

# Political Science and Democratic Culture

Ernst Fraenkel's Studies of American Democracy

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Reflecting on his academic exile in the United States, the German political scientist Franz L. Neumann emphasized the cross-fertilization of ideas as a result of the confrontation of different scientific and political cultures.<sup>1</sup> According to Neumann, the migration of hundreds of European academics to the United States led to a growing internationalization of the social sciences and a two-way learning process. The Europeans became accustomed to the practice of the American liberal democracy and learned to value its political culture; émigré scholars, on the other hand, brought with them a different academic *Denkstil* and contributed to a more critical self-understanding of American democratic theory.

Neumann was only one figure in a group of about fifty German legal theorists and political scientists who had immigrated to the United States after 1933.<sup>2</sup> Despite differences between their political origins, their methodological approaches, and their personalities, all of these emigrants (whose group included Carl J. Friedrich, Otto Kirchheimer, Hannah Arendt, A.R.L. Gurland, Ossip K. Flechtheim, Leo Strauss, John H. Herz, Arnold Brecht, and Eric Voegelin) who had studied, taught, and lived in the United States shared one central characteristic: they rapidly developed a positive, if not idolizing, attitude towards the American political system. This positive view distinguishes the group of political science émigré scholars from the bulk of other German émigré intellectuals at the time and marks a fundamental break with the dominant tradition of anti-Americanism among academics in Germany.<sup>3</sup> The reasons for their revised views about the American political system may differ from individual to

individual among the members of the group of political scientists. The simple fact, however, is that these émigré experts in politics not only experienced on a personal level the contrast to the totalitarian regime from which they had escaped but they also had opportunity to reflect on this contrast for professional reasons, which became crucial for their positive views.<sup>4</sup> In addition, this group of political scientists managed to build ordinary careers in American universities, and these exercises in formalized acculturation placed them at some distance from other German intellectual émigrés. In light of the revisions in their attitudes toward the United States, it is even more astonishing that only two of the more than twenty returning émigré scholars picked the study of American politics and culture as their main topic within the newly founded discipline of political science in West Germany after 1945. One can only speculate about the reasons for the abstinence of the majority; they may be found in a mixture of institutional constraints and the necessity to deal with German politics of the immediate past.

The two political scientists who did focus their academic activities on America were Arnold Bergstraesser in Freiburg, one of the co-founders of the *Deutsche Gesellschaft für Amerikastudien*,<sup>5</sup> and Ernst Fraenkel, the founder of the *John F. Kennedy Institut für Amerikastudien* in West Berlin. Whereas Bergstraesser's activities were mainly programmatic<sup>6</sup> and organizational, Fraenkel became the leading German analyst of the American political system in the 1950s and 1960s. His studies include one monograph on the American government,<sup>7</sup> one edited volume on German views of America in the nineteenth and twentieth centuries,<sup>8</sup> and about thirty-five published articles on US politics, comparative government, and foreign policy. Until recently, this aspect of his work had been overshadowed by Fraenkel's original analyses of the Nazi state<sup>9</sup> and his neopluralist democratic theory.<sup>10</sup> In this paper, however, I will focus on the relevance of his American studies.

I shall start by considering Fraenkel's concept of "Western Democracy" in the context of the new debate on German "westernization" that had begun ten years after unification. Next, I will examine more closely some of his biographical ties to the United States. Those ties lay the groundwork for the publications by Fraenkel on US politics. I argue that they became crucial for his later democratic

theory. The impact of his studies on American politics will be reconstructed in two steps. In the first step, I shall demonstrate the relevance of the concept of “political culture” in American politics. In the next step I argue that political culture has become central to Fraenkel’s pluralist group-approach as well. In the article’s last section, I will present a new reading of the methodological aspects in his political analyses, which originally appeared in his contributions to the study of American democracy.

## I. Ernst Fraenkel and the Normative Westernization of German Political Thought

For both Bergstraesser and Fraenkel, the exploration of American politics and society, as well as the report of their own political experiences in the United States, became a personal endeavor. Considering their efforts from today’s perspective, it is obvious that they each contributed to a very successful project. Germany today is seen as an integrated part of the west, economically, politically, and culturally.<sup>11</sup> There has recently been a debate in Germany about the adequate label for this process, discussing the terms “Americanization,” “westernization,” and “modernization.”<sup>12</sup> To some extent, this debate has a forerunner in reflections by Bergstraesser and Fraenkel forty years earlier; this debate warrants a brief discussion because it draws attention to fundamental questions of democratic theory and the methodology of political science.

In order to describe the political and cultural changes in West Germany after 1945, Bergstraesser<sup>13</sup> distinguished in 1963 between the terms “Americanization” and “modernization.” According to him, the term Americanization was too narrow since it included mainly attitudes and habits on the day-to-day level. The term modernization fits much better because it deals with general social structures. Bergstraesser’s characterization stood in stark contrast to Fraenkel’s terminological proposal. Three years earlier, Fraenkel, in an article called “*Deutschland und die westlichen Demokratien*,”<sup>14</sup> had come up with a different terminology. For him, neither modernization nor Americanization adequately described the changes in western Germany since 1945. The first term was too general, the second

simply misleading. He preferred the term “westernization” (“*Verwestlichung*”). But what is meant exactly by the term?

According to Fraenkel, any accurate understanding of the changes between 1945 and 1960 in Germany needed a political starting point. This starting point can be found in a particular ideal-type of political regimes, which Fraenkel coins “Western Democracy,”<sup>15</sup> a concept that emerged in the last third of the nineteenth century. It includes a particular set of basic norms (freedom, democracy, social justice) as well as institutional settings (such as parliamentary government, the rule of law, the division of powers, the pluralism of parties and interests groups). Western Democracy is a “symbiosis”<sup>16</sup> of complex historical elements that stem from different traditions and countries, such as North America, New Zealand, England, Scandinavia, France, and other countries. According to Fraenkel, Germany contributed to the concept of a developed Western Democracy in a very specific way: by being the first country to institutionalize social rights in the *Kaiserreich* and later in the Weimar Republic. Thus, it becomes clear why Fraenkel considered the term “Americanization” misleading. It does not take into account the extent to which the United States itself has just recently adopted norms and institutions from other democracies. The process of becoming a full-fledged Western Democracy in the United States was only completed through the implementation of social rights in the era of Franklin D. Roosevelt in the 1930s and 1940s. The process of becoming a Western Democracy is not only a political project; it is also a shared project of fruitful exchange of different countries, their institutions, and their traditions.

Alfons Söllner has recently coined Fraenkel’s contribution to the German political culture as “normative westernization.”<sup>17</sup> In this phrase, this concept of “westernization” can be seen as a forerunner for authors of the late 1980s who, like Jürgen Habermas, emphasized the political-normative aspects of the German “*Westbindung*.”<sup>18</sup> However, Fraenkel’s own contribution to this kind of westernization has had both practical and normative aspects. On the practical level, his permanent critique of the authoritarian political culture in the era of Konrad Adenauer’s chancellorship became very influential. On the normative level, Fraenkel formulated in his 1964 collection of essays, *Deutschland und die westlichen Demokratien*, a controversial

“neopluralist” democratic theory as an alternative to the dominant conservative and state-oriented paradigm in the German “*Staatsrecht*.” These controversies turned him into a major figure in the debate about the normative grounds of democracy in the Federal Republic. Finally, in the mid-1960s, his theory had become *the* classical self-interpretation of the Federal Republic. His democratic theory remains a classic in Germany, and excerpts of his essays are commonly used in textbooks until today.<sup>19</sup>

## II. American Experiences

Ernst Fraenkel was born in Cologne in 1898.<sup>20</sup> Raised in a liberal-left political environment sympathetic to the British political system, Fraenkel studied law and history in Frankfurt am Main with Hugo Sinzheimer. After completing his doctoral dissertation on labor law in 1923, Fraenkel soon became a leading lawyer for the German unions in the Weimar Republic and one of the era’s most promising socialist theorists.<sup>21</sup> His analysis and suggestions for a reform of the Weimar constitution were hotly debated by his contemporaries.

Fraenkel lost his jobs at the Social Democratic Party and the unions after Hitler came to power and the Nazi regime dissolved both the party and the unions. Whereas his friend Franz L. Neumann fled Germany right after May 1933, Fraenkel was able to stay in Berlin because he was an acknowledged veteran of the war and married to a non-Jewish wife. He was able to continue working as a lawyer for another five years, defending mainly Jews and political opponents of the new regime. In this period, he participated in the resistance movement and secretly wrote a lengthy critical analysis of the Nazi regime, which was later substantially revised and published in the United States under the title *The Dual State*.<sup>22</sup> After nearly six years of secret political opposition, Fraenkel and his wife Hanna fled Germany at the end of 1938.

Fraenkel was already forty when he flew from Berlin to England (where he stayed with his close friend and colleague, Otto Kahn-Freund), and later traveled by ship to New York City. The Fraenkels had some family ties in the United States; Fraenkel’s elder sister Marta, who had escaped to the United States in April 1938, lived in

New York, which eased their transition. Unlike her brother, Marta remained in the United States for the remainder of her life.<sup>23</sup> From New York, Fraenkel and his wife moved to Chicago, where he began his professional career anew. Due to a program specially tailored for German refugee law scholars, he attended the University of Chicago Law School for two and a half years, graduating in 1941.<sup>24</sup> Hanna earned the household income by working in factories and as a house cleaner for people from the large German community in Chicago. While studying for his law degree in Chicago, Fraenkel completed and revised his manuscript on the analysis of the Nazi regime, which had been smuggled out of Germany. Translated by Edward Shils, *The Dual State* immediately garnered very positive reviews upon its publication in the spring of 1941 in newspapers such as *The New York Times* and later in academic journals.

After his second course of study, Fraenkel took up short-term employment in a Washington DC law firm. He then began working with the American Federation of Jews from Central Europe, a Jewish organization assisting Jews refugees from Eastern Europe. At the same time, he took up an adjunct teaching position at the New School for Social Research in New York City. In the spring of 1944, he was hired by the Foreign Economic Administration (FEA) in Washington DC to develop outlines for an occupied Germany after the war in collaboration with the staff of the Research and Analysis Branch of the Office of Strategic Services (OSS). In his 1944 book *Military Occupation and the Rule of Law*, he described the case of the French occupational government in the Rhineland from 1918 to 1923 as a negative example of occupational regimes and one that the allies should avoid for Germany after their military victory.

When Fraenkel was hired by the FEA in 1944, he and his wife were almost simultaneously granted American citizenship. For both of them, this was much more than a formality. Letters written in the 1940s show how, during the war, at first his wife Hanna and then he himself became patriotic Americans.<sup>25</sup> From 1938 until 1944, Fraenkel's professional, political, and emotional ties to his new home deepened tremendously. During this period, his intellectual, political, professional, and day-to-day experiences became intertwined in a way, which makes it impossible to separate them in retrospect. In an autobiographical sketch from 1973, Fraenkel blamed himself for

not having withstood the temptation of uncritically subscribing to, as he labeled it, a “monomaniacal anti-capitalist theory of anti-fascism”<sup>26</sup> in *The Dual State*. Retrospectively, Fraenkel named his emigration experiences and the “Roosevelt revolution” in particular as the main reasons for his rejection from Marxism in the early 1940s.

After the war’s end, Fraenkel declined the offer to work in occupied Germany for the American administration. He criticized the western allies for not being tough enough against German Nazis.<sup>27</sup> He still hoped to work at an American university. But after another few months without any academic job possibilities, Fraenkel took a position with the US War Department in Korea as a legal adviser. During the period 1946-1950, he worked in different functions in Seoul, dealing with constitutional problems. Again, he took the opportunity to teach and gave classes at Seoul University on constitutional and international law. After the war broke out in Korea Fraenkel and his wife returned to the United States, where he became a consultant for education policy with the American High Commission for Germany (HICOG) in Berlin, the very center of the cold war, in April 1951. Fraenkel was paid by the US State Department and regularly gave reports to American agencies with his impressions on Berlin’s political situation.<sup>28</sup>

In his function as an American consultant, Fraenkel taught political science from 1951 to 1953 at the *Deutsche Hochschule für Politik* (DHfP) in the western sectors of Berlin. After two years, he quit and became a full-time professor for political science at DHfP. Fraenkel was already 55, but from this moment on, his academic career ascended quickly. He soon became the intellectual *spiritus rector* of the DHfP—later integrated as *Otto-Suhr-Institut* (OSI) into the Free University Berlin—and one of the main figures of the newly established discipline of political science in Western Germany.<sup>29</sup> The early and mid-1960s marked the peak of Fraenkel’s public life. His lectures were crowded, his speeches were printed and reprinted, and his books were broadly read. His neopluralist democratic theory and critique of the conservative view overemphasizing the state became the new paradigm in the normative self-description of the Federal Republic.

Those heydays, however, were short lived. In the late 1960s, Fraenkel became one of the early targets of the student protest

movement in Berlin. The conflict escalated increasingly, and different views about the United States and their foreign policy lay at the center of the conflict. Fraenkel was accused by his students of being uncritical about the dark sides of American society, such as race discrimination, and of being a supporter of "US imperialism." He, in turn, chastised the students for their lack of any basic understanding of American politics, comparing the young protesters to the Nazi-SA mob.<sup>30</sup> He became so involved in the political struggles and so upset by them that he suffered several heart attacks. At the end of his life, he grew deeply disappointed by the disrespect of a younger generation of more radical political scientists and was seriously concerned about the future of German democracy. He died in 1975, and his wife Hanna passed away only a few months later.

Although Fraenkel's late academic work mainly concerns his neo-pluralist democratic theory, I want to argue that his studies of American politics are of crucial importance for a full understanding of his political thinking. The emphasis Fraenkel placed on his work on US politics is illustrated by three points.

First, the continuity of his publications represents the main strand in Fraenkel's academic engagement with the United States. Between 1951 and 1970, these included a monograph on the American government and an edited volume on the history of political ideas mentioned above, as well as more than thirty-five articles on American politics and foreign policy.<sup>31</sup>

The second indicator is represented in Fraenkel's emphasis in teaching. Out of 102 courses he offered in Berlin from 1951 to 1969, twenty-eight dealt with American politics and culture. Among these were fourteen courses on American government or aspects thereof. Three courses dealt with American political theory, in particular *The Federalist Papers*. Seven courses covered aspects of American foreign policy. Therefore, nearly 30 percent of his teaching was devoted to American politics.

The third factor is Fraenkel's organizational efforts, which are best represented in his successful initiative for the establishment of the interdisciplinary Institute for American Studies in Berlin.<sup>32</sup> By the mid-1950s, Fraenkel had already suggested creating a separate institute dedicated to research on American politics and society. In a detailed 1961 proposal, he suggested that the Free University should

transform their philological Institute of American Language and Literature into an institute with “departments of American Literature, American history, American Government, American social and economic life.”<sup>33</sup> The senate of the Free University adopted his proposal and appointed him acting director. His efforts to push the organizational and administrative development of the institute were finally rewarded as the new institute was opened under the name of *John F. Kennedy Institut für Amerikastudien* on 28 January 1967, only a few weeks before Fraenkel retired from the university at the age of 68. His pride in the institute was tremendous. In his 1965 speech, “Civil Liberties in the USA and Germany,” he stated that the Free University of Berlin had become “the center of German research both in American studies and in political science. It is the only place in Germany where students can study comparative government systematically.”<sup>34</sup>

The long list of courses, his publications, and his initiative to establish the institute of American studies indicate the importance he placed on disseminating knowledge about the United States in the field of German political science. His interpretation of American politics, in particular his 1960 book, *Das amerikanische Regierungssystem*, which remained in print until 1990 in its fourth edition, was praised enthusiastically from the time of its publication by both US and German scholars. No commentator so far has connected this work to his late democratic theory. Thus, I will try to reconstruct this connection both on the level of material analysis and methodology.

### III. Judicial Self-Restraint and Political Culture

Fraenkel’s studies on American politics are especially illuminating with regard to a specific question: What kind of solution does Fraenkel envisage to the problem of conflicting political institutions in modern democracies, which might endanger the goal of pluralistic democratic theory, namely politics and policies guided by the common good? I will sketch his solution to this problem by using the example of the doctrine of “judicial self-restraint” as employed by the US Supreme Court.

The example is taken from Fraenkel’s early article “*Das richterliche Prüfungsrecht in den Vereinigten Staaten von Amerika*” (“Judicial Review

in the United States of America”), originally given as a talk in 1951 at the law school in his hometown, Cologne. The article, published in 1953 in the renowned German law journal, *Jahrbuch des öffentlichen Rechts*, represented Fraenkel’s first contribution to German constitutional law. It provides a detailed compendium on the development of judicial review of the US Supreme Court. Thereby, he tried to influence the German debate on these issues that was ongoing at the time. He supported his own theses by referring to cases dealing with labor law, strikes, and unionization, thus carrying through his emphasis on issues of labor law during his years as a union lawyer in the Weimar Republic.

Fraenkel distinguished two periods in the development of American federal regulations. During the first period of “laissez-faire,” which stretched from the state’s founding to the 1930s, the government refrained from active interference in labor issues. In contrast, during the second period—the democratic welfare state under Roosevelt—the government actively regulated labor law. From the perspective of the question spelled out above, the role of the Supreme Court at the transition between laissez-faire and the welfare state becomes the key problem.

Since its first act of judicial review in 1803, the Supreme Court had stopped all attempts by the federal government to pass laws regulating labor, the economy, and welfare. The reasoning went that these laws were unconstitutional because they violated the individual right to property—a right that the federal government had no authority to interfere with in order to protect employees or regulate economic activity. Additionally, the federal government had no authorization to pass laws obliging states to take action in these matters. Fraenkel described the situation resulting from the traditional federal abstinence from labor regulations after the depression of 1929. The crisis deepened, and as the number of unemployed persons surpassed 14 million, the United States faced the vital question of whether such an economic ideology, raised to the status of constitutional doctrine, was still acceptable to the majority of the population in a democracy based on popular sovereignty. According to Fraenkel, the Supreme Court had become foreign to the democratic institutions and had effectively made itself the tool of a capitalist financial elite by 1929.

For the problem raised above, Fraenkel's description of the transformation of constitutional doctrines has a key function. While almost all European democracies fell after the 1929 depression, the United States managed to adapt to the new economic and social circumstances. One centerpiece of this shift—the legal reorientation of the Supreme Court—was, according to Fraenkel, a paradigmatic model for more areas than just labor law and the welfare state. As we have seen, the United States found itself in a dilemma comparable to the recent constellation of EU welfare regulations. Even if welfare reforms were possible within a single state, the inevitable “race to the bottom” caused by the competition within the region would eradicate such efforts. Federal regulation, which had not been permitted under the US Constitution, proved the only way out. Franklin D. Roosevelt and the US Congress, however, tried to circumvent this constitutional prohibition by referring to the “interstate commerce” clause in Art.1, Sec. 8 of the US Constitution.

This clause had originally not been intended to permit such regulations, and this new interpretation was consequently highly controversial. Fraenkel agreed with the political goals of the new decisions. He even recognized many parallels to the welfare regulations of the Weimar Republic and especially to the Weimar labor law that he had helped to form. According to Fraenkel, the new US theory of labor law was akin to the one developed by Hugo Sinzheimer in his path breaking articles on Weimar labor law.<sup>35</sup> Roosevelt's legislation had represented a “peaceful revolution,” Fraenkel stated, which transformed the US Constitution “from a constitution against labor law into the basic law of a democratic welfare state.”<sup>36</sup>

In his piece, Fraenkel not only agreed with the material aspects of the Supreme Court shift but also with the main constitutional arguments. Almost euphorically, he described how the new generation of Supreme Court justices, most prominently Louis Brandeis and Oliver W. Holmes, adapted the Constitution to the new social and economic situation. The crucial legal argument for the validation of Roosevelt's federal laws was the doctrine of “judicial self-restraint.” First formulated by Justice Holmes, this doctrine holds the continuing political discussion about the interpretation of the interstate commerce clause should restrain the justices from prescribing one binding interpretation. Supreme Court justices are neither qualified

nor authorized to decide on matters of political debate. Instead, they should leave such decisions up to the democratically elected legislature and executive. An independent judiciary that is not directly elected cannot and should not take the responsibility for political decisions away from the democratically elected bodies. The Supreme Court consequently refrained from acting as the sole interpreter of the Constitution and left the laws in place.

In the Weimar Republic, Fraenkel had always opposed attempts to strengthen the powers of the civil service, the second chamber, the highest courts, or even the president at the expense of parliamentary sovereignty.<sup>37</sup> Only the new Supreme Court doctrine of judicial self-restraint could reconcile Fraenkel with the institution of a powerful constitutional court: “the attitude of the Holmes-Brandeis-School towards judicial review, which is based on critical modesty ... implies a higher degree of justice towards the legislative and a lower degree of self-righteousness of the judiciary.”<sup>38</sup>

The point germane to my argument is that the doctrine of judicial self-restraint asks judges to actively refrain from using their judicial authority in certain special cases. Such an abstention presupposes not only a good sense of judgment and restraint, but also the virtue of modesty. Fraenkel considered judicial self-restraint as a model for a political culture of elites who, unlike Kant’s “devils” or the Federalists’ “wolves,” do not overreact in conflicts between democratic institutions under the conditions of separation of powers.

Examples abound in Fraenkel’s analysis of the American political system in which political culture turns out to be crucial for the survival of democracy. Other cases are parliamentary investigations or the relation between civil and military powers.<sup>39</sup> In addition, his appreciation of the significance of elites’ political culture is not only obvious in his work on the United States but also in his other writings. The example of judicial self-restraint illustrates the relevance of political culture in Fraenkel’s reading of the American political system. According to him, there is a necessary connection between judicial review on the institutional level and a particular political culture on the habitual level. An appropriate political culture is irreplaceable for democracies.

## **IV. Identity Politics and the Pluralistic Group Approach**

Political culture is a product of history formed by the experiences of groups and individuals over time. In the following, I argue that the concept of a historically developed political culture is the key category in Fraenkel's overall approach to politics. First, I will give his concept of pluralistic groups a "cultural reading." This interpretation is quite different from the traditional liberal reading of interest-group politics.

Groups form the central category of Fraenkel's theory of neopluralism. His concept of pluralistic groups is rooted in his rich experiences with collective labor relations in the Weimar Republic. Independent negotiations between employers and employees and their right to organize voluntarily lie at the heart of his concept of a "collective" or "dialectic" democracy. The literature on the role of groups in Fraenkel's later theory of neopluralism regularly refers to the connection between this concept and his earlier work in the Weimar Republic; however, it usually neglects the additional point I would like to make here—namely, the role of political culture. The group concept in Fraenkel's theory of neopluralism is always portrayed as rationalized and benefit-oriented.<sup>40</sup> It can be called "interest-based" pluralism. According to this idea, modern mass societies render the individual articulation and pursuit of one's interests unreasonable or futile. The associations and organizations forming to fill this gap then articulate and represent the bundled interests of their members. This variant of pluralism presupposes that individuals having certain preferences connect to other persons only to pursue their own interests. Therefore, this theory of pluralism is benefit-oriented: the goals and motives of the collective actors do not extend beyond the maximization of individual interests.

Such a rational-choice interpretation of Fraenkel's work relies on passages in his writings in which he describes human beings as guided by preferences and interests—thereby he merely tries to disconnect the notion of interests from its negative connotations. But his notion of groups contains an important feature that goes beyond the mere collective representation of interests. This is the aspect of group identity, which I will refer to as identity-based pluralism.

Not by accident, first hints of a group identity approach to neo-pluralism can be found in Fraenkel's studies on American politics. His 1957 booklet, *USA–Weltmacht wider Willen (USA–Superpower against Her Will)*, provides an example. In this piece, Fraenkel stated that the common image of the United States as a “melting pot” is wrong and grossly misleading. The American nation “has not been formed by a mechanical process of melting,” but by a “piecemeal process of integration into the ‘American way of life’”—and is thus “much rather a pluralistic society than a mass society.”<sup>41</sup> Many of these groups are defined by ethnic or religious bonds. Or, to take another example, in his book on the American government, Fraenkel led the phenomenon of independent and autonomous groups back to the concept of internal autonomy of the church as proposed by Roger Williams, the founder of the colony of Rhode Island.<sup>42</sup> According to Fraenkel, the need to facilitate “the coexistence of different sects” has been the primary impulse for the American constitution.<sup>43</sup> The waves of immigration then led to a further differentiation of this religious pluralism and transformed it into both a religious and an ethnic pluralism. One final example can be found in his article “*Die Diktatur des Parlaments*” (“The Dictatorship of Parliament”), in which Fraenkel praised the “religiously, ethnically, and racially diffuse multi-nation-state”<sup>44</sup> in contrast to the less desirable model of the nation-state defined by ethnic bonds as in Germany.<sup>45</sup>

Less relevant in the context of my paper is the trivial observation that the United States is composed of many distinct groups. Rather, I wish to draw attention to the way in which Fraenkel describes and assesses this phenomenon. From this perspective, his critical comments on the situation of African-Americans prove especially illuminating. Fraenkel criticizes the ongoing discrimination of blacks, and he, unlike Hannah Arendt in her famous piece “Little Rock,”<sup>46</sup> unconditionally supported the civil rights movement and the measures taken by the federal government against the southern states in the late 1950s.<sup>47</sup> But even if legal equality for African-Americans can be achieved in the fields of education and voting rights, the main problems in Fraenkel's view remained unsolved. Actual equality, Fraenkel demands, means recognizing African-Americans as one group among others in the system of “checks and balances”; it presupposes granting them collective cultural rights. “Emancipation is

only complete if not the individual black but, according to the heterogeneous character of the US population as a whole, the black population as a minority group is accepted as equal.”<sup>48</sup>

These four examples show that Fraenkel’s concept of pluralism reaches far beyond the model of rational aggregation of interests. Instead, it contains the dimension of recognizing different forms of social and cultural life. Fraenkel thought of autonomous groups as collective entities comprised of individuals who are not only maximizing their benefits. Rather, these persons also have distinct cultural identities and need to relate to each other in order not to become isolated in modern mass societies. The famous “Logic of Collective Action,” as raised by Mancur Olson thus does not apply as much to Fraenkel’s groups as to the benefit-maximizing theories of pluralism by Arthur F. Bentley and David Truman. His groups contain more than the sum of their members’ interests. These groups also represent collective identities and the fight for public recognition of their culture.

With the background of Fraenkel’s group-identity dimension in his writings on the United States, central passages of his collection *Deutschland und die westlichen Demokratien* reveal previously unacknowledged aspects. First, he expresses the notion that pluralistic democracy does not mean pluralism of bureaucratic bodies but pluralism of autonomous groups. These groups are characterized by three essential features: first, a common interest of the group members; second, a stable group identity; and third, pride in their membership by the group members.<sup>49</sup> Such groups should not only be granted autonomy by the state, he argued, but they should also “be endowed with dignity and be respected by society at large.”<sup>50</sup>

Second, Fraenkel argues that pluralism not only includes manifold interests but also the “awareness of difference.”<sup>51</sup> As long as the heterogeneous nature of society is not accepted or the realization of it disappears, the society is in danger of drifting towards a totalitarianism of amorphous masses. A pluralistic democracy must not only tolerate diverse opinions; rather, in a pluralistic democracy, “the principle of toleration needs to be proclaimed toward all diverse groups.”<sup>52</sup>

Finally, there is Fraenkel’s definition of the common good: it does not only include the objective criterion of a just order but also the

normative criterion that a measure cannot be accepted as just “if one important group feels it is being gravely mistreated.”<sup>53</sup>

I see a biographical root in the dimension of group identity in his neopluralist theory. In the brief autobiographical article from 1973 noted above, Fraenkel described how he had been discriminated against because he, as the son of wealthy, educated Rhinelanders, had belonged to the Jewish minority. His comments on this experience can be found in an autobiographical note: “The problem of group membership, which is so closely related to the phenomenon of pluralism, has been my political key experience.”<sup>54</sup> Twenty years later, while working for the American Federation of Jews from Central Europe in 1942, Fraenkel gained valuable insights into a different model for dealing with minorities, especially with the Jewish minority. The federation assisted Jewish refugees from Central and Eastern Europe, and arranged contacts with Jewish communities and organizations in the United States. Thus, the refugees would not only survive but also preserve their Jewish identity. In Fraenkel’s view, it was an admiring fact that Justice Brandeis could not be acknowledged only as the speaker for the Jewish community (and therefore be “the most famous American Jew”<sup>55</sup>) but could also remain one of the leading Supreme Court Justices. This admiration illustrates the contrast of his American experience with the contradictory mixture of exclusion and pressure to assimilate that Jews had experienced in the Weimar Republic.

## **V. The Study of American Politics as a Methodological Paradigm**

In the previous section, I attempted to give Fraenkel’s understanding of pluralistic groups a “cultural reading” that separates it from the standard liberal theory of interest-group pluralism. In this section, I want to extend my emphasis of the cultural elements in his overall approach to the methodology he employed as a political scientist. In particular, I want to make a connection between the cultural context of political institutions on the one hand and a hermeneutic and holistic approach to their study on the other. In this respect, Fraenkel’s approach stands again in stark contrast to today’s mainstream political science.

In his speech at the opening ceremony of the *Otto-Suhr-Institut* in Berlin in May 1962, Fraenkel proclaimed that the new discipline of political science represented a „specialized academic discipline” with a „research method of its own.”<sup>56</sup> He labeled this method in German with the term “*Integrationswissenschaft*,” a term broadly translated as “integrating science.” Most of his colleagues in Berlin and other parts of West Germany followed him and adopted this term.

As on the material level, Fraenkel’s first methodological reflections can be found in his writings on American politics. In the 1950s, he was still unsure about how to label the research method of political science. He first used the terms “synthesis”<sup>57</sup> and “combined science.”<sup>58</sup> His search for a proper term ended in 1960, when he used the term “integrating science” in his book *Das Amerikanische Regierungssystem*.

It is interesting to reconstruct the way Fraenkel developed this methodological approach. To some degree, he continued a line of reasoning introduced in his articles in 1953 and 1954. In these articles—on US judicial review and congressional committees—he warned against trying to understand American phenomena through the application of German legal terms and thinking because of the fundamental differences between the two countries’ constitutional laws and legal theories. The congressional hearings as used in the McCarthy era, for example, contain elements of parliamentary action that are completely foreign to German and continental legal thinking.<sup>59</sup> In order to understand these phenomena, any reference to the text of the US Constitution is at best misleading. If one were to compare the German, British, and American parliamentary right to investigation and were confined to looking into the laws on the books, the results would necessarily be meaningless.

Instead, Fraenkel proposed to take Hermann Heller’s concept of a hermeneutic social science as the point of departure. In his book *Staatslehre*, published posthumously in 1934, Heller had referred to the concept of *Gestalt* as an alternative to Max Weber’s concept of types. Fraenkel followed this approach. In order to illustrate its advantages, he used the example of music. A melody cannot be transposed by tearing it apart and putting the pieces together, he explains. Rather, it has to be taken as a complete unit and must therefore be transposed as a whole.<sup>60</sup> According to Fraenkel, the same applies to political phenomena. They, too, can only be grasped

in their quality as a *Gestalt*. For any understanding of the *Gestalt* of a foreign legal and political order, deep hermeneutic efforts are necessary. Accordingly, he claimed that political scientists must conduct intensive studies in the relevant countries before they are able to understand their particular political phenomena. This is clearly a polemic against Carl Schmitt, who had harshly criticized the US Supreme Court in his book *Der Hüter der Verfassung*<sup>61</sup> without having any first-hand experience at all with American politics and society.

The concept of *Gestalt* is central to Fraenkel's understanding of "integrating science" in his book *Das Amerikanische Regierungssystem*: "As an integrating science, political science is concerned with comprehending the *Gestalt* of a political system and its specific features as a product of historical development, as a legal order and social reality; and further with uncovering the dominating values and opinions guiding the actions of the political elites."<sup>62</sup> Each political system has to be studied in its own historical development. Accordingly, Fraenkel identifies historical studies as the discipline most closely related to political science. History, he proclaims, forms the basis of political science, while he finds political sociology, for example, far less fundamental.<sup>63</sup>

Fraenkel's criticism was directed against what he called ahistoric definitions. Thus he marked a methodological line between his studies in political science on the one hand and normative legal theory, as well as standardizing empirical sociology, on the other. Analyses in political science lead to the insight that seemingly universal terms only cover very specific features of a political system or of a political culture. Political science as a discipline should accordingly beware of artificially complicating its understanding of foreign political systems by uncritically relying on seemingly universal axioms from legal theory or generalizations from sociology.<sup>64</sup> Instead, Fraenkel proposed as the basic law of political science that „unless the opposite is proven,“ we should “start with the assumption that even institutions and systems that have been copied from one state to another differ remarkably from each other because they are embedded in institutional settings of different political systems.”<sup>65</sup>

The tradition in which Fraenkel placed his methodological approach and Hermann Heller's usage of the *Gestalt* concept becomes more apparent if we consider some other terms he used to character-

ize his method, for example, “creative synthesis,”<sup>66</sup> “dialectic synthesis,”<sup>67</sup> “synthetic description,”<sup>68</sup> and “synoptic observation.”<sup>69</sup> Synthesis and synopsis were key terms used by proponents of a comprehensive orientation within the German social sciences during a debate in the 1920s. Among the advocates of this project were divergent authors, such as Max Scheler, Alfred Weber, Hans Freyer, Karl-Heinrich Becker, Leopold Ziegler, and Oskar Spengler. Karl Mannheim and Max Horkheimer, who used the term “totality,” also belong to this group.<sup>70</sup> These demands for *Zusammenschau*, *Ganzheitlichkeit*, totality, synopsis, and synthesis articulated the call for a holistic research method. According to Peter Gay, these pleas reveal the more fundamental feeling of uneasiness caused by the increasingly empirical and specializing mainstream of the social sciences in Weimar Germany.<sup>71</sup>

## VI. Conclusion: From Mediation to Synthesis

In sum, the main points that have been made in this article are the following four. First, Fraenkel identified very closely with the country that had granted him citizenship in 1944. He saw himself as an American with the special mission of introducing the richness and complexity of the American political system to his German students and readership. Second, “political culture” turns out to be a key category for a comprehensive understanding Fraenkel’s numerous writings on American politics. Third, his concept of pluralistic groups is essentially inspired by the factor of culture. This notion of groups contains the dimension of group identity, thus going beyond the image of groups as purely representing interests. And finally, Fraenkel’s writings on American politics contain the methodological paradigm of his concept of political science as an “integrating science.”

This interpretation of his work leads to some general observations of Fraenkel’s role in early West German political science. As mentioned in the introduction, Fraenkel was only one in a larger group of legal theorists and social scientists who fled Germany after 1933. The group of emigrants was quite diverse, from the perspective of their intellectual heritages, their political positions, the countries to which they could immigrate, their professional careers in

their new home, and the ways they experienced the political systems of the countries that took them in. Even within the small group of legal theorists and social scientists who escaped to the United States, one can find a high degree of diversity. Despite the consensus with respect to their positive views of the American political system, some of them became acculturated very quickly and decided to remain in the United States, whereas others felt estranged and tried to return to Germany.

Fraenkel's position in this group is difficult to locate. On the one hand, he became an enthusiastic supporter of American democracy. On the other, his thinking was deeply rooted in German political categories and a holistic methodology. I think that this amalgamation makes his writings special when compared with the work of most of his contemporaries. His complex position in this picture leads back to his concept of "Western Democracy" and "westernization" mentioned in the first section. The parallels are obvious: in both cases, Fraenkel tried to connect different traditions in order to come to a fruitful synthesis. Fraenkel was able to develop his specific concept of westernization as a symbiotic process due to his self-understanding as a mediator between his German roots and new American influences.

He saw himself as a mediator between the two continents. His portrait of Carl Schurz, sketched in a speech on 3 February 1953 in Berlin,<sup>72</sup> reveals both his vision of an immigrant life and a self-description. Schurz had emigrated from Germany after the unsuccessful revolution of 1848 and later became US Secretary of the Interior. But according to Fraenkel's reading of his biography, Schurz had never given in to the common temptation of the immigrants, either glorifying the former home country or magnifying the new home. Rather, Schurz had always tried to push reforms, introduce institutions he had experienced positively, and utilize the knowledge he had gathered in the different political contexts. In his praise of Schurz, Fraenkel expressed his own ideal of a political life between two cultures. He repeatedly emphasized that he saw himself as an American citizen first and foremost. Until the end of his life, he played the role of an "American in Berlin."<sup>73</sup>

But his role as a mediator increasingly became critical with the changes in American politics after the Kennedy era. Fraenkel was

fully aware and critical of these changes, as letters to close friends of the time reveal.<sup>74</sup> But he considered his loyalty to the United States so important that he did not dare to publicly criticize even the American war in Vietnam. He only voiced criticism in small private discussions. In view of a younger generation of German political scientists, Fraenkel changed in his last decade of his life from a mediator to a propagandist.

After nearly thirty years after his death, two additional conclusions can be drawn through a brief glimpse at Fraenkel's work on American politics. First, his contributions to the study of American democracy leave his entire late work in a paradoxical position between two formative traditions: on the one hand, his democratic optimism was strongly influenced by his American experience; on the other, his work can be understood on the methodological level only within the context of his Weimar years. And second, Fraenkel's work is still of current relevance. The reading I presented of his neopluralist democratic theory differs from the dominant interest-aggregation approach. Instead, I strengthened the factor of group-identity in his approach. Applied to the literature on civil society, the debates on multiculturalism, the question of group rights, or the recent revival of a broader notion of recognition<sup>75</sup> such a reading brings Fraenkel much closer to contemporary debates in political theory.

## Notes

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Franz L. Neumann, "The Social Sciences," *The Cultural Migration. The European Scholar in America*, Rex Crawford, ed. (Philadelphia, 1953), 4-26. For a discussion of Neumann's experiences see Alfons Söllner, "Franz L. Neumann's Place in the History of Political Thought," *Jahrbuch Politisches Denken* (2002): 97-110, and David Kettler, "Exil goes to College. Franz L. Neumann and the 'Cultural Emigration,'" *Contested Legacies. The German-Speaking Intellectual and Cultural Emigration to the United States and the United Kingdom, 1933-45* (Bard College, 2002), 31-34.

2. For a complete list of this group see Alfons Söllner, *Deutsche Politikwissenschaftler in der Emigration* (Opladen, 1996); quoted here 289.
3. See Dan Diner, *Verkehrte Welten. Antiamerikanismus in Deutschland* (Frankfurt/M., 1993).

Ernst Fraenkel documented the most important statements of this negative tradition in a volume: Ernst Fraenkel, ed., *Amerika im Spiegel des deutschen politischen Denkens* (Cologne and Opladen, 1959).
4. For a discussion of the different factors which led to the process of political acculturation among émigré political scientists see Söllner (see note 2), 5-30.
5. For a political biography of Bergstraesser, who sympathized with the rightist "Nationale Revolution" in the thirties, see Horst Schmitt, *Politikwissenschaft und freiheitliche Demokratie* (Baden-Baden, 1995).
6. See his inaugural address, Arnold Bergstraesser, "Amerikastudien als Problem der Forschung und Lehre," *Politik in Wissenschaft und Bildung* (Freiburg, 1966), 191-200.
7. Ernst Fraenkel, "Das amerikanische Regierungssystem," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 441-834.
8. Ernst Fraenkel, *Amerika im Spiegel des deutschen politischen Denkens*, Ernst Fraenkel, ed. (Cologne and Opladen, 1959).
9. Ernst Fraenkel, *The Dual State. A Contribution to the Theory of Dictatorship* (New York, 1941).
10. These essays are collected in Ernst Fraenkel, "Deutschland und die westlichen Demokratien," *Deutschland und die westlichen Demokratien* (Frankfurt/M., 1990), which was first published in 1964.
11. For a summary of this process see Axel Schildt, *Ankunft im Westen* (Frankfurt/M., 1999).
12. For an overview on this debate see Anselm Doering-Manteuffel, *Wie westlich sind die Deutschen? Amerikanisierung und Westernisierung im 20. Jahrhundert* (Göttingen, 1999), and Walter Reese-Schäfer, "Das Paradigma der Amerikanisierung und die politische Kultur der Bundesrepublik," *Demokratie und Politik in der Bundesrepublik Deutschland 1949-99*, Ulrich Willems, ed. (Opladen, 2001), 63-84.
13. Arnold Bergstraesser, "Zum Problem der sogenannten Amerikanisierung Deutschlands," *Jahrbuch für Amerikastudien* 8 (1963): 13-23.
14. Fraenkel (see note 10), 48-67.
15. For a more detailed discussion of Fraenkel's concept of Western Democracy see Hubertus Buchstein, *Politikwissenschaft und Demokratie* (Baden-Baden, 1992); here 244-46.
16. Fraenkel (see note 10), 51.
17. Söllner describes Fraenkel's role in this process as crucial; Alfons Söllner, "Normative Verwestlichung. Der Einfluss der Remigranten auf die politische Kultur der frühen Bundesrepublik," *Westbindungen. Amerika in der Bundesrepublik*, Heinz Bude and Bernd Greiner, eds. (Marburg, 1999), 72-92. For a similar view of Fraenkel's role see Kurt Sontheimer, *So war Deutschland nie. Anmerkungen zur politischen Kultur der Bundesrepublik* (Munich, 1999), 72-74. A more general reading of the "long and winding road to the west" in German history after WWII is given by Fraenkel's former student Heinrich August Winkler, *Der lange Weg nach Westen. Volume 2* (Munich, 2000).

18. See Jürgen Habermas, "Geschichtsbewusstsein und posttraditionale Identität. Die Westorientierung der Bundesrepublik," *Eine Art Schadensabwicklung* (Frankfurt/M., 1987), 159-78.
19. See Eberhard Jesse, *Die Demokratie der Bundesrepublik Deutschland* (Baden-Baden, 1997), 57. Winfried Brugger, "Theorie und Verfassung des Pluralismus. Zur Legitimation des Grundgesetzes in Anschluß an Ernst Fraenkel," *Liberalismus, Pluralismus und Kommunitarismus*, Winfried Brugger, ed. (Baden-Baden, 1999), 220-52. Wilhelm Bleek and Kurt Sontheimer, *Grundzüge des politischen Systems der Bundesrepublik Deutschland* (Munich, 2002), 182. Manfred G. Schmidt, *Demokratietheorien* (Opladen, 2000), 230-40. For the official criticism of Fraenkel from the former GDR see Arno Winkler, *Pluralismus. 'Modell' der Konterrevolution* (Berlin [East], 1982), 24.
20. For a brief overview of Fraenkel's life and work see Susanne Benzler, "Aufgeklärtes Staatsrecht—Ernst Fraenkel," *Judentum und Politische Existenz*, Michael Buckmiller, Dietrich Heimann and Joachim Perels, eds. (Hanover, 2000), 327-60. For more details see the various contributions in Gerhard Göhler and Hubertus Buchstein, eds., *Vom Sozialismus zum Pluralismus. Beiträge zu Werk und Leben Ernst Fraenkels* (Baden-Baden, 2000).
21. His Weimar writings are collected in volume one of his Collected Works. For Fraenkel's position within the context of Weimar legal and democratic thinking, see Hubertus Buchstein, "Von Max Adler zu Ernst Fraenkel. Demokratie und pluralistische Gesellschaft in der sozialistischen Demokratietheorie der Weimarer Republik," *Demokratisches Denken in der Weimarer Republik*, Christoph Gusy, ed. (Baden-Baden, 2000), 534-607. A recent American interpretation of Fraenkel's Weimar oeuvre is given by William E. Scheuerman, "Social Democracy and the Rule of Law—The Legacy of Ernst Fraenkel," *From Liberal Democracy to Fascism*, Peter C. Caldwell and William Scheuerman, eds. (Boston, 2000), 74-105.
22. Fraenkel (see note 9). The original manuscript of 1938 was recently found and got published in the second volume of his *Gesammelte Schriften*.
23. For a biography of Marta Fraenkel, see Susanne Aschenbrenner, *Marta Fraenkel. Ärztin, Museumspädagogin und Public Health Officer* (PhD dissertation, Aachen, 2000). Her personal papers are located in the Leo Baeck Institute, New York City.
24. Fraenkel's years in the United States are described in more detail by Gerhard Göhler and Dirk Rüdiger Schumann, "Vorwort," *Ernst Fraenkel, Gesammelte Schriften. Volume #2* (Baden-Baden, 1999), 9-49; here quoted 10-33. On the circumstances of his application to Chicago and the course-program see Simone Ladwig-Winters, "Ernst Fraenkel als Stipendiat des American Committee in Chicago," *Vom Sozialismus zum Pluralismus. Beiträge zu Werk und Leben Ernst Fraenkels*, Gerhard Göhler and Hubertus Buchstein, eds. (Baden-Baden, 2000), 43-62.
25. Some of these letters are published in volume three of his Collected Works.
26. Ernst Fraenkel, "Anstatt einer Vorrede," *Ernst Fraenkel, Gesammelte Schriften. Volume 1*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 1999), 55-68; quoted here 68. All original German quotes by Fraenkel in this paper are translated by the author.
27. See Göhler and Schumann (note 24), 16.
28. Some of these reports are published in volume three of his Collected Works.
29. See Wilhelm Bleek, *Geschichte der Politikwissenschaft in Deutschland* (Munich, 2001); quoted here 280.

30. For a detailed and sensitive interpretation of this conflict see Rudolf Wolfgang Müller, "... wenn es morgens um sechs klingelte, war es der Milchmann". Ernst Fraenkel und die West-Berliner Studentenbewegung 1967," *Vom Sozialismus zum Pluralismus. Beiträge zu Werk und Leben Ernst Fraenkels*, Gerhard Göhler and Hubertus Buchstein, eds. (Baden-Baden, 2000), 97-114.
31. Volume four of Fraenkel's Collected Works contains most of his writings about America.
32. On Fraenkel's role in the foundation of the John F. Kennedy Institute for American Studies see Winfried Fluck, *Ernst Fraenkel und das Amerika-Institut der Freien Universität Berlin* (Berlin, 1996), and Hubertus Buchstein and Rainer Kühn, "Vorwort," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 7-47; quoted here 15-17.
33. See the "Memorandum über die künftige Ausgestaltung des Amerika-Instituts" ("Memorandum on the future structure of the department of American studies" by Fraenkel of 29 July 1961. *FU Berlin, Archive of the Otto-Suhr Institut*, Persona File E. Fraenkel.
34. Ernst Fraenkel, "Civil Liberties in the USA and Germany," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 921-31; quoted here 930.
35. See Ernst Fraenkel, "Das richterliche Prüfungsrecht in den Vereinigten Staaten von Amerika," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 49-141; quoted here 122.
36. Fraenkel (see note 35), 124. Original emphasis.
37. See Buchstein (see note 21), 590.
38. Fraenkel (see note 35), 136.
39. Ernst Fraenkel, "Diktatur des Parlaments? Parlamentarische Untersuchungsausschüsse, Öffentliche Meinung und Schutz der Freiheitsrechte," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 189-224. Ernst Fraenkel, "Das Verhältnis der zivilen und militärischen Gewalt in USA," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 278-306.
40. This line of interpretation is still dominant both by friends and foes. See for example Kurt Sontheimer, "Der Pluralismus und seine Kritiker," *Klassenjustiz und Pluralismus*, Günter Doeker and Winfried Steffani, eds. (Hamburg, 1973), 425-43. Hans Kremendahl, *Pluralismustheorie in Deutschland* (Leverkusen, 1977). Eckhard Jesse, "Pluralismustheorie ohne demokratische Alternative," *Neue Politische Literatur* 24 (1979): 145-63. Franz Lehner, "Ideologie und Wirklichkeit. Anmerkungen zur Pluralismuskritik in Deutschland," *Der Staat* 24 (1985): 91-100. Werner Reutter, *Korporatismustheorien. Kritik, Vergleich, Perspektiven* (Frankfurt/M., 1991). Claus Offe, "Wessen Wohl ist das Gemeinwohl?," *Gemeinwohl und Gemeinsinn. Volume 2*, Herfried Münkler and Karsten Fischer, eds. (Berlin, 2002), 55-76.
41. Ernst Fraenkel, "USA - Weltmacht wider Willen," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 225-59; quoted here 229.
42. Fraenkel (see note 7), 467.
43. *Ibid.*, 645.
44. Fraenkel (see note 39), 233.

45. For Fraenkel's distinction between the models of the ethnically-linguistically integrated state and the politically integrated state see Ernst Fraenkel, "Der amerikanische Beitrag zur Neugestaltung der zwischenstaatlichen Ordnung," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 967-78; quoted here 969.
46. See Arendt, Hannah, "Reflections on Little Rock," *Dissent* 6 no. 1 (winter 1959): 45-56.
47. To Fraenkel, the situation of African-Americans was the most pressing problem in the United States; see Fraenkel (see note 7), 635-37.
48. *Ibid.*, 637.
49. Ernst Fraenkel, "Strukturdefekte der Demokratie und deren Überwindung," *Deutschland und die westlichen Demokratien* (Frankfurt/M., 1990), 68-95; quoted here 92.
50. Ernst Fraenkel, "Akademische Erziehung und politische Berufe," *Reformismus und Pluralismus*, Ernst Fraenkel, ed. (Hamburg, 1973), 315-36; quoted here 319.
51. Ernst Fraenkel, "Die ordnungspolitische Bedeutung der Verbände im demokratischen Rechtsstaat," *Deutschland und die westlichen Demokratien* (Frankfurt/M., 1990), 277-96; quoted here 292.
52. Ernst Fraenkel, "Universitas litterarum und pluralistische Demokratie," *Reformismus und Pluralismus* (Hamburg, 1973), 354-68; quoted here 363.
53. Ernst Fraenkel, "Historische Vorbelastungen des deutschen Parlamentarismus," *Deutschland und die westlichen Demokratien* (Frankfurt/M., 1990), 23-47; quoted here 34.
54. Ernst Fraenkel "Anstatt einer Vorrede," *Ernst Fraenkel, Gesammelte Schriften. Volume 1*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 1999), 55-68; quoted here 58.
55. Ernst Fraenkel, "Louis Brandeis - Reformator der Demokratie," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 260-268; quoted here 267.
56. Ernst Fraenkel, "Öffentliche Meinung und internationale Politik," *Reihe Recht und Staat* issue 255/256 (1962): 8.
57. Fraenkel (see note 50), 334.
58. Ernst Fraenkel, "Otto Suhr zum Gedächtnis," *Zeitschrift für Politik* 4 (1957): 333-47; quoted here 397.
59. Fraenkel (see note 39), 200.
60. Fraenkel (see note 35), 63.
61. See Carl Schmitt, *Der Hüter der Verfassung* (Berlin, 1985), 13.
62. Fraenkel (see note 7), 451.
63. *Ibid.*, 450.
64. *Ibid.*, 732.
65. *Ibid.*, 733.
66. Fraenkel (see note 50), 334.
67. Fraenkel (see note 58), 346.
68. Ernst Fraenkel and Otto Heinrich von der Gablentz, "Wissenschaft von der Politik," *Staat und Politik*, Ernst Fraenkel and Karl Dietrich Bracher, eds. (Frankfurt/M., 1959), 345-50; quoted here 349.
69. Ernst Fraenkel, "Die Wissenschaft von der Politik und die Gesellschaft," *Die Wissenschaften und die Gesellschaft* (Berlin, 1963), 89-104; quoted here 94.

70. For these holistic concepts of research and their proponents during the time of the Weimar Republic see Hauke Brunkhorst, *Der Intellektuelle im Land der Mandarine* (Frankfurt/M., 1987), and Peter Gay, *Die Republik der Außenseiter. Geist und Kultur in der Weimarer Zeit* (Frankfurt/M., 1987), 99-137.
71. See Gay (see note 70), 112.
72. See Ernst Fraenkel, "Leben und Werk von Carl Schurz," *Ernst Fraenkel, Gesammelte Schriften. Volume 4*, Hubertus Buchstein and Rainer Kühn, eds. (Baden-Baden, 2000), 142-49.
73. For further—sometimes strange—traits of Fraenkel stressing his American identity see Winfried Steffani, "Ernst Fraenkel als Persönlichkeit," *Vom Sozialismus zum Pluralismus. Beiträge zu Werk und Leben Ernst Fraenkels*, Gerhard Göhler and Hubertus Buchstein, eds. (Baden-Baden, 2000), 125-48. Only in 1972, in order to secure his German pensions, Fraenkel finally gave up his American citizenship.
74. Fraenkel's letters are unpublished and can be found in his papers in the Bundesarchiv Koblenz.
75. For some of these connections see Hubertus Buchstein, "Ernst Fraenkel als Klassiker?," *Leviathan* 26 (1998): 458-81, and Brugger (see note 19).