement of a decade of legal wrangling over Reuter-West. The very acknowledgment of alternatives marked a new phase in West Berlin energy politics. The Land could no longer present its policy choices as technical imperatives. Growing citizen and parliamentary expertise bred skepticism. Informed critics scrutinized every Land proposal, offering amendments and counterproposals. Some elements of the population *rejected* Senat proposals outright simply because of their source, a reversal of earlier deferent attitudes toward bureaucratic authority.

CHAPTER 7

Technological Democracy

What are the prospects for democratic participation in the modern technological state? Whether modernization would free or enslave, whether technology would facilitate development of the autonomous individual or would itself expand into an autonomous oppressive force, has long been a topic of debate among lay citizens as well as intellectuals. The environmental decades in West Germany reopened the debate and made it part of everyday discourse. In West Berlin and nationwide, the debate crystallized around the issue of energy policy. Energy lies on the interface of technology and politics. It also lies on the interface of the public and private sectors, a seam between system and lifeworld, where government activity in pursuit of economic goals is felt directly as an infringement upon the private activities of local citizens and a threat to the creation and maintenance of a sphere of democratic discussion. Thus, from the beginning, the Reuter-West case involved more than the siting and approval of a power plant. The administrative licensing process became, in the eyes of many citizens, an arena in which technocracy and politics competed for West Berlin's future. The energy debate was the catalyst for a broader questioning of the relationship between technology and democracy. The issues it raised have remained largely unresolved and have reemerged in subsequent political conflicts.

The case study reveals the energy problem to be less technical and more political than the above question indicates. The BI had remarkably little difficulty grasping the technical aspects of energy planning. The difficulty lay in exposing the *political* interests behind the government's technical language and form and in forcing an open political discussion. From the BI point of view, the question became how members of the local community could assert their will against a state-economy complex that followed a different rationality from theirs and thus acted in a manner destructive to the community. They faced a situation in which the form and content of policies worked against the goals and the self-understanding of a significant portion of the citizenry.

The Reuter-West conflict was both a public policy problem and a legitimation problem. The case study shows how the controversy surrounding an unpopular energy project also encompassed much broader questions about citizens' role in a democratic society. This chapter will suggest ways of interpreting the results of citizen action, in terms of both policy changes and longer-term changes on the legitimation dimension. The Reuter-West story, supported by other cases nationwide, provides an optimistic if tentative answer to the central question of the study. Over the course of the controversy, citizens learned to interact politically, to demand a substantive role in their governance, and to take responsibility for safeguarding the integrity of that role. On the other hand, the sense of political efficacy that resulted from grassroots activity was not accompanied by corresponding institutional change. As a result, citizen action teeters between institutional participation and rejection of parties and parliaments, and extraparliamentary action bursts out repeatedly at the seams on both the left and right of the political spectrum.

System vs. Lifeworld Rationality—the Reuter-West Controversy

The theories of Offe and Habermas, building upon themes raised by Weber, helped elucidate the legitimation dimension of the empirical study. The empirical evidence can in turn help in evaluating the theory. Habermas's theory proposes two separate rationalities of system and lifeworld. The clash between these rationalities prompts the formation of citizen initiative groups with their own unique brand of political action. In the West Berlin case, the actions of the Land government and the BI reflect different definitions of the energy problem that stemmed from their correspondingly different rationalities. The relationship between the Land government and BEWAG provides an empirical example of the interrelation of administrative and economic subsystems Habermas describes. Systemic rationality, developed in the process of modernization, is instrumental and bureaucratic. The Land government tried to preserve bureaucratic form in the face of citizen demands for greater openness. To the officials, it was a problem of conflict management. They tried to depoliticize the energy issue in order to avoid the delays and conflicts that increased citizen participation and dispersed bureaucratic authority would create. When the BI questioned its growth projections, for example, the senator for economy justified his branch's claims not by examining the opposing claims or explaining his own, but on the grounds of his branch's superior expertise. When its attempt to shut off participation by declaring an energy emergency failed, the Land was forced to conduct the permit processes under the Federal Construction Law

and the Federal Immission Control Law. There it attempted anew to limit conflict by insisting on a narrow legal definition of these processes, avoiding a discussion of the broader goals of energy policy.

The Land's attempts to avoid political interaction—its insistence on technical and legalistic methods, indicate a desire to minimize conflict that is built into German political institutions.[1] The greater the number of groups allowed to participate, the greater the potential for conflict. Energy policy making thus consisted increasingly of attempts to limit conflict in order to expedite the approval process. The modernization and shutdown plan for old plants is a case in point. The Senat and utility devoted little effort to actually formulating the promised plan; instead they tried to shape the approval process so that no such plan would ever really be required. Formulating and implementing such a plan would not only be expensive, it would also expose the Senat and utility to more critical evaluation of their policies. Avoiding the requirement seemed to the beleaguered Land government preferable to becoming entangled in a political morass.

Although this action made sense according to the bureaucracy's goals and definition of the problem, it exacerbated tensions with the activist populace. The Reuter-West project appeared to many West Berliners as an environmental catastrophe, thrust upon them by an inaccessible, bureaucratized system pursuing ends destructive to their community by means they could not legitimate. The BI defined the problem in terms of participation. The Land had produced such "ruinous" policies, the group claimed, because of the nonparticipatory form of the policy-making process. The bureaucratic process, weighted toward the interest of economic expansion, threatened citizens' physical community and ignored their need to participate in their own governance. This indicates a more substantive (as opposed to instrumental) rationality based upon mutual understanding rather than conflict. As Habermas explains, lifeworld rationality—that which allows citizens to participate in the community, to interact with others and to interpret their own actions—is communicative rationality. Decisions affecting the community can be only be accepted if they are agreed upon by that community. Local citizens at first shunned involvement in institutionalized politics be-

1. Dyson writes about the West German party system's pervasive fear of crisis and its subsequent heavy reliance on experts and legalism in "Party Government and Party State," in *Party Government and Political Culture in Western Germany,* ed. Herbert Döring and Gordon Smith (New York: St. Martin's Press, 1982), 77–100. See also Jutta Helm, "Parties, Stability, and Growth: West German Politics in Transition," *Comparative Politics* 16, no. 4 (July 1984): 481–94. Some attribute this phenomenon to Germany's fractured political history and its failed experiment with democracy in the 1920s. In a sense, state officials desire cooperation without politics: a strong state and a restricted, technical decision-making process that reflects a distrust of political participation.

cause it offered no substantive participation. Their subsequent involvement in bureaucratic and parliamentary decision processes took place with an eye toward subverting these processes, reforming them along the lines of a participatory politics. During the administrative permit processes, activists sought to divert the discussion from the technical points and toward an acknowledgment and evaluation of political goals. They entered the parliamentary realm as an "antiparty party," seeking to implement their alternative politics there.[2]

To the BI, politics and democracy were inseparable, perhaps synonymous. Government policies affecting the local environment, members insisted, could only be legitimated politically. Bureaucratic policy making *could not* produce legitimate policies because it ignored the citizens' need to participate in the choices themselves. The BI's politics was based upon the assumption that people are capable of reaching consensus communicatively on societal goals and the means to achieve them. The BI's conception of politics led it to formulate the energy problem two-dimensionally, as a matter of the policy decisions themselves and of the form by which they were reached—as a policy problem and a legitimation problem. The two dimensions were linked; the legitimacy of policies depended upon the form of decision making. As Habermas explains, citizens could not accept "decisions without reasons."

The BI opposed both technocracy and what is generally considered its opposite, pluralism. Reminiscent of Weber's claims, the group argued that technocracy closed off all opportunities for societal discussion in favor of technical mandate; it eliminated politics in the name of objectivity and bureaucratic uniformity. Pluralism, on the other hand, robbed politics of its substantive content by substituting means for goals, process for purpose, conflict for cooperation, and bargaining and compromise for deliberation. It deprived people of their role as citizens, as responsible guardians of the public good. The public sphere was left out of both forms. Here the insights of critical theory resonate with the citizens' own assessment. State and market approaches to the analysis of politics share certain assumptions that lead them to neglect the legitimation dimension of citizen protest movements. They both assume that the movements operate under the very rules they are in fact challenging. In offering a more differentiated picture, critical theory opposes both standard approaches.

In a sense, this claim is counterintuitive. Many view individual rights (market) as an antidote to bureaucracy (state). One might argue that it is a notion of individual rights that protects us from authoritarianism. The notion

2. This was Petra Kelly's early characterization of the Greens. She meant that the Greens were formed to critique party politics as they participated in it.

of individual rights, however, is not to be confused with the notion of individual profit-maximizing behavior. The latter is concerned with "getting," the former with "being." Promoting the market does not promote individual rights in the BI's terms of being or citizenship. BI members saw pursuit of individual self-interest as detrimental to the societal good. As an alternative, the BI tried not to enforce a group will but instead to empower people to stand up for themselves—to instill a sense of citizenship. The BEWAG monopoly on influence did not allow democratic decision making in energy policy. Neither, according to the BI, did the process of bargaining and compromise that characterized parliamentary action. Bargaining, they stressed, is no substitute for deliberation. In fact, it robs the process of its political content. Bargaining and compromise are appropriate to a system that distributes rewards in response to individual demands. "I want" is the language of bargaining. Communicative action in Habermas's and the BI's sense, on the other hand, translates those demands into "validity claims" of the nature of "we need," which can then be tested and weighed in the democratic forum. This is what Habermas refers to when he claims that, in communicative action, the force of the better argument will ideally prevail.[3]

Claims to truth and normative rightness, for example, can be weighed and judged rationally, through discourse. They need not be dictated by tradition (premodern society) or political authorities or ideology (technocracy). Likewise, they should not be discounted altogether in favor of the market (pluralism). In a democratic society, such claims can be formulated and discussed with the goal of achieving a consensus based upon mutual understanding. The BI, Habermas, and democratic theorists agree that the end of such discussion is not simply to get more, but primarily "to develop [the citizen's] deliberative and moral character and to achieve the dignity of being a ruler of the society of which [one] is a member."[4] In other words, the end is democracy. The form of decision making is as important as the material result.

This explains the activists' unwillingness to accept Judge Grundei's position that a compromise on the plant was the best solution for West Berlin. Compromise in their view was a capitulation to the system of bargaining, a triumph of instrumental over communicative rationality. The BI's goals were two-dimensional and could not be satisfied with the form of decision making present in the courts and parliaments. In the administrative

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3. Habermas, cited in Bernstein, *Habermas and Modernity,* 19. Habermas's innovation here is his idea that claims of normative rightness as well as correctness can be weighed *rationally.* We can come to agreement on them, not by the force of a superior authority and not by bargaining, which are both nonsubstantive, but by communication oriented toward mutual understanding.

4. Tussman, *Obligation,* 105.

courts, the "I want" demands were translated into validity claims and judged, but they were judged not by a tribunal of citizens, but by other bureaucrats according to administrative guidelines. Parliament, the ostensible political platform for discussion, was not even involved in substantive decision making and furthermore operated in the conflictual, bargaining mode. Its rationality was system rationality. The movement thus sought to secure a political space for itself in the realm of extraparliamentary politics.

The discussion in the BI's district groups is an empirical example of the deliberation Habermas refers to. Different factions each presented their arguments, and the group debated the matter until a consensual decision was reached. This process did not involve bargaining and compromise between the factions. Instead, it involved persuasion—the final decisions were agreements to pursue a particular course of action. At times, no consensus could be reached, and only then would a majority vote decide the matter. This system depended upon the participants' agreement to abide by the decisions even when they disagreed with them. The enquete-commissions did not operate this way in the sense that the participants did not unite behind a single solution. Since the commissions' recommendations were not binding, members were not obligated to come to agreement, and their interactions often reflected this fact. True to the deliberative form, however, opposing positions were all listed and weighed in the final report without being combined into a compromise solution. The commissions furthered BI goals in that they included all interested participants and eliminated to a great degree the power relationships that normally prevailed in policy discussions. The BI's challenge was to establish a forum for political discussion consistent with the group's communicative rationality but interactive with the administrative-economic system. Critical theory attempts to accomplish the same thing at the level of theory.

The Limits of Communicative Action

Habermas intends both to describe the mode of operation of the bureaucratic-economic system and to critique it from the perspective of the life-world. The difference between critical theory and standard approaches is not simply the difference between a realist perspective and a utopian one, between the "is" and the "ought," but rather between "what is the case?" and "what is to be done?"[5] The aim of the theory is not merely to describe

5. Tussman characterizes this as the difference between descriptive and normative theory. The former is a theory of "how things work," the latter a theory of "political obligation." He writes:

> The former we reserve for science; the latter we relegate to dreamers, poets, and others notoriously out of touch with the facts of life. But this is to misunderstand the descriptive-

existing modes of decision making in an objective way, but to critique them from the perspective of the participant. At the same time, the empirical case study allows us to analyze and critique the theory that frames it.[6] To the extent that grassroots citizen activism is an attempt to develop communicative action, the experience of BIs can reveal problem areas in the theory and suggest directions for change.

One such problem area is Habermas's notion of deliberation itself, which the BI shared. The Senat had produced its "ruinous" energy decisions, activists claimed, because of the undemocratic nature of the decision process. A more participatory process would produce not only more legitimate decisions, but demonstrably better ones; greater information would allow the participants to reach agreement more easily. To the BI and Habermas, the basis for achieving consensus through deliberation lies in the assumptions that there is a correct solution to be found, and that participants will recognize and support it—the "force of the better argument" will prevail.[7] The

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> normative distinction. It does not contrast "what is the case?" with "what should be?" It does contrast "what is the case?" with "what should be done?"—the concern with knowing and the concern with doing, the spectator and the agent or participant . . . Thus, a theory of political obligation, normative though it be, is a response to the demands of the life of action and never strays too far from the quandaries of decision. Concern for the normative is not a speculative luxury; it is a practical necessity. (Ibid., 16)

6. For more theoretically based critiques of Habermas, see, for example, Hans Joas, "The Unhappy Marriage of Hermeneutics and Functionalism," in *Communicative Action,* ed. Axel Honneth and Hans Joas (Cambridge: MIT Press, 1991), 97–118; and John B. Thompson and David Held, eds., *Habermas: Critical Debates* (Cambridge: MIT Press, 1982).

7. Habermas does not want to say that a single correct argument exists a priori and has only to be discovered by the participants; the "better argument" must emerge from their interaction. Nevertheless, to Habermas, something is true not just because we agree upon it, but because it is in a universally recognizable way the better argument (see McCarthy, *Critical Theory of Habermas,* 307–12). In Habermas's words, the criterion by which we judge truth is "not the fact that some consensus has been reached, but rather that at all times and in all places, if only we enter into a discourse, a consensus can be arrived at under conditions which show the consensus to be grounded" (cited in ibid., 308). Inherent in speech itself is the ability to understand and recognize valid reasons, and also to agree—otherwise there would be no reason to enter into discourse. Habermas writes,

> participants in argumentation have to presuppose in general that the structure of their communication . . . excludes all force—whether it arises from within the process of reaching understanding itself or influences it from the outside—except the force of the better argument (and thus that it also excludes, on their part, all motives except that of a cooperative search for the truth). (Habermas, *Theory of Communicative Action,* 1:25)

BI members tended to run into trouble when each separate faction thought it possessed the truth, and achieving agreement was merely a matter of convincing the others of the superiority of one's own argument. When the others failed to agree, the group threatened to split. Agreeing to disagree was not a satisfactory outcome.

Reuter-West case study reveals both assumptions as problematic. First, the assumption that participants will recognize and support the better argument is clearly false. The one constant fact of BI life was heated, exhaustive arguments between committed opponents. The fact that decisions formerly assumed to be technical were now acknowledged to be political often seemed only to accentuate the incompatibility of the participants' stands. Habermas and the BI did not take sufficiently into account the likelihood that, once all participants are informed on an issue, even if they desire to achieve consensus, they still may not agree on what constitutes the better argument. People do not weigh choices in the same way, and they may have equally compelling reasons for opposing standpoints.

The disagreements need not obstruct decision making, as long as mechanisms for resolving conflict exist. In the West Berlin case, however, the BI's commitment to the notion of the better argument made it difficult for members to deal with the inevitable conflicts that arose. Irreconcilable positions on the violence question resulted in the group's failure to produce a coherent response to BEWAG and government action. The BI avoided establishing conflict-resolution mechanisms on the grounds that these would produce hierarchy and specialization inimical to its discursive principles. In the absence of institutionalized procedures for resolving conflicts, however, there existed no buffer between opposing members, and their arguments took on a personal and destructive tone they might not otherwise have had. On the other hand, if communicative action must end in bureaucratic or authoritarian decision making, it does not really constitute an alternative. The BI occasionally defied its own discursive principles in order to achieve decisive action. The Spandauers sought at first to resolve the violence question by cutting themselves off from the rest of the group and gaining more control over their membership. Indeed, the BI achieved its greatest policy successes in those areas that were not communicatively structured, such as the administrative courts and in large demonstrations. Many alternatively organized groups had similar experiences. One member of the national-level Greens, for example, notes:

> Most of the time political success was exactly not to be realized by means of domination-free discourse. [This] led more often to endless debates that in the truest sense of the word "talked to death" most of the productive initiatives . . . To catch the right moment, to hit the right mood, or to be able to produce a pseudolegitimation proved to be far more important than the force of the better argument.[8]

8. Kleinert, *Aufstieg und Fall,* 325–26.

The assumption that a best solution exists at all tends ironically to produce the very rigidity and technicization that BIs try to subvert. The BI and Habermas's shared notion of a truth that emerges through discourse and at the same time makes discourse possible, a better argument that will be recognized and supported by all participants, reveals a kind of technical understanding of politics that is at odds with political reality. Habermas needs this truth as basis for reaching consensus. At some point, however, it becomes authoritarian. When consensus fails, different factions proclaim themselves the arbiter of truth. The interaction becomes dominated by power rather than the quest for a better solution, and indeed the better solution is defined in the end by the dominant party.[9] In the early going, ideologically committed groups in West Berlin used the plenum sessions to grind their own axes. The reaction of the Spandauers was to try to shut out these groups, proclaiming themselves the legitimate carriers of citizen opinion. They fought chaos by imposing rigidities. Habermas in a sense does this too. Habermas recognizes the constant threat of domination, but he does not see it as related to his notion of the better argument.

Even in the absence of domination by one group or faction, the search for the better argument can become a technical search that cuts off political interaction. In the BI, different factions were equally committed to opposing goals. Habermas would want them to throw out their ideologies and concentrate on finding the superior solution. In theory the solution emerges through dialogue, but in practice the very notion of its existence tends to reduce the discussion to a technical debate. Moreover, once a technically "better" solution is agreed upon within the group, this mind-set does not allow for the fact that it must be implemented politically. The national-level Greens provide a good example of the resultant problems. One member notes that they possessed a strangely technical notion of politics that reduced their ability to concentrate on implementing their resolutions. From the beginning, he claims, the attitude existed that "politics was solely about solving factual problems, taking positions on them, deciding and representing those positions. The political effect would follow, so to speak, automatically."[10] The Greens, he continues, mistook position papers for politics, and they considered presenting political strategies and policy positions to be more a technical matter than anything else. The group's initiatives often fell short because of members' failure to engage in political persuasion, to try to convince others to support the Greens' positions for their own reasons. In the Greens

9. Nancy Fraser makes a related point in her critique of Habermas based on gender relations within the family. The family is assumed to be the domain of the lifeworld but is in fact permeated by relations of domination (Fraser, "What's Critical").

10. Kleinert, *Aufstieg und Fall,* 345. Kleinert characterizes this as a recurrent problem of left-wing politics that also exists within the SPD.

as in the BI, the better solution was defined technically, and the subsequent decisions were considered unassailable precisely because they were assumed to be technically superior. This is strikingly similar to the technocratic thinking these groups opposed. Although the lifeworld shifts the focus of decision making from means to ends, both system and lifeworld rationality as defined by Habermas and many BIs tend to offer imperatives. Deliberation may come up short in both cases.

The alternative to such imperatives seems for Habermas and many BIs to be chaos. To some extent, however, BI Oberhavel/Oberjägerweg recognized that conflict was inevitable and not always negative. Its ultimate treatment of the violence question is an example. The BI avoided taking a binding stand on the question of violence, stating instead that every individual must decide for her- or himself how to behave when threatened with force. Similarly, the Greens appear to operate on the verge of self-destruction to the extent that they try to preserve democracy, variety, *and* substantive discussion. Only insofar as they resist imperatives are BIs and other alternative groups truly innovative; their nonhierarchical, discursive form sets them apart from the procedures of the system they are criticizing. Although the price is often incoherence, there is an exercise of freedom in the chaos that is perhaps intrinsically more valuable than Habermas (or the Spandauers) allows. Insistence on adherence to a strict rationality would take some of the creativity away from the interaction. The quest for a consensual politics that allows for diversity is an important element of the new citizen activism. To the extent that citizen groups have retained their alternative structure and developed a program of action, they have burst the bounds of both system and lifeworld rationality.

Another, related problem area revealed by the case study has to do with using technical language to criticize technocratic form. The BI made concessions to technical form and language in order to defeat the plant in court. These concessions limited its ability to sustain a mass movement. They also compromised the group's goal of democratizing the system in that they detracted from its broad legitimation concerns. BI members' own democratic vision tended to remain at an abstract level. Similarly, a theory that seeks to address "what is to be done" plainly has the purpose of motivating and informing political action. Habermas also bogs down, however, in the technicality and abstractness of his discussion. Habermas's arguments are unlikely to reach the audience he would like most to address. He pleads for common speech while using an intellectual language so technical as to make it practically incomprehensible. Likewise, his arguments remain at a level of abstraction that would make them very difficult to translate into action.

The question arises, would we *want* the kind of communication Haber-

mas promotes? Some argue that, as communicative rationality limits the creativity and diversity of citizen action, so does the language of communicative action limit the creativity and variety of human interaction. One critic writes:

> It would be preferable to me [to have a] theory of communication that also revered the modes of reaching understanding shoved aside by Habermas, as old-fashioned as they may be. Like politeness and for that matter also lying; excuses and denigration; irony and cynicism. An ideal world, in which no one properly swindles or gossips, but rather everyone speaks only truthfully, rightly, sincerely, is one in which I would not enjoy living.[11]

In attempting to function as critical participants in policy making, BI members became mired in the technicalities of form and language. Habermas's theory tends to do the same. Only to the extent that they preserved their diversity of opinions were citizen groups able to transcend the boundaries of institutional, technocratic procedures and move toward their vision of an alternative politics. Creative actions such as the construction of the hut on Oberjägerweg, tree adoptions, and in the case of nuclear energy, "death marches" in which participants dressed as coffin-carrying skeletons set these groups apart from the institutions they opposed. It is precisely the diversity and spontaneity of the new social movements that give them their unique character and make them a potentially democratizing, emancipatory force, even as these tend to work against their unity and policy effectiveness.

A third problem area revealed by the case study is the dual role of BIs in defending the lifeworld and creating a sphere of public discourse. Given the conditions of their formation and their corresponding form, grassroots groups have great difficulty switching from defensive to active behavior. As the case study has shown, the West Berlin BI devoted much of its effort to defeating the Reuter-West project in court and halting the steady advance of bureaucracy and industry. This worked against its ability to develop a program for action by keeping it locked into system language and form. BIs throughout Germany encountered similar difficulties.

Critical theory helps explain the problem but offers little guidance in solving it. This problem parallels the actual situation of the groups themselves; the prescriptive element comes up short. As Alberto Melucci notes, Habermas explains why but not how movements form, what they react against but not how they can organize for a program of action.[12] Habermas

11. K. M. Michel, "Nun sprecht mal schön!" review of Habermas's *The Theory of Communicative Action, Der Spiegel,* 22 March 1982, 210–15.

12. Keane, preface to Melucci, *Nomads of the Present,* 3.

is skeptical that new social movements can be carriers of communicative action perhaps exactly *because* of the two-dimensionality of their concerns; for him their formation confirms the existence of the legitimation problem but stops short of offering a solution. He seems to view these groups as more an expression of discontent than anything else:

> Neither the bourgeois emancipation movements nor the struggles of the organized labor movement can serve as a model for this [the current] protest. Historical parallels are more likely to be found in the social-romantic movements of the early industrial period, which were supported by craftsmen, plebians, and workers, in the defensive movements of the populist middle class, in the escapist movements (nourished by bourgeois critiques of civilization) undertaken by reformers, the *Wandervögel,* and the like.[13]

Habermas is suspicious of the utopian, collectivist, retrograde thinking of citizen groups. But as chapter 2 explains, this is only one of the strands of thought historically present in such groups. Habermas may underestimate their active, democratizing, emancipatory element as well as their technical capabilities. While citizen initiatives reject individual profit-maximizing behavior as a standard, they, like critical theorists themselves, try to avoid prescribing rigid restrictions on the individual in the name of the collective. To the extent that BIs do not try to act on behalf of a group or impose a group will on individuals but rather try to empower citizens to stand up for themselves, they do not conform to the utopian, collectivist thinking that Habermas rejects.[14] New social movements in general try to develop a model of societal participation that conforms neither to the classical liberal model nor to communitarianism or systems thinking. They have also overcome their problem of defensiveness to a greater degree than Habermasian theory acknowledges. In its efforts to develop legitimate forms of political decision making, the West Berlin BI partly abandoned its particularistic, defensive stance in favor of general claims and action oriented toward reforming the system in the image of the lifeworld. It joined with other local groups to form a network of committed citizens with a common critique of

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13. Habermas, *Theory of Communicative Action,* 2:393.

14. Dahrendorf also warns of the dangers of subordinating the individual to the collective. In the context of Europe's current wave of nationalism, he criticizes the idea of national self-determination because "it ascribes a right to peoples when rights should always be those of individuals. As a result, it invites usurpers to claim this right on behalf of peoples in whose name they speak while at the same time trampling on minorities, and sometimes on the civil rights of all" (Ralf Dahrendorf, *Reflections on the Revolution in Europe* [New York: Random House, 1990], 149). Communitarian or systems thinking has often been turned in an antidemocratic way.

industrial society and similar prescriptions for change. In general, as Melucci states, "the evidence suggests that forward-looking and proactive forms of resistance are at least as evident within these movements as backward-looking and reactive forms of action."[15] Habermas neglects the active, generalizing, emancipatory aspect of citizen activism and thus fails to see how closely citizen groups' theoretical interpretations of their actions parallel his critical theory.[16]

Colonization of the lifeworld is more a double-edged sword than Habermas acknowledges; relationships between system and lifeworld are less clear, influence less unidirectional than his theory indicates. The very mediatization of the lifeworld gives new social movements tools with which to overcome system domination. Melucci notes that complex societies contain many large-scale organizations designed to regulate and control individuals' lives. At the same time, these organizations place various resources—knowledge, money, communicative skills—at the disposal of these same individuals. Modern society does not necessarily produce "one-dimensional man" (Marcuse) or result in the "iron cage" (Weber); it also offers opportunities for people to realize their full potential as individuals. The colonization process turns unwittingly against itself.[17] Offe stresses the creative elements of new social movements as well as the defensive ones and notes that this creativity is paradoxically facilitated by the process of lifeworld colonization itself, which puts more resources at people's disposal.[18] Through their interactions within the group, people experience personal growth and develop a sense of their own efficacy.

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15. Melucci, *Nomads of the Present,* 195. Some of Habermas's critics in turn may overemphasize the nonpolitical and individual self-fulfillment aspect of new social movement action. Melucci, for example, characterizes these movements as "antipolitical" and their private activities as primarily nonpolitical or prepolitical. The West Berlin case and others described in this book suggest instead that the movements are fundamentally political; they try to develop public space, not simply to free private expression. They are oriented at base toward acting outward on the political system. New social movements oppose "normal" politics precisely because they believe *it* is nonpolitical. Their opposition to existing political institutions does not make new social movements antipolitical.

16. Although Habermas did not commit himself to the notion that the BI movement would be the agent of his communicative action, his comments on the Greens during their heyday did indicate some optimism that citizen action was moving in the direction of a developed political program. See McCarthy, *Critical Theory of Habermas,* 384; and Habermas interview, "A Philosophico-Political Profile," in *Habermas: Autonomy and Solidarity,* ed. P. Dews (London: Verso, 1986), 181–83.

17. Melucci, *Nomads of the Present,* 196.

18. Modern communication technologies are an example of the resources new social movements can use to their own ends. See Offe, "New Social Movements." Law is another area that is classified as part of the system but that emancipatory movements have turned to their own ends.

Habermas agrees that the potential for reciprocal influence exists, but he underemphasizes it. Habermas cannot conceive of the emancipatory potential of these new forms insofar as his theory fails to overcome the dichotomous thinking of theorists who use the state/society distinction. The system/lifeworld distinction points out some important differences in organization and rationality. But relations between the system and lifeworld may be more fluid than Habermas's own dichotomy suggests. Beyond a certain point, these categories cease to make sense of empirical reality. The search for a plane on which the interests of state and society, or system and lifeworld, can be reconciled—indeed, on which these cease to be mutually exclusive categories—is a central concern of current political activity in Germany.

Evaluating critical theory in light of the empirical evidence can suggest future directions in both theory and practice. The BIs' challenge was to establish a forum for political discussion consistent with their communicative rationality but interactive with the rationality of the administrative-economic system, to establish a position both inside and outside institutionalized politics. Critical theory does the same thing at the level of theory. It facilitates a two-dimensional analysis of the problems that lead to grassroots activism. A future direction would be to develop the theory along the lines of a program of action—to interpret and explain evolving citizen organization and action in addition to the formation of citizen initiative groups. It ought to be possible to discuss organizational aspects of citizen activism without taking on the assumptions of the standard theories—to discuss both the how and the why of social-movement formation and action. Critical theory's two-dimensional focus is a step in this direction that merits further development.

A further step would be to indicate areas in which system and lifeworld could beneficially interact. Just as grassroots groups attempt to link institutionalized and noninstitutionalized action, critical theory could provide a link between system and lifeworld. What possibilities for noninstitutionalized action, for example, arise from colonization of the lifeworld itself? Where can the system be rolled back, and where does it provide an organizing principle useful to the lifeworld? What areas of life can be structured administratively or according to market principles, and what areas cannot or should not? Habermas agrees in recent writings that leaving all areas of societal interaction open to negotiation would put too much burden on members of the lifeworld, and that legal norms, for example, are useful in setting ground rules to avoid having to renegotiate the terms of interaction in every new case.[19]

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19. Ludwig Siep, "Mit Radikalen vernünftig reden?" review of Habermas's *Faktizität und Geltung*," *Der Spiegel,* 19 October 1992, 294.

Such an exercise would be useful, for example, in dealing with the persistent problem of resolving conflict within grassroots democratic groups. Grassroots political experience shows that the attempt to get away from the conflict-oriented mode of politics places too much emphasis on consensus, leading back toward the very technocratic domination that BIs formed in order to protest. Dahrendorf notes that the desire to do away with conflict has not served German democracy well in the past. Germany today is "coming to terms with the fact that in the open society one has to live with conflict and turn it to creative use rather than try to sweep it under the carpet and seek a false harmony which more often than not means tyranny."[20] Conflict to him and to Habermas is democratic when it is mediated through dialogue—Habermas wants political solutions to emerge from dialogue, not to be forced upon the weaker party by the stronger or to be determined in advance through decision rules. The suppression of conflict threatens democracy as well. But BIs have yet to generate means of resolving conflict that do not defeat their attempts to further the communicative project of the lifeworld. It would be desirable to determine what mechanisms they could employ that would avoid the rigidities of systems thinking and the factionalism of possessive individualism and still allow them to take concerted action. A challenge for grassroots groups and for theory is to secure a realm for deliberative politics, to define the boundaries of system and lifeworld, or perhaps to develop a characterization that would indicate a more fluid relationship, a political setting in which the different rationalities could complement rather than threaten each other.[21]

Evaluating the Impact of Citizen Initiatives

In the West Berlin case, the BI's and Land government's opposing conceptions of politics led not only to conflicting definitions of the energy problem, but also to very different evaluations of the outcome. Similarly, critical theory offers an alternative to standard evaluations of the results of citizen action. Theorists who concentrate on the public policy dimension may evaluate outcomes in terms of success or failure of policies, of interest positions, or of conflict resolution.[22] In Tussman's words, we can evaluate

20. Dahrendorf, *Reflections on the Revolution,* 125.

21. Some analysts suggest that critical theory, much like citizen groups themselves, could provide an alternative that departs from the dichotomies of state and market or individualism and communitarianism. See Seyla Benhabib, "Autonomy, Modernity, and Community: Communitarianism and Critical Social Theory in Dialogue," in *Cultural-Political Interventions in the Unfinished Project of Enlightenment,* ed. Axel Honneth et al. (Cambridge: MIT Press, 1992), 39–59.

22. Kitschelt lists policy outcomes as one of four "analytical aspects" of policy making. He defines outcomes in terms of economic, social, and political impacts of policy: "outcomes

the outcome in terms of "getting." On this dimension, the outcome was a compromise: Reuter-West eventually received the necessary permits for construction, but it was relocated to an industrial area and scaled down to half its originally planned size. That Reuter-West is the most technologically advanced and environmentally sound of BEWAG's plants is due entirely to the long legal battle, in which nearly every aspect of the original plans was changed. The West Berlin administration ultimately formulated the first official long-term energy program for the city with some BI input.

The Reuter-West controversy also established a precedent for citizen participation in energy policy making. The BI demonstrated that citizens had the expertise and will to contribute to technical as well as political discussions. In the end, however, one must question whether repeated legal blocking of energy projects and myriad public hearings constitute a desirable form of energy planning. The second enquete-commission recommended institutional changes to alleviate the problems of citizen protest and administrative fragmentation. Few of these recommendations have been implemented. Thus, future projects may face a similar string of administrative false starts and obstruction by citizen groups. Prominent cases nationwide, most recently at the proposed nuclear recycling center in Wackersdorf, follow a similar pattern.[23] Land and federal governments have arguably paid too little attention to institutional reform.

Despite the lack of institutional reform, the publicity generated by the Reuter-West case made it impossible for the Land government to return to the insulated policy-making style of previous decades. Administrators and politicians now face continuous, informed scrutiny of their decisions and actions. Grassroots activists acknowledge that policymakers now voluntarily justify their positions with evidence rather than stonewalling the public with claims of superior expertise. Unable to insulate themselves from citizen participation, policy-making institutions now face the challenge of winning the cooperation of citizen groups, either by co-opting them into the system or bowing to more of their demands. Given the nature of those demands, the Land is unlikely to pursue the latter strategy. The major West Berlin

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are determined by the effectiveness and the efficiency with which certain results are brought about, the unintended side effects of a policy, and the legitimacy that policies enjoy" (Herbert Kitschelt, "Four Theories of Public Policy Making and Fast Breeder Reactor Development," *International Organization* 40, no. 1 [winter 1986]: 67). These are all aspects that can be evaluated in terms of success or failure. The distinction I want to make is that outcomes on the legitimation dimension, although no less important for the central question of this study, are difficult to evaluate in terms of success or failure, matching means to ends. Political association and grassroots democracy are important in themselves, not merely as means by which to achieve certain policy goals.

23. See, for example, articles on the developments at Wackersdorf in *Der Spiegel,* 30 September 1985, 4 November 1985, and 26 May 1986.

political parties, especially the SPD, took some steps in the direction of co-optation, by adopting positions favorable to local BIs. The Land government also became more open to informal consultations with BI activists on energy matters. Administrators still resist giving citizens a *substantive* role in the early planning decisions, where policy goals are discussed.

We cannot judge the results of citizen action on the legitimation dimension in the same terms we use to judge the policy outcome. The BI defined the problem, and interpreted the meaning of its own actions, according to a different model. A two-dimensional analysis assesses the impact of citizen action not only in terms of getting, but also in terms of solving. Richard Bernstein states the difference this way:

> Communicative action is a distinctive type of social interaction—the type of action oriented to mutual understanding. It must be distinguished from other types of social action and non-social action which are oriented to "success," to the efficient achievement of ends. These latter action-types exhibit the form of purposive-rational action where we seek to achieve an end or goal by appropriate means.
>
> However [here citing Habermas] "the goal of coming to an understanding is to bring about an agreement that terminates in the intersubjective mutuality of reciprocal understanding, shared knowledge, mutual trust, and accord with one another."[24]

This quote underscores the difference between legitimation and public policy goals. Whereas bargaining is a means to achieve a policy end, deliberation is an end in itself, the goal of BI action on the legitimation dimension.

Organization is more than a means to an end for new social movements; the form of movements is intrinsically important. The interpersonal relationships within the movements act as an example or "sign" for the rest of society: "from their particular context, movements send signals which illuminate hidden controversies about the appropriate *form* of fundamental social relations within complex societies."[25] In addition to achieving specific policy goals, participants value the collective experience itself: "those who participate within the organizations of a movement view their participation as an end in itself. Their 'journey' is considered at least as important as their intended destination."[26] The form of the group is an alternative experience of reality and demonstrates to others that alternatives are possible. From this

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24. Bernstein, *Habermas and Modernity,* 18. For a discussion of "getting" versus "solving," see Tussman, *Obligation,* 117.

25. Melucci, *Nomads of the Present,* 207.

26. Ibid., 205.

standpoint, the results of citizen action are deeper than policy successes or failures. The major results may lie in these experiments in citizenship. Analysis of the legitimation dimension uncovers important effects of grassroots citizen action that would otherwise not be obvious.

First, the informal networks of communication formed through grassroots activity make large-scale collective action possible. This "subterranean" intragroup activity is often a prerequisite for the more publicly visible actions such as demonstrations and site occupations.[27] Mass movements such as the peace or environmental movement are actually composed of crisscrossing networks of neighbors, women, youth, environmentalists, and many others whose previous organization facilitates the visible phenomenon of mass mobilization around a particular concrete issue. Although the subterranean and visible dimensions of collective action are inseparable, most analyses concentrate exclusively on the demonstrations and other visible activities. The analysis of legitimation problems brings the hidden pole to light and reveals its connection to mass mobilization.

Second, citizen action helps reverse the dominance of bureaucracy over politics that Weber and Habermas criticize by exposing the power relationships hidden behind the bureaucratic facade of expertise and neutrality. By proposing alternatives, new social movements challenge those who claim that the dominant forms are inevitable or the only rational forms. According to Melucci,

> The function of contemporary conflicts is to render visible a power that hides behind the rationality of administration or organizational procedures or the "show business" aspects of politics. Visible power disappears from modern societies; it multiplies and forms branches and is difficult to locate within figures or institutions, even though it comes to play a crucial role in shaping all social relationships.[28]

Rendering power visible makes it negotiable, "since it can be confronted and because it is forced to take differences into account."[29] The results, although difficult to quantify, can be profound. The peace movement, for example, had little outright success in influencing policy. According to Rochon, however, its effect in bringing security issues into public debate was significant.[30]

Finally, the activity of citizen groups works back on the self-identity

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27. Melucci, "Social Movements," 248.
28. Ibid.
29. Ibid.
30. Rochon, *Mobilizing for Peace,* 205–9.

of their members. Perhaps the most important result of the environmental decades is the achievement of a participatory consciousness among the populace. This change made itself felt in the course of the Reuter-West controversy. At first, citizens accepted technocratic decisions rather automatically. Their eventual protest was largely due to the immediate local impact of the proposed Spandau project. On the basis of their dealings with the Land-BEWAG alliance, however, citizens also developed a theoretical critique of the technological state, the economy, and the relationship between the two. In successfully attacking the Land government on an issue with high technical content, citizens dashed technocratic justifications for energy projects and legitimated the political discussion of technical issues. They also secured a role in this discussion, developing alternative policy proposals and using institutional and noninstitutional means to force the authorities to take them into consideration. By the later stages of the story, the Senat and parliament could no longer reject citizen proposals or objections out of hand; they felt compelled to give substantive reasons for their decisions, to engage in at least some minimal level of dialogue with local citizens. Those citizens were no longer intimidated by technical content or bureaucratic form.

In general, it is an informed, skeptical, activist populace that confronts policymakers today. The new citizen activism occurs within the system yet bolsters the lifeworld, occurs within the framework of institutional politics yet retains a political space and theoretical perspective outside of it. It is this critical element that makes citizen initiative action a unique, democratizing development in German politics. Long-term satisfaction of the new legitimation demands will require a rethinking of the very meaning of politics.

Citizen Initiatives and the Development of German Democracy

It would be useful to consider the significance of grassroots movements for the development of German democracy in general, particularly in light of the challenges faced by newly united Germany. The Reuter-West study addresses several themes important in assessing the long-term impact of citizen groups. First, the title of this book, *Technological Democracy,* contains an implicit question: can technological policy making be democratic? BI members oriented their action toward democratizing technology. In part, this study argues, they succeeded. To some extent, on the other hand, their grassroots democracy became technicized. Throughout the case study a tension persisted between these two poles, a tension that characterizes in general the relationship between bureaucracy and citizenry in Germany today.

In the sense of rationality, technology *is* incommensurate with BI organization and action. It would be difficult to conceive of a communicatively structured science or technology.[31] The BI movement did not, however, aim to restructure communicatively all areas of existence. Instrumental, noncommunicatively organized realms can coexist with the lifeworld, as long as they do not threaten to overrun it; their space must be defined and limited. The BI did not condemn technology; in fact, true to Offe's claims, its members spent a great deal of time developing technological alternatives to the Land proposals, alternatives that put technology to more environmentally friendly use. The BI wanted to use technology in the service of the lifeworld. This is theoretically possible even though technology follows the rationality of the system.

The case study revealed the problem of technocracy to be more political than technical. Citizens were shut out of the policy process not because of its technicality, but rather in order to avoid conflict. The BI claimed that the authorities used technical expertise and technical language to hide their pursuit of political interests. The BI's interest was not in defeating technology, but in defeating its ideological hold in order to promote an open political discussion. Parliamentarization of the energy debate only partly resolved the problem. The parliamentary discussion made clear the defeat of technocratic ideology even as it perpetuated the language of technical discourse. Those wishing to participate in energy politics on a long-term basis have had to accede to the language of bureaucratic discussion, if not the legitimacy of bureaucratic authorities. This remains a problem for grassroots groups. The technicality of the discussion limits the broader citizenry's (and parliament's) ability to participate. Activists showed that they could keep up with the technical discussion, but they have not shown that they can build a broad-based activist politics around it.

The problem of democratizing technology has taken on a new salience with German unification. The many difficulties of the former East Germany have prompted rapid, large-scale government intervention in a modernization effort that has thus far largely precluded open societal discussion of the options. The economy/ecology trade-off has reemerged. Moreover, environmentalism in the GDR was informed by a different experience of technological society and a correspondingly different critique. Postunification cooperation between grassroots groups requires a reworking of both critiques,

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31. Habermas, when asked whether ecology as a theory and a movement spelled the development of an alternative (more lifeworld-oriented) science, replied, "as far as I can tell, . . . from the methodological point of view these ecologically inspired investigations move entirely within the inherited framework. So far nothing seems to suggest that alternative natural sciences can be developed in a non-objectifying attitude, for example in the performative attitude of a partner in communication" ("Philosophico-Political Profile," 177).

a cooperative learning experience that could be as fruitful in the long run as it is currently frustrating.

In evaluating the significance of citizen action for German democracy, another important consideration is whether BIs have had a lasting effect on the nature of citizen participation. Can and should a grassroots activist citizenry be maintained? The fact that citizens nationwide now take a more active, informed, critical role in their governance is demonstrated by the large proportion of the populace involved in citizen initiatives, the growth of the nationwide associations of environmental and other grassroots citizen groups, and the continued success of alternative and green parties at all levels of government. The evolution of citizen action, especially in the parliamentary arena, continues to produce new dilemmas for activists. For one, the relationship between the citizen initiative movement and green and alternative parties is based on the assumption that activism at the grassroots level will provide impetus and guidance to the parties. In fact, however, grassroots activism has dwindled while green parties flourish, particularly at the Land and local levels. Moreover, these parties have found it difficult to maintain their status both inside and outside institutionalized politics.

In Berlin, the grassroots participation that spawned the BI and the AL has receded. By the end of the legal battle for Reuter-West, active BI participation had shrunk to those few members researching and presenting the technical points. BI activists have fallen short of their vision of an informed citizenry actively helping to shape its future through political dialogue. The AL, too, has had to reorient its activities—its original self-perception as a mouthpiece for the concerns of citizen initiative groups no longer corresponds with reality. AL parliamentarians complain that they receive no guidance from the grass roots.[32] The potential for mass action still exists. Recent BEWAG attempts to secure exemptions from federal desulfurization requirements, for example, stirred up controversy once again.[33] In general, however, party support holds steady while the grass roots languishes. Some former activists were co-opted into the technical decision-making process, serving as advisers to Senat licensing authorities. Most acknowledge that the potential for citizen protest is essential to this behind-the-scenes work; the threat of mass publicity and protest gives weight to the input of BI experts. But democratization remains an empty promise if decision processes remain closed affairs between experts, even when some of the experts are BI members.

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32. Rolf Brüning, AL parliamentarian, interview by author, 21 June 1991.

33. BI and AL members teamed for a series of scathing radio interviews with BEWAG and Senat authorities on BEWAG's environmental and modernization activities, for example, in July 1985 ("Gulliver" radio program, 4, 11, and 20 July 1985).

Some citizens, especially long-time participants in the Oberhavel/Oberjägerweg/Reuter-West battle, have become bitter and apathetic about the possibilities for genuine citizen input.[34] Noting that the repeatedly demanded institutional changes have not been implemented, many consider their efforts to have been wasted. Others maintain that institutional change would not further the BI cause; only a strong extraparliamentary movement can protect the lifeworld and expand its influence. Similarly, in the new federal states of the former East Germany, initial optimism and environmental activism have in large part given way to resignation as economic problems have worsened. The problem of citizen participation continues to manifest itself throughout Germany in the alternating forms of public protest and apathy.

Green and alternative parties have found it difficult to maintain their status as critical participants in institutionalized politics. The same characteristics that won the BI movement its support—lack of hierarchy and professionalization, the rotation principle, the imperative mandate—at times prove detrimental to party work.[35] The contradiction between institutionalized participation and grassroots action produced a lively internal debate in the Greens, resulting in a split between fundamentalist (*Fundi*) and realist (*Realo*) wings. *Fundis* were wary of institutionalized politics, while *Realos* believed that the Greens' goals could only be accomplished through cooperation and coalitions with the established parties. The *Realo* position has largely won out, and several red-green coalitions have been formed at subnational levels, most notably in Hessen and West Berlin. The fractiousness of the Greens' politics, the group's unwillingness or inability to come up with politically workable solutions to Germany's many current problems, and a perceived lack of leadership in the party have cost the Greens some of their support, even though environmental problems retain their prominent place on the political agenda. In the December 1990 elections, where green groups in the former East and West Germany ran separately, the eastern groups cleared the 5 percent hurdle for parliamentary representation, while the western Greens did not.[36] Postelection attempts to combine eastern and

34. At a spring 1985 SPD campaign presentation on West Berlin politics and air pollution, many participants expressed bitterness that their efforts had been for naught. A BI member stood up and reminded them that they had defeated the original 1,200 MW plant, a partial victory at least. The audience seemed to disagree, saying that if politicians had not learned from the battle, it had not succeeded.

35. Kleinert notes that the national-level Greens' individualism and commitment to grassroots principles constantly get in the way of their party work. Given time and resource constraints, more of a division of labor, more specialization, would be desirable. On the other hand, structure and hierarchy would likely squelch the creative energies now free. No happy medium has yet been found (Kleinert, *Aufstieg und Fall,* 329).

36. *Der Tagesspiegel,* 4 December 1990.

western groups have been only partially successful; adding to the western Greens' own internal splits are the new difficulties in communication and political expectations of groups from east and west.

In short, it is doubtful that green parties can still claim to be the institutional spearhead of the extraparliamentary environmental movement. Institutionalized politics was partly revived in the eyes of the BIs as a legitimate realm of citizen participation. Many groups remain skeptical, however, that institutions that operate as part of the system can meet the participatory needs of the lifeworld. The closest the BI came to institutionalizing the type of deliberative body it advocated was the two enquete-commissions. These were temporary bodies, however, whose decisions were nonbinding on the bureaucracy and whose internal interaction was often more confrontational than communicative.

Parliaments and party politics are widely discredited among the populace; old decision-making forms have lost their sway, yet they have not been replaced by new forms. As a result, citizen participation remains largely outside the established legislative channels. The recent rise in incidents of civil disobedience supports the claim that citizens now take a more active, critical role in their governance. Many BIs participated in acts of civil disobedience during the battles over nuclear power in the mid-1970s. The huge protest against Startbahn-West, the expansion of the Frankfurt Airport into a forest area, followed a course similar to the Oberjägerweg story.[37] Widespread civil disobedience recurred in the early 1980s against the stationing of NATO medium-range nuclear missiles in West Germany. There, ordinary citizens were joined by highly publicized groups of professors, judges, and others in blockading missile sites. Recently, squatters have occupied vacant houses in inner cities, especially West Berlin, as a protest against real estate speculation, and have vacated only after violent battles with police. The 1987 national census brought a renewed wave of civil disobedience, as citizen groups organized nationwide boycott actions. More recently, the debate over tightening the political asylum laws for refugees again prompted mass mobilization and bitter critiques of party politics.

These incidents support the argument that there is still no universally accepted institutional mechanism by which citizen and state can interact. Citizens are likely to express their political preferences by taking to the streets. The recent rise of right-wing activity indicates the persistence of legitimation problems on both sides of the political spectrum. Attacks on foreigners by avowed right-wing youths have been answered by numerous mass demonstrations abhorring violence. Although various new recommen-

37. Rucht, *Flughafenprojekte als Politikum;* and Horst Karasek, *Das Dorf im Flörsheimer Wald* (Darmstadt: Luchterhand, 1981).

dations for legal change have surfaced, political action on this issue has occurred largely in noninstitutionalized form.

This situation raises a third long-term consideration. What happens if grassroots activism does not eventually develop into support for political institutions? Can it act as a permanent challenge and corrective to "politics as usual," or does it result in anomie? If communicative action does not take place within or lead to revitalization of an institutionalized public sphere, it does not resolve the legitimation problems and could bring them to a head. An activist, critical political culture without corresponding institutional change may produce cynicism and repeated legitimation crises. The question is whether to interpret grassroots protest as a harbinger of political instability or an indicator of a maturing democratic polity. I believe the Reuter-West case supports the latter interpretation. BI action has been directed against institutions and practices that claimed to be democratic but in fact were not. Citizens worked toward a realization of the democratic principles embodied in the Basic Law. That citizens do not accept government decisions automatically, but instead constantly weigh them against the principles of a democratic society, is evidence of the strength of those democratic principles in the populace. As Habermas reminds us, unquestioning acceptance of authority had extremely negative consequences for the Germans in the past.[38] Consent must be freely given and constantly renewed, he writes, in order for democracy to function.[39]

The upshot is that parliamentary decisions and legal rules do not achieve legitimacy simply because they are approved by elected representatives or stand in the law books: "The modern constitutional state can . . . only expect of its citizens obedience to the laws if and in so far as it rests on principles worthy of recognition in light of which that which is legal can be justified as legitimate and, if necessary, can be rejected as illegitimate."[40] This point ties in with Habermas's claims about "decisions without reasons." Decision-making authorities can only expect obedience to their decisions insofar as they can justify those decisions based upon shared democratic standards. Process cannot be a reason; that is, no decision is legitimate

38. Habermas, "Civil Disobedience: Litmus Test for the Democratic Constitutional State," *Berkeley Journal of Sociology* 30 (1985): 102.

39. Habermas cites the disastrous consequences of xenophobic nationalism and proposes a postwar German identity based upon "constitutional patriotism" (*Verfassungspatriotismus*), a loyalty to universalistic principles of democracy and *Rechtsstaat,* as the only kind of positive or democratic identity. See Habermas, "Grenzen des Neohistorismus," in *Die nachholende Revolution* (Frankfurt a.M.: Suhrkamp, 1990), 149–56, and "Geschichtsbewußtsein und posttraditionale Identität: Die Westorientierung der Bundesrepublik," in *Eine Art Schadensabwicklung* (Frankfurt a.M.: Suhrkamp, 1987), 161–79.

40. Habermas, "Civil Disobedience," 102.

simply because it has been reached by legal means. "Noninstitutionalized distrust" prevents a "moral uprooting" of the constitutional order, as happened in the 1930s, where the facade remained but the substance disappeared. This distrust cannot be co-opted by the system as long as it remains noninstitutionalized. In other words, the critical perspective of citizen groups like BI Oberhavel/Oberjägerweg serves a vital function in maintaining a democratic order. The presence of BIs makes system domination less likely, even though the consensus they strike between citizen and state is only temporary.[41] In fact, the process of continuous renegotiation keeps issues of democracy on the public agenda and thus provides a strong argument for the continued existence of grassroots groups.

Many BI members never favored institutionalizing citizen action, arguing that institutionalized participation would constitute a capitulation to the system the BI had been created to defend against. The very point of grassroots organization, they claimed, was to secure a political space in which the distinction between state and society dissolves. That is, they wanted to develop a true political forum, in which each participant acts as a responsible member of the community, not of a particular party or institution. Citizen action thus stands as a critique and corrective to institutional politics. From this perspective, the legitimation problem cannot and should not be "solved," as long as the system retains its present form and underlying rationality. Although this idea is by no means universally accepted, as the split between the realist and fundamentalist wings of the Greens attests, it remains an important part of the alternative vision developed by the citizen initiative movement.

In sum, although the recurrence of civil disobedience indicates persistent legitimation problems, the problems are of a nature that confirms the democratic principles of the populace. BI protest is directed against policies and institutions perceived to be undemocratic, and BI's position outside the established political institutions ensures their role as a guardian, rather than destroyer, of democracy. The Reuter-West case shows a maturing of this critical impulse, from site occupation to active attempts to implement a more participatory politics. Through their actions, all participants have become more responsible, discussion has become more substantive, and the resultant policies more thoroughly considered. This conflict changed the nature of the topics lay citizens felt they could legitimately discuss. It instilled a sense of political responsibility in the general public, even in technical issue areas.

The lessons of the environmental decades may be needed as united Germany faces the future. Unification has intensified economic problems

41. Melucci, "Social Movements," 250–51.

and racial tensions in both parts of Germany, complicated by myriad misunderstandings and mutual resentment between citizens of the two formerly separate states. The individual responsibility for the collective, political efficacy, and democracy promoted by grassroots citizen groups would serve the country well in its current situation. Germany's recurrent problems with right-wing activism, for example, may stem in part from a lack of political sophistication among the populace that BIs were trying to correct. The activists' vision of a populace sharing an informed commitment to the quality of life of the community and taking direct responsibility for negotiating it places a significant burden on the individual citizen, but that may be what democracy demands. In addition, the resolution of the tensions between the eastern and western parts of the country will require not only economic stabilization but also the melding of a new German identity that draws on the experience of all citizens. Such an exercise will require a degree of public dialogue unprecedented in Germany. The coming years will reveal the extent to which the sense of citizen efficacy achieved by citizen groups during the environmental decades has taken hold among the general populace.

A final consideration is the extent to which we can generalize the lessons of the West German case. In a sense, German unification will test the generality of the issues opened by West German BIs in that it will show whether citizens of the former East Germany understand these issues in a similar way.[42] But beyond the German case, can grassroots citizen action constitute an alternative to parliamentary politics in other systems as well? To what extent is the legitimation problem an exclusively German problem? It seems obvious at this point that the issues raised by BIs are common to industrialized societies in general. All have had to confront, in one form or another, the question of the citizen's role in the modern technological state. Indeed, grassroots groups emerged in many advanced industrial democracies at about the same time and raised similar broad concerns about technology and democracy.[43] Some recent opposition groups in Eastern Europe also

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42. See Hager, "Environmentalism and Democracy."

43. Berger, "Politics and Antipolitics," describes the outbreak of antistate protest in many European countries in the 1970s. Environmental protest groups proliferated at this time as well, notably in France and the United States. The development from protest against a single project to a broader critique among certain U.S. groups is documented in Rik Scarce, *Eco-Warriors* (Chicago: Noble Press, 1990). American citizen protest groups also tend to be technically informed and concerned about broad issues involving the process of decision making; see Michael Kraft and Bruce Clary, "Public Testimony in Nuclear Waste Repository Hearings: A Content Analysis," in *Public Reactions to Nuclear Waste,* ed. Riley Dunlap, Michael Kraft, and Eugene Rosa (Durham, N.C.: Duke University Press, 1993), 89–114. Although an international comparison of energy controversies is beyond the scope of this book, it is significant that large technological projects in other countries also evoke a broader discussion of democracy.

analyzed their political role in terms that resonate with the German groups' self-analysis. According to Jonathan Schell, the Polish dissident movement (like BI Oberhavel/Oberjägerweg supporters) believed that the means and ends of citizen action were inseparable, and that the group could transform society only by setting a nonviolent example through its own organization and actions: "if the journey and the destination were the same, it made no sense to spoil the conveyance in which one was riding."[44] It is true that grassroots action unfolds against a background of perceptions and possibilities for action that is different in every case. West German groups' articulation of the energy problem, for example, is clearly influenced by their specific situation—their own culture, history, and institutional structure.

Similarly, Habermas's theoretical formulation is often characterized as "Eurocentric" or even specific to the German case. In other countries such as the United States, the institutions of the economic-administrative system have a different relationship to each other and offer different possibilities for reciprocal influence. The legitimation concerns raised by environmental groups in Germany, however, resonate with the concerns of grassroots groups in the United States and many industrialized countries. Both the internal politics of these groups and their attempts to act as critical participants in the political system contain lessons for democratic politics in general. Likewise, critical theory's challenge to standard ways of interpreting citizen action, and the questions it raises in the process, transcend German society and are relevant to the industrial world as a whole. The issues raised in the energy debate and elsewhere will continue to inspire discussion on the possibilities for democracy in an increasingly complex technological world.

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44. Jonathan Schell, intro. to *Letters from Prison,* by Adam Michnik (Berkeley and Los Angeles: University of California Press, 1985), xxxiii.

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