

THE CARTEL THEORY AND THE FUNDING OF GERMAN POLITICAL PARTIES

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ABSTRACT

This paper deal with party financing in Germany in relation to Katz and Mair's theory of party cartellisation. This paper will examine why the current system of party financing came into being in Germany and the various different ways the parties use to raise money. Before the Second World War the two main ways of raising money were either through party membership dues (used by the Socialist parties) or via contributions from rich industrialists and businesses (used primarily by the Christian/capitalist parties). Since 1949 the major political parties have been requiring more and more money in order to finance their organisations and election campaigns. Katz and Mair argue that suffering from falling membership figures and electoral support, increasingly parties are turning away from civil society and towards the state in order to secure their futures. Unable to raise enough money through membership contributions they have instead started to rely on the German state as their primary source of income. This has led to several undesirable consequences, chief amongst them being the way in which the major parties in power have been able to manipulate the party financing rules in order to benefit themselves at the expense of the smaller parties. This has made it increasingly difficult for smaller parties to break into the German party system and present an effective challenge to the core parties. Increasingly the only barrier between the core parties and unlimited funding is the Constitutional Court which has had to intervene several times in the past few years in order to amend Germany's party law in order to prevent the larger parties from unfairly discriminating against their competitors.

INTRODUCTION

One of the perceived trends in political science in recent years has been the decline of political parties¹. In both industrialised nations and the newer, 'third-wave' democracies, political parties have been suffering from a variety of problems including declining memberships, falling levels of party identification and electoral participation while electoral volatility has steadily been rising². This has manifested itself in a number of ways, most obviously in an increasing distrust of politicians and parties by the general public. Without this crucial blessing of legitimacy conferred by popular support, the long term future of political parties could be under threat.

One of the more interesting theories of recent years put forward to try and explain this perceived decline in political parties has been Katz and Mair's 'cartel theory' which also attempts to predict the future evolution of Kirchheimer's 'catch-all' party model, the currently accepted model in most Western democracies³. Katz and Mair argue that political parties, because of their declining levels of support within civil society have instead turned towards the state for assistance. They then use its resources in terms of money and manpower in order to cement their own positions in power by denying such assistance to their smaller rivals. As a result a small group of core parties form a cartel. While not all of the parties that form the cartel are always in power they are still rewarded in opposition with resources and patronage in a variety of forms. As Katz and Mair argue:

In short, the state, which is invaded by the parties, and the rules of which are determined by the parties, becomes a fount of resources through which these parties...enhance their capacity to resist challenges from newly mobilised alternatives. The state, in this sense, becomes an institutionalised structure of support, sustaining insiders while excluding outsiders'⁴

They argue that cartelisation is the logical continuation of what will happen in Western democracies if political parties continue to move away from civil society towards the state. One of the results of this, they theorise, is that the ideological conflict between the core parties is toned down even further (a process first begun with the growth of catch-all parties) until the public is no longer given a choice between differing policies, but rather which party is a better manager. This has important implications, not only for the survival of parties in their current form, but also for the quality of democracy practised in these countries.

Katz and Mair, in their original 1995 article, postulating the existence of cartel party systems identified Germany as being one of the number of countries which they believed would show clear evidence of this trend⁵. There are a variety of reasons for suggesting why Germany might be a fertile breeding ground for cartelisation. Key amongst these is the central role of parties within Germany's political culture, the high degree of consensus between the core parties and their high dependence on public subsidies as a source of funding.

The central purpose of this essay is to examine some of the key factors surrounding the funding of political parties in Germany to try and establish whether there is sufficient evidence to indicate the existence of a cartel party system. It should be pointed out however that the cartel party type is an ideal type and that it is highly unlikely to find a country where it exists in so perfect a form, in the same way it would be difficult to find political parties that exactly conformed to the mass or catch-all type.

This essay will be broken down into various sections, each dealing with a specific aspect of German party financing in relation to the cartel theory. The first examines some of the reasons behind the introduction of state funding for political parties to try and discover what was the intention behind establishment. Then how the different methods of direct state financing have evolved over the years. Finally indirect funding

methods will be assessed, such as the money channelled into parties through their access to the state owned media or the extravagantly funded party foundations.

The general argument that runs through the course of this paper is that the core German political parties have repeatedly attempted to manipulate the law to grant themselves increasingly large amounts of public funds (despite the intervention of the Federal Constitutional Court to try and uphold the principal of equality of opportunity maintained in the constitution). At the same time they attempt to exclude their smaller rivals from the fruits of the state, as demonstrated by the CDU's behaviour towards the PDS in the early nineties.

THE INTRODUCTION OF STATE FUNDING

Opinions differ greatly over why German parties made the move towards their reliance on state funding. Katz and Mair argue that it generally occurs in countries where there is a crisis over party membership levels. Parties losing members require a new source of funding and so turn to the state. However Klaus Detterbeck argues that in the case of Germany, state funding arose not out of crisis, but because of the strength of the party system. It is certainly true that in 1959, when subsidies were first introduced, party membership levels were relatively stable and the massive growth in state assistance during the 1960s and 70s coincided with a large growth in the membership of all the major parties. Detterbeck claims that Germany represents an alternative road to the party cartel:

In Germany, parties realised that they could use their dominance in the political institutions to expand their organisational resources by acting collectively and sharing the resources provided by the state. Thus, not crisis motivated the formation of the German party cartel but the capacity of the major parties to further their common self-interests⁶

While Detterbeck's argument that the strength of the German party system allowed it to create favourable party financing laws is convincing, he fails to take into account some of the more specific reasons, which were mainly based on fears about the weakness of the party system and the individual parties. The reasons behind the gradual move towards the state funding of political parties should be seen within three important contexts; the historical context, the party political context and the constitutional context.

Post-war politics in the West Germany was heavily influenced by the lessons of the Weimar Republic. One of the significant difficulties it suffered from was the effect of big businesses interfering in the political process to protect their own interests. Industrialists worried about the possibility of the Communist Party (KPD) getting into power in the wake of the Wall Street crash poured money into the coffers of the capitalist parties as a preventative measure. Unfortunately this had the dual effect of deepening the feeling of institutional illegitimacy amongst the general population and helping the Nazi Party gain power⁷.

Ironically the state funding of political parties had originally been suggested back in 1928 by the then Foreign Minister, and leader of the German People's Party (DVP), Gustav Stresemann. He proposed this precisely because he feared that parties were

being negatively influenced by their dependence on big businesses such as IG Farben and the Flick Consortium. His plan, strikingly similar to that adopted thirty years later, involved state funds being awarded on a proportional basis calculated by the number of seats held by each party in the Reichstag. Unfortunately the plan was never put into practice due to a lack of consensus among the various coalition partners that made up the government of the time and then Stresemann's own untimely death in 1929⁸. The arguments behind state financing therefore were aimed at, "reducing the dependence of parties on the traditional pay-masters of politics, especially industrial interests, and by this means increase the democratic potential"⁹.

Germany is one of the few states in Western Europe where the role of parties is explicitly recognised in its Constitution. Article 21 of the Basic Law lays out their functions, and mindful of the past, the right of the state to ban any party that threatens the democratic order. It also charged the parties with an, 'educative function in society, *Politische Willensbildung*, which has had the important consequence of justifying the state-financing of parties'¹⁰. To quote Scarrow:

The legislators who established the state payments, and the judges who approved a succession of funding plans for parties, argued that public subsidies to parties are legal and proper because they help parties to fulfil their constitutionally mandated role 'helping to form the political will of the people'¹¹.

Direct state funding was therefore justified in 1959 by the need of the parties to involve themselves in the political education of the citizenry. The parties argued, "that it [was] as much a constitutionally imposed obligation as is legislation for the Bundestag or government leadership for the Chancellor"¹². Interestingly Article 21 states that the explicit rules governing the funding and regulation of parties should be drawn up later. The CDU and FDP cynically exploited this lack of detail by voting themselves even larger state funds throughout the 1960s until the Constitutional Court finally declared these actions unconstitutional. This forced the creation of a party law in 1967, nearly twenty years after the Basic Law had specified that one needed to be created.

While smaller parties such as the German Party (DP) and Communist Party (KPD) still existed at both ends of the political spectrum, electoral competition had been predominantly focussed between the CDU, led by Konrad Adenauer and the SPD, led by Kurt Schumacher. The funding problems facing the CDU were that it simply couldn't match the amounts that the SPD were raising through its membership dues¹³. At the time nearly 5 per cent of SPD voters were members whereas only 2-3 per cent of CDU voters paid dues¹⁴. This situation was further compounded by the fact that SPD members were measurably more committed. While the SPD had been banned between 1878 and 1890, the payment of dues had become a highly symbolic act within the party, and their collection highly efficient. The SPD dues amounted to 80 per cent of its total income at this time while the CDU and FDP garnered only 15-20 per cent from its equivalent sources¹⁵. This is clearly demonstrated by the 853 CDU members enrolled in Karlsruhe in July 1952; 392 paid DM 1 each, 174 only paid 50 pfennig and 287 paid nothing at all. The combined total barely managed to cover the collecting agents salary¹⁶. However the CDU received more than the SPD from business donations and they tried to augment this by allowing such donations to be

written off against tax. When the Federal Constitutional Court banned this as unfair in 1958 they instead introduced the direct funding of parties at the relatively modest level of DM 5 million per year as a way of making up the difference.

As already stated, the CDU received most of their donations from wealthy individuals and industry which didn't want a socialist government taking power. To better facilitate this the donors gave their money through sponsors' associations. These collected money from firms on the basis of payroll figures and income and the pooled funds were then given to the capitalist parties¹⁷. To encourage this the CDU made these donations tax deductible. However the Federal Constitutional Court again ruled that making donations tax deductible was illegal, as it gave the capitalist parties a clear advantage over the socialists, and promptly had the measure banned. This had a disastrous effect on the party finances, particularly the FDP who were the most dependent on donations. After the decision they claimed that it had cut their income by up to two-thirds¹⁸. In part because of this, state subsidies were introduced in 1958. This involved the sum of DM 5 million being divided between the parties in the Bundestag on a proportional basis for the purposes of 'political education'¹⁹. This measure was controversial as it was only available to parties with seats in the Bundestag; thus excluding new parties or those who had failed to win over 5% of the vote.

After the 1961 election the FDP were in a powerful bargaining position with regards to Adenauer and the CDU, who desperately wanted a fourth term in government. One of the prices for the coalition was an increase of the state subsidies from DM 5 million to DM 10 million and the CDU quickly agreed. In 1962 this figure was raised to DM 20 million²⁰. Between the years 1964-66 the four major parties in the Bundestag shared a state jackpot of DM 38 million with even more from the Länder. The CDU getting DM 18.1 million, the SPD, 19.7 million, the CSU DM 5.9 million and the FDP DM 7.4 million²¹.

This situation was challenged in 1966 by the Land Government of Hesse who asked the Federal Constitution Court to rule on whether it was legal for state assistance to only be given to parties already in the Bundestag. The Court decided this was unconstitutional but agreed that it was allowable for the state to help fund party election campaigns²².

DIRECT STATE FUNDING FROM 1967 ONWARDS

The 1967 Party Law was a pivotal moment in terms of German political financing for a number of reasons. The main one is that it was the first time the two main parties (CDU and SPD) had collaborated together to produce a law setting down the rules regulating the financing of parties by the state²³. The SPD's change of mind on this issue was due to several factors. Firstly the SPD, like the CDU, had been benefiting from state subsidies since 1959 and had found it a useful source of income, especially considering the rising cost of election campaigns. Secondly, while they still received a substantial part of their income from membership dues, there were fears within the party that as the SPD shifted towards the centre ground following the Bad Godesberg conference, they would either lose members or receive less in donations (membership actually increased throughout the sixties and seventies). Thirdly there was the fact that the SPD was, after three decades, finally in power (albeit sharing

with the CDU as part of the 'Grand Coalition') and was in a position to shape the law so that it benefited them.

Therefore the 1967 Party Law can be seen as the beginning of cartel party politics in Germany. The two main parties collaborated to produce a law that would help secure their own position in power, while at the same time exclude smaller or new parties. Under this system parties received state assistance for electoral campaigns based on their previous electoral performance. This was set at the level of DM 2.50 per vote received at the last federal election²⁴. Smaller parties were excluded in a number of ways, the most obvious being the fact that parties had to achieve more than 2.5 per cent of the vote before they were eligible to receive subsidies. This, in practise, would mean that many smaller parties would be cut off from a significant source of funds and lacking large memberships, or wealthy donors, would be unable to compete with the larger parties. Potentially a party could win hundreds of thousands of votes and yet receive nothing in state assistance.

This begs the question of why the parties set the level at 2.5 per cent as opposed to 5 per cent or even higher to exclude any potential competition. The answer to this lies within the following precedents set in 1958 and 1966 where the larger parties learned that the smaller parties would be likely to challenge the law in the Federal Constitutional Court. The figure 2.5 per cent was a compromise figure based on what they thought the court would allow. In this case they misjudged the feelings of the court who ruled that the figure of 2.5 per cent was unconstitutional because it conflicted with the 'equality of opportunity' clause in the constitution. The figure was subsequently lowered to 0.5 per cent in 1968 (for national and Länder election), which meant that all but the very smallest parties would benefit from a measure of state assistance²⁵.

As mentioned the level of subsidies was based on previous electoral performance. While this wasn't a problem for established parties who had already fought elections, it posed a dilemma for any group wanting to set up a new political party. One option was to fight the election without state assistance in the hope they'd receive more than 0.5% of the vote which would then guarantee them state assistance at the next election. Indeed those parties confident of reaching the 0.5 per cent threshold were allowed to apply for funds before an election on the understanding that they pay the amount back if they failed to win sufficient votes to guarantee them state funding. The parties had to apply to the Federal President who would decide whether funding should be given and at what level. Therefore under this system elections would become a gamble with financial ruin for the smaller parties. If a party failed to perform then it might be saddled with debts to the state of hundreds of thousand of DM, with no recourse to pay it back²⁶.

As long ago as 1972 Gordon Smith was arguing that party financing could lead to potentially undesirable outcomes. The most obvious would be that parties would no longer make the effort to recruit new members, and instead begin to rely increasingly on, 'paid officials and agencies', which would 'replace voluntary help' leading to 'bureaucratisation and state-dependence'²⁷. The eventual outcome he predicted would be parties becoming less competitive and toning down electoral competition.

The trend towards increased state dependence continued following 1967 as 'rival legislative parties co-operated to steadily increase the level of political subsidies throughout the 1970s and 1980s'²⁸. The amount given per vote was increased to DM 3.50 in 1974 and then to DM 5.00 in 1983 as parties' incomes struggled to keep up with their spending.

The most recent major change in the law was the new Party Law of 1994, introduced because of a successful legal challenge by the Greens to the Federal Constitutional Court that the previous system was unfair to smaller parties. The ruling and the party law that followed it had several important consequences in terms of party fund raising. Arguably the most important innovation introduced was that less importance was placed on a parties' electoral performance, and more on their success in generating their own income²⁹. In practice this meant that the total amount of funds parties receive from the state could not exceed it's self generated income³⁰. This had the effect of severely limiting a party's direct income from the state and gave them an incentive to raise funds from their membership and donations. However even bearing this in mind the upper roof of total state subsidies was set at DM 230 million³¹.

Now under the current system parties receive only DM 1.30 for the first five million votes and then DM 1 for every vote after. It is undeniable that the new system is fairer to smaller parties than the previous one. It particularly benefits the smaller parties who are unlikely to get over five million votes anyway. However despite this, the party financing in Germany still overwhelmingly favours the larger parties who receive millions of votes. As Gordon Smith argues:

On one level this system of rewarding parties is perfectly equitable. On another, however, the effect is quite different; the largesse flowing to the leading parties helps them further to consolidate their position so that the strong imbalance in their favour is maintained...If the amounts were small and only a minor proportion of a party's income, the distortion would not be great, but in the German case the sheer scale of subsidisation is a persuasive explanation for the continuing dominance of the *Volksparteien*

³²

This is compounded by the fact as well as dwarfing the smaller parties in terms of direct state subsidies the cartel parties are also the recipients of indirect subsidies available only to them.

INDIRECT STATE FUNDING

So far only the direct funding of political parties by the state has been examined. As in many countries there is a significant grey area where state resources are freely given to assist parties but are not counted as such. The amounts involved in such indirect funding can be huge. In 1993 the Federal President Richard von Weizsäcker appointed a commission of experts to examine the issue. In their report they estimated that the total direct and indirect revenue from the national and Länder governments for all parties in 1992 came to roughly DM 1.4 billion³³. Bearing in mind that direct state funding at this time came to under DM 300 million this meant that an immense amount was being poured into the party coffers with the public left largely unaware of it. It is probably because of this that the Federal Constitutional Court has generally

avoided ruling on their legality despite the fact that several sources of indirect funds explicitly favour larger parties and in some cases are available to them alone.

The Party Foundations (*Stiftungen*) serve numerous purposes of which the most obvious is that of political research institutes or think-tanks³⁴. Each party has its own foundation, which mirrors its political ideology. For instance the Heinrich Böll Foundation of the Green Party is heavily involved in supporting environmentally friendly activities and human rights groups across the world. While many of the Foundations focus on promoting democracy in third world countries with weak democratic traditions, a whole range of their activities take place within the Federal Republic. These include the production and printing of propaganda materials, the political training of activists along with the more obvious, ‘research, travel and other back-up facilities for the politicians’³⁵. For this reason the state support for political foundations can be counted as indirect assistance to the parties even though their activities are ‘not specifically aimed at boosting the parties’ electoral fortunes’³⁶. The foundations are extremely well funded with the state providing nearly \$450 million to fund their activities in 1996 alone³⁷ (See Table 1). Any political party can set up a foundation although it has to be recognised by the Federal President before approval is given for it to receive state funding.

Table 1³⁸

State subsidies to federal and land *Fraktionen* and Party Foundations, 1965-95 (DM millions)

FRAKTIONEN				FOUNDATIONS
Year	Bundestag	Landtage	Total	
1965	3.1	6.6	9.7	13.1
1970	9.9	10.7	20.6	74.3
1975	29.3	22.9	52.5	160.6
1980	44.6	43.9	88.5	270.9
1985	58.2	54.5	112.7	381.6
1990	89.6	73.2	162.8	562.9
1995	107.3	131.4	238.7	619.9

As well as state subsidies each parliamentary party is given separate subsidies for running its affairs in the Bundestag³⁹. Although this money is given specifically to the parliamentary parties (*Fraktion*), for many years much of it was diverted to help finance the more general political work of the party⁴⁰. See Table 1. Each member of the Bundestag from 1969 onwards has been given a budget for state financed personal assistants and researchers⁴¹. To quote Scarrow, ‘These good support teams reduce the need for parliamentary parties or individual representatives to rely on the central party organisations for help in pursuing political or legislative agendas’⁴². The growth in state financed personal assistants has been remarkable. Between 1969 and 1991 the number of assistants for CDUs MdBs rose from 207 to 2026; an increase of 879 per cent. This statistic is mirrored in the other parties, with the SPD going from 166 to 1334 a rise of 704 per cent, and the FDP increasing from 25 to 542 a rise of 2068 per cent⁴³.

Indirect income also comes in the form of donations given by both the parties’ representatives at the national and local level, and those other staff employed by the

parties. While few parties have made this an official rule, it has become a longstanding tradition that a proportion of their salary be donated, and advancement up the ranks relies, in part, on participation in the scheme. As Susan Scarrow argues, 'These levies might be thought of as a kind of indirect public subsidy, one that increases as representatives' salaries rise'⁴⁴. The amounts given usually depend on a number of factors including the wealth of the candidate, whether they have dependants, and the financial strength of the party⁴⁵. In the late 1970s it was common practice for SPD MdBs to contribute DM 500 of their monthly salary of DM 9,013. While such amounts appear relatively small in isolation they soon add up when the sheer number of party representatives and workers are taken into account. In 1981 for instance, donations made by MdBs and other staff amounted to 9.1 per cent of the FDP's income and 13.5 per cent of the CDU's⁴⁶. More recent figures are difficult to find as financial auditing requirements no longer demand a clear separation between officeholders' contributions and membership dues⁴⁷.

This counts as indirect funding from the state for a number of reasons. MdBs, when deciding on their salary take into consideration the fact that a proportion will have to be donated to their respective party's and adjust their figures accordingly. This was one of the scathing criticisms made of the party financing system by Herbert von Arnim. He argued that, 'The problem of the exploitation of the state by the parties is also one of depriving citizens of their rights and powers, which really is an incredible thing to happen in a democracy'⁴⁸. It is not only MdBs for whom it is traditional to 'donate' a proportion of their salary, but other workers either employed directly by the party or through one of the political foundations, are expected to follow suit. Again this is classed as voluntary and so is largely unregulated. Party finances have benefited from this informal arrangement for several years and the amounts raised have grown in proportion to the increase in size of the party machinery.

A new party without representatives at either the national or local level is denied this source of funding, especially as many of their workers may be voluntary. Smaller parties who do have representatives will get some money but lacking the huge number of MdBs and staff of the bigger parties the amount will be much smaller. The Greens have attempted to compensate for this (as well as reflecting their more egalitarian ideology) by demanding a larger proportion of their MdB's salary/income. They are only allowed to keep the salary of a skilled worker (in 1991 roughly DM 1920 a month), although allowances are made for those with children. The greater portion of their salary therefore goes straight into the party coffers to finance electoral campaigns and political education work⁴⁹.

The media whilst simply another form of indirect funding, deserves special mention, because of its high visibility and major impact upon election outcomes. The Länder rather than the Federal government control public television and radio in Germany. Konrad Adenauer attempted to challenge this in 1960 by proposing a second television channel under government control to counter what he regarded as negative publicity from the first channel (ARD). This plan was challenged and the Constitutional court ruled that public broadcasting should remain under the control of the Länder. This ruling eventually led to the creation of the second public channel, ZDF⁵⁰. However while it is controlled by the Länder, it is dominated by the major parties and their representatives who sit on the stations' governing councils. It could

be argued that Bavarian public television is the best example of this as virtually all the top executive positions are held by either members of the CDU or CSU⁵¹.

Under the law during the period of electoral campaigns, the parties receive free advertising space on the two national television stations for their political broadcasts. The amount of space received is based proportionally on their level of support so the CDU and SPD always dominate the airwaves. Defenders of this system have argued that under fairness rulings by the Constitutional Court even the smallest parties are guaranteed at least one broadcast slot during the course of the campaign⁵². While this is technically true it seems largely irrelevant. If the broadcast time were converted into the hard currency it would take to buy equivalent advertising space on commercial channels the cartel parties would receive a disproportionately large amount. As Gordon Smith has previously argued, when the difference is so great, it makes it practically impossible for new parties to break through, and the cartel parties continue to dominate.

This disparity of representation in the media is compounded by the fact that these rules governing fairness only apply while the election campaign is ongoing. For the four years in-between elections the cartel parties can dominate the news agenda with impunity making it extremely difficult for any new party to make its voice heard. The ruling party, almost guaranteed to be one of the cartel parties, can also rely on the free publicity from the Government information services⁵³. Therefore when all these forms of indirect subsidies are taken into account it becomes clear that despite the changes involved in the 1994 Party Finance Law the cartel parties have still gifted themselves a significant financial advantage.

Since 1949 only two new parties have managed to enter the Bundestag. The Greens (in 1983, entering into a coalition with the SPD in 1998) and the PDS in the aftermath of reunification. Their ability to break into the party system despite the financial disadvantages they laboured under suggests that the cartel is not impregnable. Indeed it could be argued that the cartel could welcome fresh blood and ideas every so often where it is shown that there is a reasonable level of public support for them. The Greens, due in part to their highly committed membership and also because they managed to find a political position not already occupied by the major political parties, seems to have become part of the cartel. The PDS on the other hand, despite their initial success, which is arguably a result of the unique after-effects of reunification, were unable to establish a foothold in the West and look seem resigned to becoming a purely regional party in the East. The PDS were certainly hampered in establishing themselves throughout the country by the efforts of the larger parties in the early nineties. In particular the CDU⁵⁴ which attempted to have large amount of their resources confiscated (both in terms of physical property and money) while the Federal tax inspectors spent several years investigating the parties accounts for alleged wrong doing, which certainly harmed their electoral performance⁵⁵.

CONCLUSION

In conclusion it can be argued that while in terms of party financing the German model does not confirm to the 'ideal' cartel party type, it does have many of its most salient features. Undoubtedly the most obvious of which is that the main political

parties who form the 'core' of the party system (CDU, SPD, FDP, and the Greens) receive vast sums of money from the state both directly and indirectly.

The direct financing of parties in Germany was originally started by the CDU and FDP as a way of helping themselves to state resources and thus keep the SPD out of power. However since 1967 all the major parties have collaborated in order to maximise the amounts of funding they receive from the state. The Green party, a relative electoral newcomer, originally criticised the parties' 'self-service' mentalities and reliance on state subsidies, but subsequently has become dependent on them itself.

The only factor that stands between the parties and unlimited access to the states' resources (apart from a disapproving public) is the Federal Constitutional Court, a institution that was imposed upon Germany, as part of the Basic Law by the Allies after World War Two. The Federal Constitutional Court, established to maintain democracy, has repeatedly thwarted the parties' attempts to grant themselves unlimited subsidies at the expense of the smaller parties. They have instead tried to encourage the parties to find alternative methods of support, such as membership dues. The most obvious example of this is the Party Finance Law of 1994 which limited state support in two important ways. Firstly by imposing a cap of DM 230 million and secondly by insisting that parties could not receive more in subsidies than they raised through donations and membership dues.

Bearing in mind the terms of the 1994 law then, does it still count as a cartel party system? Yes, for two important reasons. Firstly in terms of direct subsidies; the amount received by the cartel parties is disproportionately large compared to the amount received by the smaller parties. So while the smaller parties do receive state aid it is never in significant enough quantities to allow them to offer a serious challenge to the cartel parties. Secondly the cartel parties have access to a whole range of indirect state subsidies. These include generous assistance to party foundations, MDBs' salary donations, subsidies for their parliamentary and Länder parties and state-financed personal assistants.

¹. For a full analysis of the organisational, electoral, cultural and institutional decline of parties see Suzanne Berger, 'Politics and Anti-Politics in Western Europe in the Seventies', *Daedalus*, 108 (1979) pp.27-50; Kay Lawson and Peter Merkl (eds), *When Parties Fail* (Princeton: Princetown University Press, 1988); Peter Mair, 'Party Politics in Contemporary Europe: A Challenge to Party?', *West European Politics* 7 (1984), pp.170-184

². Mair, 'Party Politics in Contemporary Europe', p.170-175

³. Otto Kirchheimer, 'The Transformation of the Western European Party Systems'. in Joseph LaPolombara, Myron Weiner (eds), *Political Parties and Political Development* (Princeton: Princeton University Press, 1966), pp.177-200

⁴. Richard Katz and Peter Mair, 'Changing Models of Party Organisation and Party Democracy – The Emergence of the Cartel Party', *Party Politics*, 1/1 (1995), p.16

⁵. Katz and Mair, 'Changing Models of Party Organisation', p.17

⁶. Klaus Detterbeck, 'Cartel Parties in Western Europe, paper presented to the workshop on 'Causes and Consequences of Organisational Innovation in European Political Parties', ECPR Joint Sessions, Grenoble 15-11 April 2001, p.16

⁷. Anthony Gleses, *Reinventing Germany: German Political Development Since 1945* (Berg: Oxford 1996), p.211

⁸ David Marsh, *The Germans: Rich, Bothered and Divided* (Century Hutchinson Ltd: London, 1989), p.80

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- ¹² Geoffrey K. Roberts, *German Politics Today* (Manchester University Press: Manchester 2000), p.92
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- ¹⁷ Gerard Braunthal, *Parties and Politics in Modern Germany* (Westview Press: Boulder 1996), p.42
- ¹⁸ Gerard Braunthal, 'The Free Democratic Party in West German Politics', *The Western Political Quarterly*, June (1960), p.333
- ¹⁹ Peter Merkl, 'West Germany' in: Peter Merkl (ed), *Western European Party Systems* (The Free Press: New York 1980), p.29
- ²⁰ Heidenheimer, *The Governments of Germany*, p.96
- ²¹ Tony Burkett, *Parties and Elections in West Germany – The Search for Stability* (C. Horst and Co Ltd: London 1975), p.18
- ²² Pridham, *Christian Democracy*, p.258
- ²³ Scarrow, *Parties and their Members*, p.60
- ²⁴ Geoffrey K. Roberts, *West German Politics* (London: Macmillan Press Ltd 1972), p.58
- ²⁵ Burkett, *Parties and Elections*, p.137
- ²⁶ *Ibid.*, p.137
- ²⁷ Smith, *Politics in Western Europe*, p.83
- ²⁸ Susan Scarrow, 'Party Decline in the Parties State? The Changing Environment of German Politics' in: D. Webb, D. Farrell & I. Holliday (eds), *Political Parties in Advanced Industrial Democracies*. (Oxford University Press: Oxford 2002), p.87
- ²⁹ Smith, 'The Party System at the Crossroads', p.72
- ³⁰ Joanna McKay, 'Corruption and Scandal in German Politics' in J. Newell and M. Bulls (eds). *Corruption and Scandal in Contemporary Politics* (London: Palgrave 2003), p.56
- ³¹ For a complete discussion of the new party law and its effects see: Arthur B. Gunlicks, 'The New German Party Financing Law', *German Politics*, 4.1 (1995)
- ³² Smith, 'The Party system at the Crossroads', p.73
- ³³ Braunthal, *Parties and Politics*, p.45
- ³⁴ Alan Watson, *The Germans – Who Are They Now?* (Mandarin Paperback: London 1994), p.179
- ³⁵ Marsh, *The Germans*, p.80
- ³⁶ Smith, 'The Party system at the Crossroads', pp.72
- ³⁷ David Conradt, *The German Polity – Seventh Edition* (London: Longman 2001), p.111
- ³⁸ Scarrow, *Party Decline*, p.89-90
- ³⁹ Burkett, *Parties and Elections*, p.136
- ⁴⁰ Paterson & Southern, *Governing Germany*, p.219
- ⁴¹ Detterbeck, 'Cartel Parties in Western Europe?', p.8
- ⁴² Scarrow, *Party Decline*, p.89-90
- ⁴³ *Ibid.*, pp.89
- ⁴⁴ *Ibid.*, p.88
- ⁴⁵ Braunthal, *Parties and Politics*, p.41
- ⁴⁶ Paterson and Southern, *Governing Germany*, p.219-220
- ⁴⁷ Scarrow, *Party Decline*, p.88
- ⁴⁸ quoted in Lothar Ketternacker, *Germany Since 1945* (Oxford: Opus 1997), p.
- ⁴⁹ Paterson and Southern, *Governing Germany*, p.220
- ⁵⁰ Roberts, *West German Politics*, p.91-92
- ⁵¹ Semetko & Schoenbach, *Germany's "Unity Election" – Voters and the Media* (Hampton Press Inc: New Jersey 1994), p.24
- ⁵² *Ibid.*, p.25
- ⁵³ Pridham, *Christian Democracy*, p.258

⁵⁴ The SPD also demanded give up some of its property although on the justifiable grounds that it had been obtained when the SPD had been forced to merge with the KPD after the war.

⁵⁵ For a fuller account of the various problems suffered by the PDS see: Franz Oswald, *The Party that came out of the Cold War* (London: Praeger 2002); Mark Allinson, 'German Politics since 1945: From division to Divided Unity' in Mark Allinson, Jeremy Leaman, Stuart Parkes, Barbara Tolkiehn. *Contemporary Germany – Essays and Texts on Politics, Economics and Society* (Pearson Education Limited: Harlow 2000), p.49-50