

The Vision of a Civic Democracy

Proposals for Reform

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To remain viable in the future, the Basic Law must not merely be defended; it must also be democratized. This requires a new political philosophy as well as new institutional structures. Expanding citizens' participatory rights would increase public satisfaction and counteract the dangerous polarization of society. In the present day, the right to vote is simply no longer sufficient. It constitutes a democratic minimum—nothing more. This deficit in participation could be remedied by guaranteeing civic dignity.¹

For Immanuel Kant, dignity rested on the idea of “a rational being who obeys no law other than one that he simultaneously gives himself.”² Although Kant supported representative democracy, he thus understood dignity as a form of self-legislation. The ancient historian Josiah Ober of Stanford University explicitly describes a dimension of *civic dignity*, which he derives from Athenian democracy.³ In the *polis*, civic dignity as a right to active political

¹ For a detailed discussion of all points raised here, see Oswald, Clemens, *Fairfassung: So geht Demokratie!* [Fair Constitution: This Is How Democracy Works!], 264 pages, Norderstedt, 2024, <https://buchshop.bod.de/fairfassung-clemens-oswald-9783759719904>. See also the updated summary in: id., “Fairfassung”, in: Rohr, Jascha (ed.), *Ein Update für unsere Demokratie* [An Update for Our Democracy], 2025, pp. 50–62, <https://www.oekom.de/buch/ein-update-fuer-unsere-demokratie-9783987261657>.

² Kant, Immanuel, *Grundlegung der Metaphysik der Sitten* [Groundwork of the Metaphysics of Morals], in: *Kant's gesammelte Schriften* [Kant's Collected Writings], Vol. 4, 1911, p. 434.

³ Ober, Josiah, *Demopolis*, 2017, especially pp. 101–127. Id., “Three kinds of dignity”, 2009, p. 7, https://law.yale.edu/sites/default/files/documents/pdf/Intellectual_Life/LTW-Ober.pdf.

participation found expression not only in the popular assembly but already in the Council of Five Hundred, whose members were selected by lot. This council developed legislative proposals for the popular assembly, in which the enfranchised citizens of Athens—at that time only a strictly defined male minority—then voted on the proposals by a show of hands.

Human and Civic Dignity

The concept of human dignity did not yet exist at that time. Indeed, human dignity has primarily been conceived as a defensive right: as a protection of individuals against state interference. Enshrined in Article 1(1) of the Basic Law, it is a consequence of National Socialism. “Never again” is its guiding principle—the same idea expressed at demonstrations against the political right.

Civic dignity, by contrast, can primarily be understood as an entitlement vis-à-vis the state. Under this conception, the state must provide an optimal framework of civic rights—a demanding political undertaking within a representative democracy. Nevertheless, civic dignity can be understood, under the broader concept of dignity as a whole, as an independent and equal form of dignity alongside its sister concept, human dignity.⁴

This raises the question of amending the Basic Law. Admittedly, any intervention in Article 1 of the Basic Law is highly sensitive. Yet why not use precisely this provision to breathe new life into the constitutional order—to install a kind of “pacemaker”? A new Article 1(2) could read approximately as follows:

“The dignity of citizens shall be inviolable. To respect, protect and promote it shall be the duty of all state authority.”

⁴ This direction is taken, for example, by the legal scholar Klaus Ferdinand Gärditz. According to him, human dignity is merely one “aspect” of (overall) dignity, since it does not directly address “collective mechanisms of the legitimation of rule”. Gärditz further makes a careful distinction between individual and democratic self-determination, both of which can be traced back to a “common idea of freedom”. See Gärditz, Klaus Ferdinand, “Der Bürgerstatus im Lichte von Migration und europäischer Integration” [The Status of the Citizen in Light of Migration and European Integration], *Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer* [Publications of the Association of German Constitutional Law Teachers], 2013, pp. 49–156 (106 f.).

This would necessarily entail a subjective right to active political participation and would create a structural obligation to introduce corresponding reforms.⁵

Citizens' Councils and Referendums

Here is one proposal: randomly selected citizens' councils at all levels of government, together with popular votes, should form the centre of a new institutional design.

More than 400 sortition-based citizens' councils have already been convened in Germany, giving the country a credible claim to the unofficial title of “world champion.” Most citizens' councils are established at the municipal level, although they are also becoming increasingly attractive at the state level.⁶ One example is the citizens' council on the future of public-service broadcasting in Brandenburg, established in June 2026.⁷

⁵ For an in-depth analysis, see Oswald, Clemens, “Das Grundrecht auf aktive politische Partizipation: Starke subjektive Teilhaberechte – ein Fall für das Grundgesetz?” [The Fundamental Right to Active Political Participation: Strong Subjective Participation Rights – A Case for the Basic Law?], *Mitteilungen der Humanistischen Union* [Communications of the Humanist Union], debate contribution of 21 October 2025, <https://www.humanistische-union.de/publikationen/mitteilungen/mitt-256/publikation/das-grundrecht-auf-aktive-politische-partizipation-starke-subjektive-teilhaberechte-ein-fall-fuer-das-grundgesetz/>. This fundamental right, understood as an entitlement, goes beyond the subjective right to democratic participation described by the Federal Constitutional Court and some scholars, which is merely a “right to safeguard parliament”. See Karamehmedovic, Ademir, *Losbasierte Partizipation* [Sortition-Based Participation], 2025, pp. 142–149.

⁶ Mehr Demokratie, “Bürgerräte bleiben begehrt” [Citizens' Councils Remain in Demand], 2 April 2026, <https://www.mehr-demokratie.de/en/presse/einzelansicht-pms/buergerraete-bleiben-begehrt>.

⁷ Landtag Brandenburg, “Erster Bürgerrat zur Zukunft des öffentlich-rechtlichen Rundfunks beschlossen” [First Citizens' Council on the Future of Public-Service Broadcasting Adopted], 18 June 2026, https://www.landtag.brandenburg.de/de/aktuelles/neuigkeiten/aktuelle_meldungen/erster_buergerrat_zur_zukunft_des_oeffentlich-rechtlichen_rundfunks_beschlossen/48962. A continuously updated overview of citizens' councils in Germany can be found here: Bergische Universität

In 2023–24, the German Bundestag convened the first official citizens’ council at the federal level, the Citizens’ Council on “Nutrition in Transition.” Subsequently, however, the new coalition government of the CDU/CSU and SPD abolished the Bundestag’s coordinating office for citizens’ councils. This occurred without giving the council’s recommendations—which had still been under discussion in the Bundestag during the previous coalition government—a chance to be translated, at least in part, into legislation.⁸

Bundestag President Julia Klöckner characterized the development as follows:

“The largest citizens’ council in Germany is the democratically elected parliament.”⁹

Despite the coalition agreement’s reference to dialogical citizen participation, this joint course of action by the CDU/CSU and SPD ultimately represented a clear signal in favour of deliberately reducing citizen participation.

In particular, systematic criticism of citizens’ councils has come from within the CDU/CSU. Julia Klöckner’s statement is illustrative of this position. Such criticism, however, is misplaced and may be interpreted as an innovation-resistant defence of existing power relations within a purely representative democracy.¹⁰

Citizens’ councils are by no means foreign bodies within a representative-democratic system. This is demonstrated by several factors: the constitutive decisions adopted by state institutions, which provide them with democratic

Wuppertal, *Datenbank Bürgerräte* [Citizens’ Councils Database], <https://datenbank-buergerraete.info/>.

⁸ This was due, not least, to the collapse of the “traffic light” coalition. For discussion, see Oswald, *Fairfassung*, op. cit., pp. 44–47.

⁹ Koch, Hannes, “Schwarz-Rot schafft Bürgerräte ab” [The CDU/CSU–SPD Coalition Abolishes Citizens’ Councils], *taz*, 26 November 2025, <https://taz.de/Mitbestimmung-geschwaecht/!6132688/>. The original quotation appears to be behind the paywall of *Welt am Sonntag* but has been documented in several places.

¹⁰ See, for example, Philipp Amthor (CDU), currently State Secretary in the Ministry for State Modernization, who disregarded the Bundestag’s resolution establishing the citizens’ council, even though the CDU had rejected it. See Oswald, *Fairfassung*, op. cit., p. 46.

legitimacy; their contribution to greater equality of opportunity; and, above all, the enhanced sense of political efficacy they can foster among citizens.

Furthermore, the Basic Law can be understood as containing, on the one hand, a requirement of deliberation¹¹ and, on the other—and this is particularly important—a requirement to optimize democracy.¹²

Popular votes, by contrast, currently exist only at the municipal and state levels, in the form of local and state referendums. They are not available at the federal level, even though Article 20(2), sentence 2 of the Basic Law explicitly places votes alongside elections as equivalent forms of democratic legitimation.

The risk of abuse associated with referendums, which critics frequently emphasize, could be significantly reduced by combining popular votes with citizens' councils.¹³ Such combinations—representing, albeit explicitly not a complete, departure from purely representative democracy in favour of mixed democratic models—are precisely what an overwhelming majority of respondents expressed support for in an online survey conducted in 2024.¹⁴

According to many scholars, reducing the direct power of elected representatives could in fact strengthen representative democracy in times of crisis.¹⁵ For many members of parliament and government officials, however, this would require a considerable degree of intellectual reconsideration.

A Permanent Citizens' Chamber

¹¹ Karamehmedovic, *Losbasierte Partizipation*, pp. 295–302.

¹² This is an often overlooked argument. See Oswald, *Fairfassung*, op. cit., pp. 95 f.

¹³ See Oswald, *Fairfassung*, op. cit., pp. 123–128; Geißel, Brigitte / Hoffmann, Felix, *Demokratische Innovationen: Beteiligungsformen in Deutschland* [Democratic Innovations: Forms of Participation in Germany], Friedrich-Ebert-Stiftung, 2024, p. 33, <https://collections.fes.de/publikationen/ident/fes/21472>.

¹⁴ Bächtiger, André / Arnold, Seraphine / Maier, Franziska / Rieker, Anja / Schwaiger, Vanessa / Trüdinger, Eva-Maria, “Die Mischung macht’s!” [It’s the Mix That Counts], *Aus Politik und Zeitgeschichte*, 27/28, 2023, pp. 40–47 (43 f.).

¹⁵ Geißel / Hoffmann, *Demokratische Innovationen*, op. cit., p. 33.

Both instruments could also be explicitly integrated within a new institution: a randomly selected Citizens' Chamber.

Its purpose would be to institutionalize the active participation of citizens, which has so far been insufficiently developed. Through its constitutive rules, the chamber could also include non-nationals.¹⁶

The Citizens' Chamber would be a permanent institution composed, for example, of 160 citizens selected by lot. Like a citizens' council, it would constitute a "miniature Germany." Participants would be selected according to the criteria commonly used for citizens' councils, including gender, age, regional origin and educational background.

The following model is not intended as a final design. One quarter of the members could rotate in and out every three months, resulting in a one-year term of membership for each participant.

The Citizens' Chamber's principal task would be to establish citizens' councils addressing substantive issues of its own choosing—from climate policy and social affairs to matters involving potential conflicts of interest. The latter would include sensitive issues such as the financing of political parties, electoral law and constitutional amendments.¹⁷

The citizens' councils, likewise composed of 160 citizens, would not prepare decisions. Such a function would be incompatible with the constitutionally entrenched principle of representative democracy under Article 20(2), sentence 2 of the Basic Law, supplemented by popular votes. An exception would be possible if the Bundestag granted a particular citizens' council not merely advisory but also decision-making powers in an individual case.¹⁸

¹⁶ See Oswald, *Fairfassung*, op. cit., pp. 147 f.

¹⁷ See *ibid.*, pp. 128–135.

¹⁸ Berger, Philip, "Bürgerräte als legitime Gestaltungsoption" [Citizens' Councils as a Legitimate Design Option], *Verfassungsblog*, 13 May 2025, https://verfassungsblog.de/buergerraete_demokratie_grundgesetz/, considers decisions to be obvious in cases that concern the "genuine self-interest" of members of parliament, such as party financing and electoral law. On the particular suitability of such "conflict-of-interest issues" for citizens' councils, which also include constitutional questions as meta-structures of the state, see already Oswald, *Fairfassung*, op. cit., pp. 128 f., 135 f. See also Karamehmedovic, *Losbasierte Partizipation*, p. 297.

Instead, citizens' councils would continue to develop recommendations, as they already do, and submit them to the Bundestag. The Bundestag could adopt these recommendations and translate them into legislation, or reject them. In the latter case, however, it would be required to provide detailed reasons.

If the citizens' council and the Citizens' Chamber considered those reasons insufficient, the Citizens' Chamber could initiate a popular initiative and ultimately a referendum on the matter. The citizens' council would draft the proposal jointly with legal experts appointed as neutral advisers. This would ensure that the proposal was formulated clearly and left little room for demagogic manipulation.

This is the decisive point: the “hinge” provided by citizens' councils would remove the central objection that popular votes are potentially susceptible to abuse. At the same time, referendums could give binding force to the substantive and carefully considered preparatory work undertaken by citizens' councils.

Incidentally, although the Alternative for Germany supports referendums based on the Swiss model, it interestingly rejects citizens' councils—institutions that can promote objectivity and nuance in difficult political debates.¹⁹

Constitutional Compatibility

The model outlined here is compatible with the Basic Law. The Citizens' Chamber would constitute a “special organ” within the meaning of Article 20(2), sentence 2, while popular votes are already provided for in the same constitutional provision.

Even after an amendment to the Basic Law, the Bundestag would remain the principal legislative body within this new representative-participatory-direct democracy. In certain individual cases, however, it could be overruled by the citizens.

In this way, the Basic Law could be actively reconfigured as a “Fair Constitution” capable of counteracting widespread political disillusionment.

¹⁹ Deutscher Bundestag, 20/6708 – Motion: “Mehr Demokratie wagen – Echte Bürgerbeteiligung durch bundesweite Volksentscheide statt Bürgerräte” [Daring More Democracy – Genuine Citizen Participation through Nationwide Referendums Instead of Citizens' Councils], 9 May 2023, <https://dserver.bundestag.de/btd/20/067/2006708.pdf>.

Recent surveys indicate a clear demand for such reforms. A representative survey conducted as part of the evaluation of the Citizens' Council on "Nutrition in Transition" found that 85 percent of respondents would like to see more citizens' councils.²⁰

Surveys of former participants also reveal considerable enthusiasm and satisfaction regarding both their selection by lot and the opportunity to contribute to democratic decision-making. At the same time, participants expressed incomprehension and frustration when their recommendations were ignored.²¹

These surveys and interviews reflect a profound longing—or, one might say, an unfulfilled civic dignity.

The philosophical and structural changes described above could help remedy this situation. At present, however, their implementation would require two-thirds majorities, which are difficult to obtain. With a simple majority in the Bundestag and the Bundesrat, it would nevertheless be possible—assuming the necessary political will—to establish a constitutional commission, perhaps even a "Citizens' Convention," including citizens selected by lot. This would not yet constitute a constitutional convention.

The Democratic Task

²⁰ Oswald, Clemens, "Evaluation des Bürgerrates 'Ernährung' liegt vor – Mehrheit der Bevölkerung für Bürgerräte" [Evaluation of the Citizens' Council on "Nutrition" Available – Majority of the Population in Favour of Citizens' Councils], https://www.bundestag.de/parlament/buergerraete/buergerrat_th1/Dokumente/kw27-evaluation-1011222. A non-representative MDR survey in three eastern German states prior to the elections in Saxony and Thuringia arrived at practically the same result (86 percent) when asking about greater participation. See MDR fragt, "Demos und Proteste – was machen die mit unserer Gesellschaft?" [Demonstrations and Protests – What Do They Do to Our Society?], January 2024, pp. 9, 11, <https://www.mdr.de/nachrichten/mitmachen/mdrfragt/mdrfragt-ergebnisse-demos-und-proteste-100.pdf>.

²¹ buergerrat.de, "Ich habe erstmal gegoogelt" ["First I Googled It"], 19 February 2026, <https://www.mehr-demokratie.de/mehr-wissen/buergerraete/aktuelles/einzelansicht/ich-habe-erst-einmal-gegoogelt>.

Ultimately, the decisive questions are these: Do we wish to anticipate future crises by democratizing the Basic Law? Do we possess the reason and the strength to establish ourselves as active *citoyens*? And to what extent will the academic disciplines—for example, political science and constitutional law—engage with the highly politicized debate over greater participation?²²

The current project of an open-access commentary on the Basic Law points the way towards greater inclusion, stronger civic efficacy and more extensive forms of “citizen science.”²³

Citizens’ councils are a crucial instrument on this path, although they are not the only one. As democrats, we must not allow them to lapse into insignificance. Instead, we should actively contend over the future development of democracy.

It would be a serious mistake to remain comfortably confined to the status of mere voters. The goal can only be to participate actively in shaping democracy itself.

²² Reinhard Parthe and Rudolf Gerhardt discuss the prevailing pragmatism in legal education, which rarely questions established doctrines, along with a lack of willingness to shape the law, in the *Zeitschrift für Rechtspolitik* [Journal of Legal Policy], 2015, pp. 123–125 (“Kritischer Widerspruchsgeist ist nicht besonders hilfreich” [“A critical spirit of contradiction is not particularly helpful”]). On the politicization of science, see Gärditz, Klaus-Ferdinand, “Politisierte Wissenschaft als Machttechnik” [Politicized Science as a Technique of Power], *Wissenschaftsrecht* [Science Law], 2018, pp. 244–268, who laments opportunism and “court experts trimmed for conformity” among his colleagues (p. 256): “Politics issues commissions, confers apparent importance through advisory bodies, and possibly rewards with prominent positions” (p. 262).

²³ See the project “Offener Zugang zum Grundgesetz” (OZUG) [Open Access to the Basic Law], funded by the Federal Ministry of Education and Research: Eisentraut, Nikolas / Botta, Jonas / Gebhard, Friederike / Ruschemeier, Hannah (eds.), *Grundgesetz für die Bundesrepublik Deutschland* [Basic Law for the Federal Republic of Germany], <https://oa-kommentar.de/de>.