



Volume 9. Two Germanies, 1961-1989

Dolf Sternberger Describes the Term "Constitutional Patriotism" (1979)

As a replacement for discredited nationalism, political scientist Dolf Sternberger suggests "constitutional patriotism." In doing so, he offers a democratic basis for loyalty to the Federal Republic – one grounded in the values of the constitution rather than ethnic affinity.

---

### Constitutional Patriotism

Thirty years ago there was hardly any enthusiasm when the Parliamentary Council<sup>1</sup> completed its task. The people didn't hear all that much about it and were not asked to cast their vote on it. And for their part, the members of this constitutional assembly did their job in a rather depressed mental state. It was only part of the nation on whose behalf they could act. So many of them thought they should give the state they reluctantly created only a temporary or interim character. The bland name "Basic Law" testifies to that reluctance. They spoke with a muted voice, as it were, and worked with hesitant hand – in mourning for the division of the nation, in the apprehensive hope of a free decision by all of Germany in the future.

We are still mourning, we are still hoping. But meanwhile national sentiments have been augmented by a clear conception of the benefits deriving from this Basic Law. The constitution has emerged from the shadow in which it was created. To the extent that it came to life, that powerful actors and actions emerged from mere regulations, that the political organs it created took form, that we ourselves exercised the freedoms guaranteed therein, and that we learned to move within and with this state, a new, second patriotism formed imperceptibly, one founded upon the constitution. The national sentiment remains wounded; we do not live in a full Germany. But we live in a full constitution, a fully constitutional state, and that itself is a kind of fatherland.

Everyone feels it, most know it, and some surely do not want to believe that the air of freedom blows here. One must only understand that there can be no freedom without a state. And no human rights outside of the state, which converts them into civil rights. And no state without bureaucracy. In fact, we should not shy away from using the word "state." The word "democracy" cannot be a substitute for it; that conjures up a dream, as if it were possible to achieve without a government, if only one would let the people do it. That's why it's better to keep in mind that, within our constitutional state, it's not the "people" who govern "themselves." Instead, there are those who govern and those who are governed – a minority of those who

---

<sup>1</sup> The *Parlamentarische Rat* was the predecessor to the Bundestag; it was convened in 1948 with the main purpose of preparing a constitution and was disbanded upon ratification of the Basic Law – trans.

govern, and a majority of those who are governed. That is irrevocable. But the people who are governed are at the same time the voters, and those who govern are also those elected. Those who govern are – in a certain way and to a certain extent – dependent upon those governed. In those strange clubs called political parties, the governors and the governed, the candidates and their supporters, are bound together in an organizational way. The parties sit in the parliaments, forming cooperating and competing teams; as a rule, mutual criticism causes them to divide into governing and oppositional parts. We have a choice; a change in the government is possible, though it is hard work. At a federal level, first one group made up the leadership for twenty years and then the other one did for ten.

State authority is not concentrated in one place, neither at the top nor the bottom, neither on the left nor the right; instead, it is distributed widely. We participate in it in many ways, not only passively and enduringly but also actively. The constitution does not live only in the parliaments of the Federal Republic, not only in the states and local communities, not only in the governments and administrations. In addition, the courts serve as the “third power,” particularly those that check and balance the legislature and the executive; they have proven amazingly effective in keeping political power within its limits. Social organizations, in all their diversity, exist and work as guaranteed by the basic freedom of association; they represent the powers of a living constitution, even if they are not aware of it. It is up to the political institutions to respect their rights and to keep their enthusiasms from running roughshod. Every collective bargaining session is part of the living constitution; and the autonomy of the bargaining agents, who require no intervention by the authorities, itself represents a piece of the state. Not to mention the simultaneous conversation between the many voices of so-called public opinion that grows out of the freedom of speech and information. Citizens’ initiatives and demonstrations are also part of a living constitution: the state is present not only in the squads of police officers who escort them and assure the peacefulness required by the constitution.

It is a good constitution that provides for all these things and for a powerful leadership. We do not have to be afraid to praise the Basic Law. At any particular moment we might censure the government, charge the opposition with being too weak, resent the flood of laws passed by the parliament, find spirit and imagination generally lacking in the parties, feel burdened by bureaucracy, and consider the trade unions too demanding and the reporters too intrusive – the constitution allows all of this to be improved; it advises and encourages us to improve it. A certain degree of moderate dissatisfaction serves to benefit the state. It doesn’t diminish the loyalty that is due the constitution. But the constitution must be defended against declared enemies – that is a patriotic duty.

Source: Dolf Sternberger, “Verfassungspatriotismus” [“Constitutional Patriotism”] (1979), in *Schriften* [Writings]. Frankfurt am Main: Insel Verlag, 1992, vol. 10, pp. 13-16.

Translation: Allison Brown