

Government, participation and welfare in German territories

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Participants:

German historians – Reinhard Blänkner, Stefan Brakensiek, Walter Demel, Johannes Dillinger, Stefan Ehrenpreis, Andreas Gestrich, Karl Härter, Eckhart Hellmuth, Iain McDaniel, Annette Meyer, Wolfram Siemann, Thomas Stamm-Kuhlmann

British historians – Richard Bourke, Malcolm Chase, Ultan Gillen, Kathryn Gleadle, Gareth Stedman Jones, Joanna Innes, Katrina Navickas, Mark Philp, Philip Schofield, Richard Sheldon, Miles Taylor

Introduction

Eckhart Hellmuth identified three problems which he thought created problems for German historians – or this particular group of German historians – in trying to get to grips with the agenda of this project.

First, the periodisation of the project: relatively little German work spans the late eighteenth and early nineteenth centuries.

Second, unfortunately it had proved hard to recruit specialists in the history of political ideas. But in any case, this was not currently a very lively field. There was at the moment much more interest in the history of the natural and life sciences.

Thirdly, though the history of religion and theology might prove fruitful ground for exploration, they too were not at present lively fields of research.

Joanna Innes gratefully acknowledged the indispensable support of the GHIL and LMU. She then introduced the larger project to which this workshop was to contribute, explaining its objects, methods, and some conclusions so far reached, also identifying some so-far unanswered questions.

The object of the larger project was to explore what was involved in the revival of interest in democracy in the late eighteenth and early nineteenth centuries, in which period it came to be seen as a significant contemporary phenomenon (whether welcomed or feared). The intention was to study this subject in a non-teleological way, not as a step on the road towards modern democracy, but in terms of the fears, aspirations, beliefs and preoccupations contemporaries brought to the process. Both mainstream historians and historians of political thought had been involved: an incidental object was to encourage them to work together and find ways of learning from each other's approaches. The subject under investigation was partly taken to be defined by language: the question being, when did people at this time talk about 'democracy', what did they mean by this, and what did they have to say about it? Enquiry had to extend beyond contexts in which people used the word, however. They used the word in order to talk about contemporary social and political developments: what the developments were that they

responded to was also necessarily of interest. People found these developments challenging in many ways; both practical and intellectual responses to them were of interest.

The project had so far unfolded not so much through new research (though the organisers had undertaken some new research) but rather through a process of bringing interested scholars together and encouraging them to pool their knowledge and develop ideas in conversation. A series of workshops had been held, involving British, Irish, French, American and Latin American participants. This German workshop would bring to an end the preliminary phase of the project, which would reach an interim conclusion with the holding of an international conference in 2010, from which it was hoped that a book would emerge. The organisers also hoped to write at least one article on their general conclusions thus far. The organisers would then be applying for further funding, though they had not yet decided on quite what basis.

The main conclusions reached so far had been that although many people in the late eighteenth and early nineteenth centuries came to see the rising power of the people as a social and political fact, no one idea existed as to how that power might or should be given institutional form. It had been argued at the time of the American Revolution that representative government was the modern analogue of ancient democracy – but not everyone agreed that that was the only or best way of acknowledging the power of the people. Some alternatives were far removed from this American notion. In France, for instance, there were many experiments with ways of consulting or surveying the opinion of the people, and considerable wariness of subnational collectivities. Not only was ‘democracy’ not associated with anyone one set of political arrangements, its meaning was considerably broader and more diffuse. It could refer as much to social as to political developments. Not everyone was convinced that democracy could be given stable institutional form. Both ancient and modern experience suggested that democracies could easily give way to dictatorships; rather than being seen as antonyms, these political forms were often seen as correlates. Not only French but also much Latin American experience illustrated the possibility of repeated shifts between democracy and dictatorship. In other contexts, democracy was seen to throw up if not dictators then at least demagogues, for instance, Andrew Jackson and Feargus O’Connor.

Among unanswered questions remain: how contemporaries thought about the implications of democracy for economic relations, welfare and religion: we have touched on these matters in some of our discussions, but no very clear conclusions about patterns have yet emerged. More fundamentally, we still need to think harder about why democracy emerged as an important idea when it did, and how the ideas and practices of democracy were able to make headway (and why at such different paces in different places). The idea of democracy was often reprobated, but it seems also to have acquired legitimating functions in some contexts. Democratic institutions and procedures – various as they might be – can be seen as problem-solving devices, which people learnt to deploy for a number of different ends. The rise of democracy was often explained at the time as the effect of social change: the broader diffusion of property, the spread of education. Those accounts have some appeal, but quite how much power do they have? How far can democracy be explained, as Tocqueville suggested, as an unintended effect of the collapse of absolutism. Though other forces helped to nurture it, was it primarily in the context of regime collapses that democracy gained purchase?

A further unanswered question was the one which this conference was designed to address: where does German experience fit? When we held an American workshop, one problem we

faced was how to talk about the history of democracy in America when it might seem that that's a key theme in most aspects of American history. In the case of late eighteenth and early nineteenth-century Germany, the problem seems to be the opposite: where to find a subject? There must however have been some discourse about democracy in Germany, critical or otherwise. It may be that German responses to democracy might provide a lens through which developments in Germany can be viewed. R.R. Palmer, in an article he wrote about the idea of 'democracy' in the era of the French revolution (in defence of the title of his book *The age of democratic revolutions*) suggested that some German municipal governments claimed, in response to the French revolution, already to incorporate an effective form of democracy. Was it common to think of democracy as having been tamed and incorporated in this way (as the English claimed to have incorporated it within a constitution which balanced monarchy, aristocracy and democracy?) Was democracy actively feared – or was it supposed that it was unlikely to find fertile soil in Germany? What conditions were thought to be more or less conducive to it?

Session 1: 'Democracy'

Annette Meyer – her own perspective on the issue derives from working on a project that brought historians and sociologists together to consider the characteristics of modernity (as contrasted with post-modernity). It became clear that they tended to work with similar master narratives, in which the early modern period was dominated by corporative conflict; it is considered to be through the American Revolution that the foundations of modern politics were laid. Modernisation is conceptualised by both groups as a universal process, entailing democratisation, in turn seen as necessarily evolving, and a principle of modernity (see thus Talcott Parson, Luhmann, Habermas, Giddens). If the object is to recover a contemporary discourse of democracy, it is unhelpful that in Germany there has been less methodological innovation in late eighteenth-century than in early modern intellectual history.

Epistemological change might provide a starting point for understanding the re-imagining of democracy. *Polizeiwissenschaft* – the science of the political – aimed to bridge theory and the understanding of practice. In this context it was concluded that traditional comparative frameworks [traceable back to Aristotle] didn't work. Instead, it was necessary to be more context-sensitive. Evaluations of the best form of state had to be built empirically, from natural history. Anglo-Saxon and German traditions of thought on these themes later diverged, German thought on the state being cast in a more idealist and 'romantic' mode. This also complicates the recovery of a discourse which was widely shared.

Eckhart Hellmuth – the scene was set by politicisation after the Seven Years War. German reunification has provided a boost to research on this period. The work of Habermas and of Rudolf Vierhaus has been significant. Traditionally, the main focus of historical research has been on the *gebildeten*, who had usually studied at universities. In principle this social stratum was open, but in practice it was elitist. It comprised professors, writers and artists and members of the civil service (among whom professors should indeed be counted). They thought that the masses were too rough to shape public opinion. There were however also plebeian 'circles, where people discussed publications.

Historians have also been interested in voluntary societies, which have been seen as vehicles for social change (eg by Nipperdey). The practices of self-management which these societies developed have been seen as anticipating democratic practice. But we shouldn't overestimate

their role in the development of modern political culture. They should perhaps be seen rather as vehicles for incorporating the intelligentsia into the state.

Another feature of the period was the emergence of a more diversified press landscape. The press published both information and political reflection. Ideas of popular sovereignty and of the rights of man were taken up by the press. The merits of reforms – of serfdom, penal practice, education etc were discussed. Hans Bodeker has attempted a content analysis of the press.

Much work on this period seems to fit a Habermasian paradigm. However, there is a fundamental problem with applying Habermas' model. For he counterposed the public sphere and the state. Yet many of those active in the 'public sphere' were civil servants.

Comments:

Mark Philp. It's not easy to link what's been said in these two papers with the debate about democracy as that took place in Britain, France and America. 'Democracy' surfaced in English political debate [as opposed to academic discussion] in the 1790s, when it was mainly applied negatively. It didn't express a clear aspiration, but rather involved a projection on to the contemporary scene of something understood within an essentially classical framework. It was thought to entail rule by the mob, and to be likely to degenerate into worse forms. There were some who tried to give it more political content, shifting attention from classical ideas about the faults of democracy to focus on the potential of 'representative government'. Democracy could be associated with egalitarianism, natural rights and utility arguments – it could be seen as a basis for resisting sinister interests. Discussions of the concept, even when politically engaged, remained by and large elite discussions, among a small group of publicists and polemicists.

He asked whether there was not at this time in Germany an argument about the extent to which the masses could be integrated into politics?

Philip Schofield. The received wisdom is that there was no 'utilitarian' tradition in Germany. But in Britain, Bentham, within this tradition, developed a new justification for democracy. Three different lines of argument were deployed to justify what we might call democracy – the extension of representation: natural rights arguments; arguments invoking an 'Anglo-Saxon constitution' and arguments from utility.

Why was there no German utilitarian tradition? There were some German translations of Bentham's writings, from Dumont's French translation. However, most of these involved Bentham's early writings, from the time before he became a democrat. His shift in favour of democracy took place idiosyncratically, through developments in his thinking on pleasure and pain. He saw newspapers, education and public opinion as key mechanisms for achieving democracy. Monarchy in Bentham's view was an illusion which should be dispelled.

Discussion:

Stamm-Kuhlmann: the German experience calls into question the supposed relationship between enlightenment and democracy. In Germany, the enlightenment was more connected with conservatism.

Gestrich: Eckhart's account stops too early to capture the emergence of interest in 'democracy', which came with the German Jacobins. From them it did spread into the Vormärz.

Härter: denied that the gebildeten were necessarily subservient to the state. If you look at the German Jacobins – for example, the Mainz republicans – it appears that many of them though gebildete came into conflict with the state.

Blänkner: agrees that the discussion needs to be carried further forwards, into the early nineteenth century. Is there any coherence to the period under discussion? Later Hardenberg called for 'democratic' reforms under the monarchy, using that term. Gans in the 1820s was accused of being democratic.

Stedman Jones: in order to develop any kind of systematic comparison between patterns of thought in different countries one needs to have something to compare. Could one, for example, look at how Aristotle's *Politics* was interpreted.

It's also worth asking what in the 1790s Germans meant when they talked about the need to get away from a mechanical conception of the state.

Navickas: has been thinking about alternatives to the concept of the public sphere, if that entails false oppositions. Would the idea of a 'body politic' be more helpful?

Innes: was there an anthropological theorisation of the emergence of democracy – a historical account of why certain kinds of societies were more democratic than others?

Meyer: Friedrich Buchholz [many of whose writings can be found in full in Google books] tried to develop what he called a non-metaphysical theory of democracy.

Responding to Mark Philp, she said that she wouldn't want to contrast Britain and Germany in the way he had suggested. Buchholz translated Owen, Saint Simon and Comte.

Hellmuth: his intention had not been to argue that Germany was the odd man out; rather to redress a problem with the historiography. It was very striking to what extent French texts of the 1790s were consumed in Germany. Aristotle was commonly studied. He thinks that until the 1780s it was generally supposed that monarchy was the best model, but that that changed with the French revolution. The Gebildete had the intellectual tools to respond to changes. Some civil servants were open minded, others conservative. They were open to the idea that the people could be educated to participate. Consultation was practised for example in relation to the Prussian legal code. Who had the capacity or right to take part in political discourse was at this time an open question.

Session 2: Reform states – ideal and reality

Thomas Stamm-Kuhlmann – he is interested in the halting development of democracy in Germany, and in the role Prussian monarchs in obstructing this – though it is not easy to teach these subjects in German universities. He finds students resistant to his attempts to get them to displace Bismarck and the story of how he forged the empire from the centre of the story. But in any case that is a late nineteenth-century story. His current task is to address the Prussian reforms.

Hardenberg said in his Riga Memorandum 1807 that democratic principles should be recognised, but within a framework of monarchical rule “*demokratische Grundsätze in einer monarchischen Regierung*”. He favoured some form of representation. He was however primarily interested in generating public *support*, though he accepted that government needed to explain itself. His ideas about representation may have been somewhat Napoleonic. Still, that gave people some chance to flex their muscles.

Perhaps a more central idea was *Selbstverwaltung*, self government: the idea was that this would be a seedbed for patriotism, public spirit etc. He admired what he saw as British traditions of local self-government, which helped to keep government small and cheap. He did not necessarily favour voting, but rather giving people a sense that they had a stake in things. Abolishing unnecessary privileges played a part here.

Another key term was welfare: the Prussian state from the time of Frederick William I has seen as a welfare state (though it's not entirely clear if this was a contemporary conception). The result was that welfare was linked with absolutism. In the 'reform era' welfare was barely discussed. But the *Bauernbefreiung* – the emancipation of the peasants [1807 in Prussia] – had enormous social consequences. The agrarian population in the east grew faster than in the more urban areas in the west. A law proposing to regulate movement and provide relief was presented to the Staatsrat in 1826. The problem was to identify who had responsibility for supporting the poor. Traditionally, communities had the right to turn people away. The 1842 poor law introduced a duty to register: the landlord had to make sure that this happened. This curbed the traditional autonomy of communities.

The notion of *Beamtenliberalismus* has been challenged in the past twenty years. In fact, it is very hard to generalise about bureaucratic attitudes. The idea that it was the responsibility of the bureaucracy to act on behalf of the people continued to have strength.

Walter Demel – the history of the Rhineland reforms still needs to be written. Only certain specific questions have been studied: for example, the introduction of the Code Napoleon.

In fact, impulses to reform were very varied. Some states were radical, others not. Reforms were mainly not forced by Napoleon, though there were exceptions: Westphalia under Jerome Bonaparte, or Berg, first ruled by another brother, then by Napoleon himself. In these states, the Code Napoleon was introduced, but in others not. Thus, Bavaria didn't introduce the Code Napoleon. Montgelas worried about consequences of doing that for the landowning nobility. An attempt was made to develop a compromise code, but agreement on this was not achieved. In Wurttemberg there was apparently no pressure from Napoleon for the adoption of the code.

In general there was little pressure from below. In territories annexed by the French democratic principles took root in wide circles of the population, but in the bigger territories of southern Germany small groups of German Jacobins were not taken very seriously.

The impetus to reform came rather from within enlightened bureaucracies in some *Rheinbund* states, under the leadership of eg Frederick I of Wurttemberg, Montgelas in Bavaria and Reitzenstein in Baden. They had their own motives. Their states had to absorb new territories. Military engagement was costly, and privileges obstructed taxation. Reforms continued the process of state formation. But bureaucrats were also willing to try to make society more equal, by for example abolishing serfdom reducing the scope of patrimonial jurisdiction.

Montgelas followed the example set by Napoleon in Westphalia by promoting a constitution for Bavaria which (like the Westphalian one) guaranteed such civil rights as freedom of confession and judicial equality.

The summoning of national conventions was also promised. In Westphalia, a national convention was summoned twice, in 1808 and 1810. But the experience was discouraging: it repeatedly proved more conservative than the government.

The idea that a written constitution should provide the basis for a modern state was however further encouraged by the example of Louis XVIII. In the same year, the Bavarians revised their 1808 constitution, to adapt it to post-Napoleonic circumstances. There was debate about whether peasants, *Grundholden*, should have the right to be elected. Montgelas postponed action when it seemed that Crown Prince Ludwig favoured this. He said that representative government would triumph over the old estates in time, but that as yet it was too early for this. Only with the coming of a new generation did new forms of constitution come to the fore, thus Bavaria and Baden 1818, Wurttemberg 1819, Hesse Darmstadt 1820.

However, the Rheinbund reforms did have longer lasting effects. The cause of democracy was aided by the disruptions of the anti-Napoleonic struggle, which made it seem helpful to encourage participation. As a result of a mixture of pragmatism and principle, privilege was reduced.

Stefan Ehrenpreis – talked about the development of ‘Reichspatriotism’. The idea was first floated in the Diet of Worms, when responses to the Dutch Revolt were being discussed. Patriotism was in the late sixteenth century seen as the basis for popular mobilisation. It was associated with resistance to centralisation and foreign domination, to attacks on ‘German liberty’. It was positively associated with ideas of the common good, and on the part of Protestants with religious liberty. He thinks that it should be distinguished from the idea of the ‘nation’, which also developed from the fifteenth century but which was strongly tied to language. Patriotism was associated with conservative ideas.

Imperial patriotism survived into the eighteenth century as the conservative cause of the smaller territories, complementing merely local patterns of allegiance. There were elections at various levels: the emperor, bishops and burgermasters were all elected. Among values emphasised was that of the rule of law, to control inner struggles and maintain the balance of power. There were attempts to revitalise the imperial constitution in the late eighteenth century. The emperor was seen as having responsibility for Jews – seen as *civi romani*; they were integrated into imperial rituals.

Elements of democratic discourse were integrated into this discourse.

Comments:

Richard Sheldon. He wanted to raise questions about eighteenth-century influences on the nineteenth century. And in particular to raise some issues about conceptions of politics. Did classical republican models influence Reichspatriotism? What was the object of politics seen as being: happiness rather than wealth? Was there a reluctance to accept full-blown economic liberalism? He has the impression that Germans developed a thicker model of ‘society’ than the English came to operate with; certainly Coleridge and Mill seem to have thought that.

Miles Taylor. He was persuaded that it was important to incorporate the German experience into the broader picture. It's important to look at tensions between the late enlightenment and ideas of democracy. These seemed to play out in a very particular way in the German case, where there was less interest in rule by the people than rule for the people.

He also suggested that harder thought about political forms was needed. What could democracy have meant in these small kingdoms?

He was struck by similarities between the German age of reform and the British age of reform. The main difference seemed to be that there was no German equivalent of the 1832 reform act. But perhaps that could also have been avoided in Britain had the issue of religious discrimination been confronted earlier.

Discussion:

Härter: on the relation between reform and 'self-government', he asked whether reference was made to the tradition of communalism in imperial cities (in line with the ideas of Peter Blickle). Then what of the idea of federalism within the empire: what was done with this? Was the Old Reich seen to have potential for transformation?

Blänkner: also wanted to direct his remarks to Stefan Ehrenpreis. There was much discussion of constitutional patriotism in the 1790s-1830s period, before the shift towards nationalism. This wasn't a discourse on democracy though. There was no classical republicanism in Germany as such. 1831 the conception was still that government should be for rather than by the people.

Innes: wanted to know if Hardenberg was unusual in explicitly affirming democratic principles. She noted that the Napoleonic model did open up the possibility of affirming 'democracy' in a different way.

In relation to self-government, she said that it was interesting if Germans were talking about English institutions as embodying that principle, since the phrase was rarely used in this context in England before the 1830s (it was used much more commonly to mean something like self-discipline), though its use in a political context seems to have caught on in the United States from the later eighteenth century.

Stedman Jones: Guizot said of France that with the abolition of the three estates France had achieved democracy.

Napoleon in using a plebiscitary model looked back to Rousseau.

Philp: wanted to know how much German interest there was in the American model?

Hellmuth: noted that in fact Americans considered the German case one of their models [for federalism?]

Responses:

Stamm Kuhlmann: there was a debate on America in German newspapers. It was generally said that American conditions were so different, this was no model for Europe. Critics of democracy focussed not on the American but on the French case, thus eg Gentz.

He said that Hardenberg's thinking was more influenced by the physiocrats than it was by Smith.

Demel: with the end of the empire came a break-up in the communal tradition. The imperial cities were bankrupted. It would be wrong to overstate the fragmentation of state structures: states were after all grouped into only ten imperial Kreis.

Ehrenpreis: classical republican ideas were used earlier in the late seventeenth and eighteenth centuries. There was a long-standing debate on the imperial constitution and how to reform it.

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DAY 2

Session 1(a): Public life - institutions

Johannes Dillinger – Peasants formed the majority of the population. Peasants can be taken to be those who belonged to the main body of the rural population, even if they didn't all make their living by farming land. Usually they had no place in diets or estates, but there were some exceptions – not in Switzerland, where the estates had an almost diplomatic character, but in Sweden, in England (where well to do 'peasants' could vote) and in New England (where there was a broad franchise – even if Americans aren't usually thought of as peasants.)

He would concentrate on German territories. Here peasants were represented in estates only if that had been so from the start. The reason for their inclusion was always to overcome structural problems of lordship. Landschaften, organisations of peasants were similarly formed to make taxation possible when infrastructure was poor. Rural communities might gain the chance to form an estate in circumstances of acute crisis, for example when territories were divided or unified. Lords and peasants invested together in the joint venture of a new state. When they were included in estates, they didn't usually have a chamber of their own, but shared one with the towns.

A typology of peasant representation could be constructed around the sophistication of legal forms. If we consider patterns more broadly, franchise laws were sometimes written and subject to revision, sometimes fossilised; paper regulations even when they existed might not be observed. In Germany specifically, the franchise was not commonly a matter of law but of custom. These customs remained very stable over long period; if they changed, it was usually in order to exclude. In any case rules mattered little inasmuch as local elites and custom dominated elections. Rules only mattered in the context of conflicts within village elites, resulting in a contested election.

Representatives were often chosen from among members of the councils of neighbouring towns; It was also quite common for officials of the prince to be elected: it was seen as useful to be represented by an expert. The status of those who served as representatives varied depending on the extent to which this role brought career advantages.

Peasant representation tended to be opposed by towns and usually disappeared during the late seventeenth and eighteenth centuries, often before the breakdown of the estates system as such. The practice only survived into the later eighteenth century when the peasants had separate chambers, so that they didn't have to coordinate with towns: on this basis, it survived in north Germany even into the early nineteenth century.

The republican potential of these practices was not developed because the rural population showed no interest in doing that. They were content to leave such matters to experts.

Stefan Brakensiek – he did not wish to talk about local government in German territories in terms of ‘democracy’, because it was not characterised at the time in this way. But there was participation, though patterns changed significantly over the period 1750-1850. His account would not relate to Austria or Prussia, but to other states.

Until the late eighteenth century, participation revolved around such practices as visits by officeholders, petitions, and censure by subjects. There could be quite a lively interchange. These were non-democratic forms of participation. Even communal decision-making was not democratic, but carried on by heads of households. The tradition was essentially one of local self-government at the prince’s command (“*beauftragte Selbstverwaltung*”). Participation was not a documented right but an established practice. But it was nonetheless significant. Research on *gute Policey* has shown that many statutes promulgated by German principalities had been substantially influenced by people affected. The expanding agenda of government promoted interactions – though within these interactions, ordinary people were expected to show deference.

The whole context was non-democratic, in that the growing lower classes were regarded as the objects of discipline, and not as possible partners in the bargaining process.

There was change in the early nineteenth century, when the French model was introduced in various states. The traditional communal regime was swept away. Instead, what was aimed at was administration by public servants, Bureaucrats were praised for promptitude, rationality, and for observing the principle of equality before the law. But they were also criticised for lacking contact with the people. It is really only in this context that we can speak of absolutism.

The restoration didn’t restore traditional local government. The unavailability of traditional forms of participation encouraged people to support the proposals of liberal elites. This led to clashes, which were experienced as humiliating because people were now asking to be treated with respect, but the authorities continued to demand obedience. Liberals saw humiliating forms of deference as endangering their identities as adult males. Political conflicts came to be expressed in terms of injured male honour.

Comments

Katrina Navickas: it is important to extend the horizons of discussion to take in a broader range of forms of participatory politics. In England, debates on local issues could raise wider questions of principle, eg about who had the right to be heard. Self-government is an important concept in terms of unlocking some of these issues.

Ultan Gillen: he was struck by the gap between conceptions of democracy and the practice of it. It seems that participation and representation can be other than democratic, and can even represent a bastion against democracy. In this context, absolutism seems to function as an intermediate form, demolishing old forms of representative institution and thus clearing the way for new. Older forms could be seen as unfit for modern politics:

counterrevolutionaries cited the Polish case in the 1790s to show that democracy was not a viable modern form.

He also wanted to ask about religion: about whether and how religious affiliation affected rights participate.

If there was no popular demand for reforms, how did Europe get transformed?

Discussion:

Schofield: he is struck by what seems to be English distinctiveness – perhaps associated with a shared common law (as Alan Macfarlane argued) and by the relatively unitary character of the state, focussing on a single parliament.

Stamm-Kuhlmann: it's always hard for German historians to develop a comparative overview because of the tradition of *Landesgeschichte*: historical training in the practices of one place.

Innes: it's no part of the intention of the project to locate democracy everywhere; rather, the interest here lies in better understanding the landscape within which concepts of democracy were applied. So, she would want to ask, was the idea of the 'mixed constitution' applied to German institutional arrangement – was any element within complex institutions seen as democratic? In England, traditional institutions were recast in the light of new ideas: so, rights to vote in parish vestries were altered by statute. Did this not happen in Germany: were traditional forms abolished rather than being recast?

First round of responses:

Brakensiek: stress on the importance of the rule of law was an inheritance from the Holy Roman Empire. This was adopted as a central idea by nineteenth-century German liberalism. That constituted a point of agreement between liberals and princes.

There was much discussion of the idea of a 'mixed constitution' in the late seventeenth and early eighteenth centuries. [**Hellmuth added**; it was a standard topic in texts on natural law, as a way of theorising relations between estates and the princely ruler. But not an important topic.] Conservative liberals saw communal institutions as a legacy of the 'freedom' of the middle ages. They preferred the term to democracy.

Dillinger: political traditions were not strongly inflected by religion.

Brakensiek: in the early nineteenth century, resistance to the authorities often had a religious colouring. People demanded the right to participate in order to protect their confession against a prince from another confession.

More questions:

McDaniel: where did German representative institutions originate – with the representation of towns, or of someone else.

Philp: thought it might be useful to distinguish elements of representation, ie access; accountability and the exercise of authority. He suggested that the shift towards 'democracy' tended to involve a shift in emphasis from the first towards the third.

Gestrich: wanted to take up the question of vestries. It was important to link the local with the wider level. He had studied Wurttemberg, where it was a rule that members of the parish council shouldn't be related to one another. This was seen as necessary to stop particular families from becoming dominant. He suggested that this sort of worry could provide an explanation for why outsiders were favoured as representatives.

Stamm-Kuhlmann: were there instances in which estates refused to convene to avoid having to pay taxes? Do we find examples in the nineteenth century of the king upholding the cause of justice against big men (as sometimes in earlier periods)

Hellmuth: the story we were being told seemed to be one in which traditional estates didn't have the capacity to modernise, such that there had to be a rupture. How did developments in 1848 fit into this story?

Session 1(b): Public life - ideas

Wolfram Siemann - will be shifting attention to the Habsburg monarchy, and more specifically to Metternich, on whom he was currently working. He wanted to address the question, Why did Metternich come so adamantly to oppose the modern principle of representation? Is he correctly represented in this way? It is notable that Metternich admired the English constitution. In certain contexts, he defended the principle of representation. He distinguished the Hungarian constitution as a representative one founded on the sovereignty of the king, as opposed to the German estate constitution (landstandische Verfassung). He expressed doubts about the wisdom of abolishing the Hungarian constitution when the court wished to do that in 1844, and advised instead its reform. He thought something could be learnt from the experience of other empires: England and France, and even from the US. When in the 1820s though he was urged not to stand in the way of change, but to grant even Austria a modern constitution, he poured scorn on the idea, emphasising the difficulties of implementing this plan in such a complex and divided polity 'The constitutional process in Austria would result inevitably in a fight of all nations against each other.' So it seems that he did not oppose the principle of representation in general: all depended on circumstances. Problems associated with creating a representative constitution for the whole monarchy were as for Austria, writ large. How were the different claims of the different nationalities to be adjudicated? In principle all were equal. The emperor was in any case not an absolute ruler, since his powers operated only at imperial level: beneath that level, individual states had further powers. The same arguments would not seem to have prevented the granting of a German constitution. However, Metternich feared that that would have a more general destabilising effect.

Comments:

Innes: noted that Metternich sounded rather Burkean. Institutional change was often a response to fiscal pressures; she wondered how difficult Metternich found it to reconcile those pressures with his preference for institutional continuity. The British had their own experiences of difficulty with the representative principle. In Quebec they delayed introducing it for fear of how it would operate in a setting characterised by tension between a Protestant minority and Catholic majority; in the West Indies, difficulties in reconciling representation of the planter class with protection of the interests of the black population

sometimes led to the suspension of representative institutions. There were of course ways of trying to adapt representative systems to deal with these tensions, by establishment of constitutional protections, or by various forms of proportional representation. In the United States, the effective working of representative institutions was sometimes held to depend on the cultural homogeneity of the represented: it's been said that this was one reason why the Americans hesitated to try to absorb the whole of Mexico.

Discussion

Bourke: the example of Hobbes shows that it's possible to affirm the democratic principle underpinning sovereignty while leaving totally open the question of how the state should be governed.

Blänkner: Metternich was both a reactionary and a reformer. It seems worth pursuing the question, why did his reform programme fail? Why did the constitutionalists of the 1850s and 60s fail?

Stedman Jones: Was Metternich ever tempted by the idea of the Habsburg realm as a Catholic realm? What ideas did he have about the role and treatment of religious minorities? Did he believe that there should be a common legal code? If his object was peace, why did he foment discontent in Polish Galicia?

Siemann: indeed, the Habsburgs supported the peasants against the nobility there. Burke – yes, Metternich's key adviser Gentz translated Burke, but he formed his ideas on these themes for himself. Suggested that the traditions of the Holy Roman Empire were important to him: these were the chief reference point for his ideas about Habsburg monarchy. Though when Castlereagh proposed the restoration of the empire in its old form, he opposed that.

As to the relation between finances and representation: that is a research gap. There were certainly financial problems after the bankruptcy of 1811. Kolowrat opposed deficit spending. Metternich did try three times to reform internal administration: in the 1810s; in 1836, on the death of Franz and in 1844, in connection with the reform of Hungary. He tried to set up a landbank and to facilitate industrialisation.

In relation to religion, he was very tolerant, He thought that religion helped to keep people calm. He was prepared to tolerate even the Jesuits.

Gestrich: this is a very benign view of Metternich. What of his interference in the Deutsche Bund? Surely he wasn't at all forward looking. He didn't promote even those changes that were possible and necessary?

Philp: wanted to probe further what Metternich thought representation involved.

Stedman Jones: were the Carlsbad decrees an overreaction?

Siemann: well there had been four assassinations in a few months; this was also the era of the Cato Street conspiracy; extremism seemed to be a general threat.

Session 2: Theorising society

Karl Härter – he would be focussing on *gute Policey*: on ideas about the good ordering of society. Older studies of polizei focussed mainly on *Polizeiwissenschaft*: on legal discourses. The aim of these writers was to systematise the mass of ordinances and advise the government on the best approaches. Though in the late eighteenth century these writers turned to the consideration of practical problems and possible measures of reform, they still tended to focus on substantive laws rather than on administration and policing. Polizei comprehended both economy and welfare. Inasmuch as these had traditionally been the function of local and informal institutions, it also involved the absorption of these into the state, and discussion of their relationship to the state. In the long run that discourse influenced *Genossenschaftstheorie* [theory of cooperation? Voluntary associations?]

In the eighteenth century security also emerged as a concern of Polizei. This proved to drive a more powerful integrative movement in practice – but in the nineteenth century security and welfare were increasingly differentiated, and the notion of Polizei ceased to have its traditional application.

The idea of a policed society succeeded the idea of a society of orders. In this model, it was assumed that discipline was necessary to hold society together; people were expected to prove themselves useful and industrious.

There was no underlying democratic principle, but law making did involve some negotiation, as recent historiography has emphasised. Police norms were also supposed to be publicised. In the eighteenth century governments sought information on the implementation and effect of its ordinances. There were also petitions, supplications, complaints etc. People might invoke the norm of *gute Polizei*. Polizei had a strong effect on the development of the modern criminal justice system, esp on the introduction of prison-workhouses.

The weakness of the ‘well ordered police state’ meant that enforcement was left to intermediate institutions. A. Holenstein’s study of *Frevel- und Rügegerichte* in Baden is a particularly brilliant study of this topic. Problems led to experimentation with more modern state-based modes, whose effect was a process of *Verstaatlichung* resulting in a monopoly of power. Higher and lower levels of police came to be distinguished: higher police could delegate certain functions, including the power to enact local statutes, to communities. The lower police embodied a notion of self-regulation.

In a sense Polizei enabled participation. But this was largely restricted to participation in administration, and did not include political participation in the modern sense. The nineteenth-century *Staatlehre* focussed on a programme of developing the well ordered police state into a *Rechtstaat* granting access and participation as well as controlling government and administration by the rule of law, rather than through democratic participation.

Reinhard Blänkner – what kind of society is under discussion? How did contemporaries see it? How should we understand it? He proposes to consider it as a *Neuständigesellschaft*, and proposes that this form had global reach. The term *neuständisch* has been used by other historians, but is not in wide use. He intends it to denote an order that was still and estate order, but not one based on old privileges. It was however not yet a class society.

He reviewed relevant German historiography. He suggested that eighteenth-century historical studies were in a critical state. Interest had moved backwards, to issues around

confessionalisation, policy and symbolic communication, especially in courts. Older eighteenth-century research agendas, for example around sociability, seemed to have been exhausted. It was a problem with research on the enlightenment that it was characteristically restricted to the eighteenth century, although many enlightenment themes continued to be important in the early nineteenth century. Work on the character of society in the nineteenth century was still overshadowed by the work of Wehler, Kocka etc, though this was insufficient, using mid nineteenth-century categories.

The problem is, how to create a bridge through the period. It is tempting to conceptualise it as a period of transition from a society of estates to a bourgeois society. But what were the mechanisms of change? Can so long a period count as a transition?

He proposes to conceptualise it as a period in its own right. Lothar Gall has also looked at the Burgertum, but he was more interested in the late eighteenth than in the early nineteenth century. Vierhaus and Bodeker focussed on the Gebildete, identified as the most innovative social group.

In Britain, historians talked of a long eighteenth century. Several different approaches had been developed under that head, including those of Jonathan Clark, Frank O’Gorman and Felicity Nussbaum [*The Global Eighteenth Century*]. But this periodisation doesn’t seem to work for Germany or France. In this context, though social change is linked to ‘commercialisation’, which doesn’t figure much in German historiography. It might be possible to build this into an account of the Neuständigesellschaft, conceived as the central European form of a wider phenomenon.

He sees this period as characterised by the following developments especially:

- Commercialisation, on a global not merely national scale
- Changed social relationships, notably the rise of the middle class. In Germany people talked about a Gebildetstande (showing that the language of estates survived). The working class was conceived as a fourth estate
- The rise of ideas of freedom and equality. Members of this new middle class often saw themselves as enlightened liberals – though not as friends of democracy.

The question is, what supported this order? A programme of research is implied, in economy, politics, culture, gender, knowledge, religion etc.

Comments:

Richard Bourke: the papers have focussed variously on processes of rule and on those who were ruled. Enlightenment, politicisation and patriotism figure as linking concepts. Some of the terms that have been used are hard to apply. There has been talk of ‘participation’, but in the absence of notions of what constitutes real or a just share, it is hard to use participation as a criterion of democratisation. Commercialisation surely operated to limit as much as to extend democracy. It’s not possible to write a non-teleological history without disturbing the surrounding historiographical landscape. Loaded terms, which entail political judgements while purporting merely to describe, will need to be avoided.

Stedman Jones: in relation to Polizei, he was led to wonder how many law enforcers there were on the ground. Also, how practice in relation to the poor differed between Catholic and

Protestant Germany. Hegel liked to think about representation within the context of the social order. In this context, the people in effect needed to invent themselves on stage.

To Reinhard Blankner, he wanted to urge caution in reading too much into contemporary languages of social description. These could function quite differently when used with empirical intention and as part of a political argument. His view is that the 'middle classes' are invented as bearers of a particular kind of political identity. He suggested that in terms of periodisation [in Britain?], the 1860s were a more important turning-point than the 1830s.

Discussion:

Demel: the problem Blänkner was talking about seems to present a parallel to the issue of the emergence of the French *notables*. Was the NeustandigeGesellschaft perhaps more a project than a reality?

Innes: for information, does the new historiography of Polizei assess the implications of the disintegration of the Polizei order on participation?

Responses:

Härter: Polizei was an ideal. At one level, everyone was an enforcement agent, though there were also formal systems. After 1789, in the context of new states with formal administrative structures, the concept of Polizei didn't really work any more. He thinks that it vanished with the Prussian reforms. Polizeiwissenschaft had to be reformulated as a bunch of more specialist knowledges. His account maps closely on to that of Stefan Brakensiek. It could perhaps be linked with the idea of a NeustandigeGesellschaft: it succeeded the traditional society of orders.

Session 3: Social status and belonging

Andreas Gestrich – his talk arises out of an interdisciplinary project on social rights, inclusion and exclusion. His own recent work has been on the subject of the dignity of the poor. A basis for the idea of social rights can be found in eighteenth-century natural law discourse. Eighteenth-century uses of natural rights were not generally associated with ideas of extending political participation.

He developed two examples of social rights, one compatible with absolutism, the other more bound up with democracy.

The first related to the relief of the poor. This was rooted in Christian theory. It was theorised eg by Wolff and Siedler. They invoked Pufendorf and Thomasius, and asserted the general responsibility of the state to provide for the poor. If this was a responsibility of the state, then failure to discharge that responsibility effectively could be added to grounds for criticism. The quest for social protection and for democracy did ultimately become intertwined in the lead up to 1848.

A second example was the rights of women. In the eighteenth century there was little question in Germany of women having social rights, at least not in German writings. Siedler's encyclopedia did have an article on the rights of women, but this mainly dealt with restrictions on those rights. Only Von Hippel in the 1790s wrote a book about the

improvement of women as citizens, modelled on his tract on the Jews. There was some debate about the rights of women in the context of discussions of infanticide, but no attempt was made to establish a new legal framework around these ideas. Interest in the topic developed in the nineteenth century, especially in 1848. After then, it was difficult to talk about democracy without feeling something of a guilty conscience about the rights of women.

The broad story he wants to tell is one in which secularisation allowed the generalisation of human rights. The extension of the influence of the state into more domains of life also encouraged this development. Rights discourse and democratic discourse emerged alongside one another and became interwoven.

Comments:

Malcolm Chase: what is a right? How is it determined? Is the modern concept of rights helpful in thinking about the practice of government in the past? Modern states are as likely to abolish traditional rights (eg rights associated with apprenticeship) as to create new ones. He wondered how the existence of guilds affected workers' mentalite in Germany. In England, related organisations provided a basis for forms of participation that excluded both the unskilled and women. In Britain the discourse of female rights had limited purchase before the 1840s. The rights of the poor did provide the basis for an opposition campaign of the 1830s. Were German reforms seen as benign from the point of view of rights?

Kathryn Gleadle: Had a series of discrete questions:

Was there nostalgia for the feudal order

Were all entitlements conceptualised as right?

What were the interconnections between social reform and the state's interest in creating a certain type of citizen?

What was the role of religious discourses in conceptions of the self?

Did German women in the 1840s devise their own distinctive strategies?

Was there a stronger public/private distinction in Germany?

Discussion

Sheldon: is what's going on really the infusion of German political ideas with economic thought, as in Britain, where we find the development of ideas of a right to work, and a right to the full produce of one's labour?

Härter: suggests that an answer to the question of how to conceptualise rights is to make a distinction between subjective and objective rights. The latter are granted by the state and can be claimed against it. It wasn't however possible for the poor to claim their rights against the state.

Schofield: in England the rights of the poor could be litigated in the courts.

Gestrich: thinks German parishes were in fact in some sense obligated, though the precise role played by magistrates in this regard is unclear.

It was not his intention to characterise the state as benign.

The key question he was trying to engage with was, when to questions of right get set in a democratic context? He thought the 1830s were a key period, though at that time people saw themselves as looking back to the French revolution. But social problems became more a part of general political discussion.

He doesn't think there was a shift towards the idea of a right to work in as marked a way in Germany as in Britain. It can be found in Hegel, but the question is more, did it filter through? He isn't sure this superseded older formulations of claims.

Concluding discussion

It was noted that though the 1830s and 40s seemed very important decades in terms of the themes under review, they had on the whole not figured much in discussion so far.

Siemann: little has also been said about the whole realm of aristocratic government in the countryside.

Demel: from 1818 there were some parliaments; from 1830 more. Their debates were published.

Stamm Kuhlmann: in the case of the Prussian provincial estates, we see them demanding from the 1830s that their role should be widened.

Hellmuth: suggested that the reform period saw a strengthening of the state. Calls for democracy might perhaps be seen as a response to this because old ways of solving problems were no longer available.

Siemann: the combination of an explosion in the press and social crisis were important in the 1840s.

Bourke: suggests that self-determination should be considered as an aspect of democratic thinking.

Blänkner: is sceptical about drawing a line from the 1820s to the 1840s in the way that Eckhart suggests. In the 1820s, emphasis was really on solving problems left over from the eighteenth century. Only after that did the new discourse of social democracy begin to emerge

Siemann: agrees that social rights didn't figure in the 1820s. But revolutions in the 1820s did raise questions about participation, as also did the Hamburgfest.

Stedman Jones: people might be trying too hard to find continuities. Couldn't it be the case that developments in France suddenly put manhood suffrage and social rights on the agenda. In England, one could even argue that in the early nineteenth century things move backwards, as Painite demands take a back seat. The Chartists made the relatively restricted claim that rights to participate should be based on property in labour.

Härter: there were though some continuities in terms of ideas put forward, eg the idea of the Rechtstaat.

Gestrich: among topics that haven't been covered is that of the constitution of churches. The German debate on the democratisation of churches started in the early nineteenth century. It attracted fierce opposition from kings, who saw it as a substitute political discourse.

Stamm-Kuhlmann: the notion of Öffentlichkeit is important.

Gillen: if democratic discourse was discontinuous, was there a continuous tradition of anti-democratic discourse?

Bourke: Edmund Burke was one of the first to portray the French revolution as democratic. He was influenced by his sense that letting things get to the point where America seceded had been a mistake. He thought that he should at that time have opposed natural rights thinking more strongly.

Blänkner: thinks it might be useful to distinguish between two democratic discourses. The first was wholly political. From the 1830s, by contrast, democracy became wrapped up with the social question.

Bourke: that can't be quite right, otherwise the question of rights to property wouldn't have been opened up on the earlier occasion.