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Germany and the European Union
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Power in Government

A comparison of the American & German political systems.

Germany and the United States are both wealthy, powerful, democratic states that operate in the upper-echelon of global superpowers. However, despite the apparent similarities between these two nations, they have different political concerns and divergent beliefs about the proper function of government. This disparity has manifested itself in differences of governmental structure between Germany and the United States. These differences begin at the constitutional level and persist throughout the entirety of the two political systems.

While Germany and the United States both highly value individual rights, there are significant differences in how those rights are described by the constitution of each country. Freedom of speech and expression is perhaps the most important right guaranteed by the U.S. Constitution. It allows U.S. citizens to say practically anything without fear of legal retribution. Furthermore, the United States places a strong emphasis on guaranteeing the rights of individuals, which sometimes fails to protect the individuals themselves. By contrast, the German Basic Law seeks to defend people, not rights. This is best described by a quote from the first article of the Basic Law: “Human dignity is inviolable.” The phrase is simple, but it is the basis of German political and legal structure. In seeking to protect its citizens, Germany limits their right to freedom of expression. Specifically, the Basic Law prohibits displays of Nazi propaganda or expression of Nazi beliefs. These constraints on personal freedoms for the benefit of society have

inspired scholars to Germany call a “militant democracy.” Germany also prohibits capital punishment, an issue that is still highly contentious in the United States. Finally, the United States government is structured in such a way that individual Americans have a monopoly on power; any rights not granted to the American government by the U.S. Constitution are held by the people. In Germany the opposite is true; any rights not granted to the people are held by the German government. The German Basic Law seeks to protect lives whenever possible, even at the expense of limiting personal freedom.

The Basic Law also guarantees non-citizens the right to asylum. The clause essentially states that Germany must provide sanctuary to all non-German individuals who face persecution. This article is truly a reflection of Germany’s attempt to reckon with its Nazi past and shows the country’s desire to prevent another Third Reich both at home and abroad. While the United States has *laws* that function in similar fashion, no asylum clause can be found in the U.S. Constitution, nor are existing U.S. asylum laws as foundational as Germany’s right to asylum. Unlike the U.S. Constitution, the Basic Law protects individuals within its borders and beyond.

Germany and the United States also treat religion in fundamentally different ways. The United States seeks to keep religion and government entirely separate. While religion is still integral to American politics, the United States is not a Christian state, nor is the U.S. government directly beholden to any religion. By contrast, Germany is unabashedly a Christian state. The German government recognizes and financially supports the Catholic and Protestant churches. In the past, the German government has even worked to directly oppose the Church of Scientology, which the nation viewed as an attack on fundamental German beliefs. Today, most of Germany’s welfare system is supported by the churches. Churches are an integral component of Germany’s political system.

The U.S. and German national legislatures are both bicameral bodies, but that's where the similarities end. For a bill to become law in the United States, the Senate and House of Representative must both pass identical copies of the bill. Then, the bill can then be presented to the U.S. President for him to sign. One could argue that the two bodies are equally responsible for legislative affairs. However, the Senate is more powerful than the House because the Senate has the sole authority to ratify treaties and confirm Federal appointees. The Bundestag is the German equivalent of the U.S. House of Representatives, and the Bundesrat (Federal Council) is the German equivalent of the U.S. Senate, however, the power dynamic between the two German bodies is different than in the United States. Germany is a parliamentary nation, so a significantly greater degree of authority rests in the German legislative branch than in the U.S. Congress. The Bundestag is the primary German parliamentary body, and it is vested with the authority to create, debate, and pass German laws. While the Bundestag may appear to have similar authority to the U.S. House of Representatives, this is not the case. The Bundestag has the mandate to elect the German Chancellor, which essentially means that the entire German executive is an emanation of the Bundestag. This system makes the Bundestag far more powerful than either of the U.S. legislative bodies. The Bundesrat provides the German Federal States with representation in the Federal government. As such, the Bundesrat never introduces bills and it only votes on bills from the Bundestag that directly affect the Federal States. This implies that Bundestag has even more power because it is unconstrained by the wishes of the Bundesrat for issues that don't directly affect the German Federal States.

There are significant differences between the German and American executive branches. The U.S. executive branch is entirely separate from the legislative and judicial branches. Furthermore, the U.S. President is granted both the ceremonial powers of Head of State and the

administrative control of the executive branch. In Germany, these two distinct roles are divided between the German Chancellor and President. The German Chancellor—currently Angela Merkel—is the chief executive of the country and much like the U.S. President she is responsible for execution of all laws that have been entered into force. However, unlike the U.S. President, the German Chancellor holds a seat on the Bundestag, and her executive branch is expected to write and propose legislation to the Bundestag. Also, as mentioned earlier, the German Chancellor—and by extension the German executive branch—is elected by the Bundestag. The U.S. President is elected by the Electoral College and by extension the American people. The U.S. executive is therefore far more independent from Congress than the German executive is from the Bundestag. The German Federal President is the ceremonial German Head of State. He signs bills into law and generally functions as a legislatively unimportant, but beloved figure in German politics. The German Federal President is essentially elected by half of the Bundestag and half of the Bundesrat, again different from an American presidential election.

There are also important differences between the American Congressional elections and German Bundestag elections. In the United States, when a Congressman is up for reelection—every 2 years—their constituents will cast a single ballot for the position. Germany's proportional voting system is much more complicated as it involves two separate votes. First, a German citizen will vote for an individual to represent their district in the Bundestag. Second, they will vote a political party to represent their interests. When voting is complete, each elected representative will take a seat in the Bundestag, and the remain seats will be divided up amongst the parties according to the outcome of the second vote. German political parties who fail to receive at least 5% of the second vote are not included in this proportional distribution system. In general, voting takes place far more often in Germany than it does in the United States. There is almost

always an ongoing state or local election that can be used to continuously measure gradual change in German political opinion.

German political parties also have more power than American political parties. Probability of receiving a proportionally-awarded Bundestag seat within the German parties is determined by time served and effectiveness. This system vests party leaders with the power to select candidates for chancellor and other high-level positions. By contrast, the American political primary system takes power away from the party leadership and gives to the rank-and-file members of the party. The American system opens the way for insurgent, populist candidates such as Donald Trump to secure a Presidential nomination without support from the party leadership.

The German court system is far more powerful than the American court system. In the United States, courts can not take initiative. American judges must wait for a lawsuit to reach their bench before they can take action on a particular issue. This process can take years and effectively prevents American courts from taking decisive action on “hot” topics. However, the German Constitutional Court—the German equivalent of the U.S. Supreme Court—can issue rulings without waiting for a lawsuit. This feature makes the German court one of the most powerful and effective judicial bodies in the world.

The United States is very reluctant to relinquish any sovereignty to international authorities while the Germany has done so eagerly. The United States has a long history of struggling with the decision of joining international bodies because American politicians and voters are reluctant to give any degree of American power to those bodies. They understand that joining an international agreement inherently transfers some degree of sovereignty away from the United States and recoil in fear. Conversely, since the Federal Republic of Germany was founded, it has

actively sought to join any and all international organizations. Specifically, Germany was a chief proponent and founder of the European Union; Germany helped design the very systems that now limit its own legislative and monetary sovereignty.

In conclusion, there exist deep structural differences between the German and American political systems. While it is impossible to say that one system is entirely better than the other, we can consider popular support as a measure of success; the German Bundestag is far more popular than the American Congress. It is undeniable that the German political system rivals that of the United States in terms of global prominence and effectiveness.