

# John Bendix

## Radical Self-Determination

### The Case of Berkeley, California

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#### Building a Wall

In mid-May 2021, the City of Berkeley solicited contractor bids to build a wall at 1322 Glendale Avenue, a sloping road corner in the Berkeley hills.<sup>1</sup> The timber crib structure at that corner was to be replaced by a more robust soldier-pile retaining wall. Interested contractors knew how much they should bid, as the city estimated the cost of this small project at \$880,000, and also knew the city wanted it finished within 3–4 months. Over 300 pages, the bid details engineering specifications, payment regulations, consequences if the work is delayed, safety provisions, and many other matters typical of construction bids Californian cities let out.<sup>2</sup>

The Notice to Bidders in this lengthy document sets out time-tables for receiving and awarding the bid, the scope of the work to

<sup>1</sup> <https://www.govcb.com/government-bids/C-GLENDALE-AVENUE-AND-NBD10209398641499364.htm> provides a brief summary of this bid. The bid documents (as a .pdf) may be obtained from the author or by contacting the City of Berkeley's Engineering Division. Unless specifically noted otherwise, all subsequent URLs were current as of 31 January 2022.

<sup>2</sup> The State of California's Department of Transportation, Division of Engineering Services, publishes a Construction Contract Development Guide which provides guidelines a city can follow so as to be in compliance with various federal and state mandates, regulations, and laws. For the latest version, see:

[http://ppmoe.dot.ca.gov/des/oe/docs/CCD-Guide\\_ADA.pdf](http://ppmoe.dot.ca.gov/des/oe/docs/CCD-Guide_ADA.pdf)

be performed, and the licenses, insurance coverage, and bonds, including for «faithful performance», a bidding contractor must have. Bidders therefore knew exactly what is required, their actions and decisions determined, or *fremdbestimmt* as the German puts it, by the City of Berkeley.

Much more unusual in this Notice is a requirement, based on city resolutions and ordinances, that each bid include signed copies of the Nuclear Free Zone Disclosure Form and the Oppressive States Compliance Statements.<sup>3</sup> A bidding contractor must aver he is not engaged «in work for nuclear weapons» and does not «maintain business relationships with morally repugnant regimes» that would involve using items «manufactured, assembled, extracted, harvested or refined in any Oppressive State», defined in this case as the «Tibet Autonomous Region and the Provinces of Amdo, Kham and U-Tsang». These outlandish requirements seem quite unrelated to building a wall along a residential street in Berkeley.

The city is mockingly called The People's Republic of Berkeley for public stances it has taken about the policies and actions of foreign governments, or to related US government responses.<sup>4</sup> In April 2019, for example, the city's Peace and Justice Commission recommended the Berkeley City Council pass a resolution calling for no US intervention in Venezuela, and in June 2021, the city's Rent Stabilization Board passed a resolution condemning the illegal evictions of Palestinians by the Israeli government. Local residents sigh, and say, «Oh, so Berkeley!» for these are not new practices:

<sup>3</sup> Also required, but not addressed here, are a signed Sanctuary City Compliance Statement, an Equal Benefits Ordinance Disclosure Form and a Community Workforce Agreement Form.

<sup>4</sup> Go to the Urban Dictionary (<https://www.urbandictionary.com>) and search for this moniker for Berkeley; the definition provided was posted by Ceanothus2 21 December 2010; accessed 10 August 2021.

## Examples of Berkeley City Council Resolutions I

Subject	Resolution Number	Year passed
South Africa: against apartheid	54,370 & 54,372	1988 (both)
El Salvador: boycott (esp. coffee)	54,815 & 55,357	1989 (both)
Myanmar: prohibit business with	57,881	1995
Nigeria: boycott products	59,107 & 59,856	1997 & 1999
Chiapas: protect human rights	59,616 & 60,447	1998 & 2000
Falun Gong: cease crackdowns	61,670 & 61,803	2002 (both)
Myanmar: cease violent crackdown	63,873	2007
Afghanistan: US withdrawal from	64,673	2009
Myanmar: free political prisoners	65,778	2012

*Fremdbestimmung*, in the sense of technical engineering or construction standards required of local contractors working for the city, are one thing. Attempting to steer the actions of a military junta in Asia or Central America, however, is tantamount to the city pursuing its own foreign policy and trying to *fremdbestimmen* others. Yet under the Constitution, it is the US President who determines foreign policy, advised by a Secretary of State, with policy carried out by the cabinet-level State Department.

So what in the world does the City of Berkeley think it is doing? What led to this radical expansion in what the city sees as its mission? What is the connection to nuclear issues? Before providing some answers, attention needs to be given to the distinction between *Selbstbestimmung* and *Fremdbestimmung*, as it calls on a framework of meanings and history of usage which emerged from intellectual, historical, and linguistic contexts far removed from California.

## Preliminary Considerations

## Translation and definitional nuances

A good, single-word, equivalent for *Fremdbestimmung* does not seem to exist in English, unlike for *Selbstbestimmung*, self-determination. True, one of the few best-sellers American sociology

has produced, David Riesman's *The Lonely Crowd* (1950), did suggest what sounds like an analogous contrast between «inner-directed» and «outer-directed» individuals. The former are «self-motivated and not easily influenced by the opinions, values, or pressures of other people», while the latter are individuals «whose values, goals, and behavior stem primarily from identification with group or collective standards». <sup>5</sup> Inner-directedness is a way to characterize individuals who resist outside pressure, and this is certainly one way to think about self-determination. However, because outer-directedness involves an individual's identification with perceived norms, it fails to capture the «steering from without and determining» sense of *Fremdbestimmung*. At best, it addresses only the internalized or personal responses to such steering and determining. It might be a way to characterize what a building contractor thinks about Berkeley ordinances, but it does not help us better understand why such city resolutions even exist.

Still, Riesman's contrast between «inner-directed» and «outer-directed» suggests one think in terms of what is within and what is without. Another possibility would be to consider *Fremdbestimmung* in terms of the contrast between the Self and the Other. Yet Self and Other are actually «two inseparable sides of the same coin», the contrast due «less to the difference of the Other than to the point of view and the discourse of the person who perceives the Other as such». <sup>6</sup> The literature in Subaltern Studies has emphasized how this leads to valuing the Self as superior to a devalued Other, for example, whereas various philosophers (Husserl, Derrida, Levinas) have argued the opposite, elevating the Other. This difference in perspective suggests one should leave open, or at least ambiguous, how the

<sup>5</sup> The wording here is from entries for these two terms found at: <https://dictionary.apa.org>, a publication of the American Psychological Association. Consulted 28 January 2022.

<sup>6</sup> From abstracts of Jean-François Staszak's articles on Other/Otherness in the first (2009) and second (2020) editions of the International Encyclopaedia of Human Geography (Elsevier). See: <https://www.sciencedirect.com/topics/social-sciences/otherness> Consulted 28 January 2022.

Other is valued in a given context. But because the Self/Other contrast is based on perspective, one could treat the bidding contractor and the City of Berkeley as either Self or Other – and be no closer to understanding why the city passes its foreign policy resolutions and ordinances. Riesman looks at value-driven behavior by individuals, while the Self/Other contrast concerns identity and judgement of group differences: neither are political analysis as much as efforts to characterize psychological states or sociological phenomena. Terminologically as well, the Other is an insufficient English equivalent for the connotations and definitions of *fremd* in German.

English-language academic discourse has periodically rendered the contrast as one between autonomy and heteronomy, but the latter term is quite recondite: a Google search for «heteronomy» generates only 389,000 hits while «autonomy» receives 325 million. German shows a similar discrepancy: 414,000 hits for *Fremdbestimmung* but 7.7 million for *Selbstbestimmung*.<sup>7</sup> As noted in the subsequent discussion, given how *Fremdbestimmung* first entered German academic discourse, the term may be relatively infrequently used because it describes an undesirable or disliked situation.

There is also a more subtle definitional difference. English has a tendency of understanding «heteronomy» within contexts, while German generalizes *Fremdbestimmung*. Thus, the *Duden* says it is «das Bestimmtsein durch andere in einem Abhängigkeitsverhältnis», seeing it as external determination in a relationship of dependence. That could apply to our bidding contractor who must sign Berkeley's Nuclear Free Zone Disclosure Form to get the job. By contrast, the American *Merriam-Webster* dictionary defines «heteronomy» as «subjection to something else, especially a lack of moral freedom or self-determination». This is not a definition as much as a negation,

<sup>7</sup> The pair «autonomy and heteronomy» only yields 639,000 hits, the pair «*Selbstbestimmung und Fremdbestimmung*» 184,000. Romano Guardini, «who himself does not see a dialectical relationship, but rather a polar tension between autonomy and heteronomy, introduced the term allonomy due to the derogatory evaluation of [heteronomy]» (<https://www.wikipe.wiki/wiki/de/Heteronom>, consulted 31 January 2022), but «allonomy» is even less common, yielding a mere 2,960 Google hits.

seeing it as the harsh state of being in thrall to an undefined «something». Wikipedia, initially, is more neutral and defines «heteronomy» as «action that is influenced by a force outside the individual», similar to the *Duden* definition of *Fremdbestimmung*, absent the element of dependency. Yet the explication is immediately qualified, and politically contextualized, by «in other words, the state or condition of being ruled, governed, or under the sway of another, as in a military occupation». The notion of «being governed by another» provides a bridge to what is often assumed to be the first printed use in German of these terms, namely by Kant.

### Historical and disciplinary frameworks

Since the mid-1780s, when Kant first used the term *Selbstbestimmung*, the dependence the *Duden* notes as inherent to *Fremdbestimmung* has been negatively valued. Kant regarded «rule by another» as an inadequate or even untenable ground for morality, since acting and thinking, to him, *had* to be autonomous.<sup>8</sup> Nowadays we take this further, to argue that moral self-determination «makes us truly human and gives us our dignity». As moral agents, «we have the duty to respect the dignity and autonomy, that is, the right to self-determination, of all other individuals».<sup>9</sup> It is only a small step from dignity to indignity: «Selbstbestimmung wehrt vor allem die Zumutung ab, dass ein Mensch über einen anderen verfügt, ohne dessen Zustimmung einzuholen».<sup>10</sup> Self-determination here is valued very

<sup>8</sup> Kant first used *Selbstbestimmung* in 1785 in his *Grundlegung zur Metaphysik der Sitten*, possibly translating it from John Locke. The term would be adopted by Schiller, Fichte, Hegel, and Spinoza. Volker Gerhardt: *Selbstbestimmung: Zur Aktualität eines Begriffs*. Available at: <https://fiph.de/veroeffentlichungen/journale/cover-downloads/FIPH-Journal-2006-Herbst.pdf?m=1570630312&>

<sup>9</sup> Michael Freeman: The Right to Self-Determination: Philosophical and Legal Perspectives, in: *New England Journal of Public Policy* 31/2 (2019) 1, <https://scholarworks.umb.edu/nejpp/vol31/iss2/4>

<sup>10</sup> V. Gerhardt: *Selbstbestimmung*, 3.

highly – before a person disposes over another, the latter must consent to such disposal – and it is an «unreasonable or even unsupported demand», as the translation of *Zumutung* has it, not to do so. To some philosophers, such imposition means *Fremdbestimmung* is treated as an indignity. Politically, this sense of indignity could be seen as one wellspring of anti-colonialist sentiment.

Kant argued that to have reasoning be directed from without, by an imposed or assumed authority, led to prejudice and superstition.<sup>11</sup> He spoke from experience, having spent his entire life *fremdbestimmt* by Hohenzollern kings largely uninterested in, if not actively hostile to, the idea of self-determination by their subjects.<sup>12</sup> A Prussian king was «to be regarded as the fountain and source of all law and all political authority»,<sup>13</sup> after all.

Still, one can wonder why Kant's first mention of *Selbstbestimmung* in print only came in 1785, after 45 years, from age 16 to age 61, of living under the rule of Frederick the Great, the Prussian ruler whose Enlightenment sympathies lay closest to Kant's. That long silence about «rule by another» suggests that at least some *Fremdbestimmung* might not entirely be a *Zumutung*, an indignity, or that one can long live under or tolerate it.

This is said from a political science perspective, one that seems more neutral, or at least less negative, about *Fremdbestimmung* than moral philosophy seems to be. Perhaps those who study politics give the idea of *Staatsraison* more credence or are heartened by examples of interventions by public authorities whose goal is to protect the rights of individuals. One might call that *Fremdbestimmung*, *um*

<sup>11</sup> Garrath Williams: Kant's Account of Reason, in: The Stanford Encyclopedia of Philosophy (Summer 2018 Edition) Sections 3.2 and 3.3:

<https://plato.stanford.edu/archives/sum2018/entries/kant-reason>

More generally, see Samuel Fleischhacker: What is Enlightenment? New York 2013.

<sup>12</sup> Kant lived from 1724 to 1804, and Frederick II ruled from 1740 to 1786. Kant would have also experienced the rule of Frederick William I (1713–1740), II (1786–1797), and III (1797–1840).

<sup>13</sup> W. W. Willoughby: The Prussian Theory of Government, in: The American Journal of International Law 12/2 (1918) 266.

*die Selbstbestimmung zu unterstützen.* Or perhaps we take comfort in the belief that in democracies, to cite a contemporary of Kant, John Adams, we live under «a government of laws and not of men», strained though that can become by some of the men we elect to government office. Political scientists are likely a little fixated on status quo notions, such as the idea that peace and order generally reflect public desires better than conflict and chaos, or the assumption that we prefer the predictability of rules and law over the anarchy of our desires.

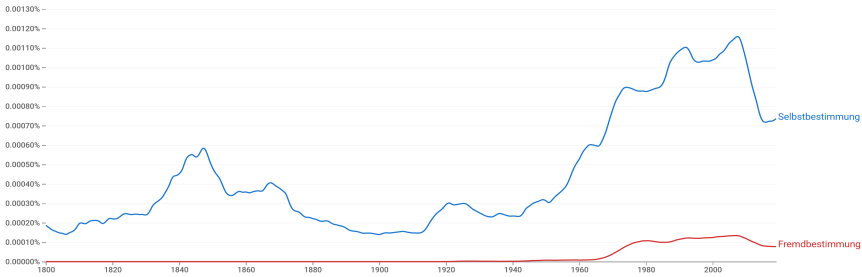
In any case, a less negative view is offered in the *Digitales Wörterbuch der deutschen Sprache*, which does not define *fremdbestimmt* in terms of its recipients, such as our contractor having to sign whatever the City of Berkeley says he must sign. Instead, the definition is more descriptive than evaluative: «durch Einflüsse von aussen bestimmt und gelenkt»,<sup>14</sup> determined and steered by external influences. This reference to a digital source also moves us closer to the present day, an era when we have an interesting elision of meanings not of *Fremdbestimmung* but of *Selbstbestimmung*.

### Politics and *Fremdbestimmung*

By referring to self-determination in terms of dignity and indignity nowadays, we elide its use in the Kantian sense, as an act by an individual, with applying it to the political actions undertaken by a group. This can even be seen quantitatively. If one compares, over time, how often *Selbstbestimmung* and *Fremdbestimmung* have appeared as terms in books published in German, then one finds a first, if modest, peak in the use of *Selbstbestimmung* in the 1840s. This was both during the Romantic era in German literature (1800–1850), an era focused on the individual, as well as when political efforts were being undertaken to bring disparate political/territorial entities together to act as a group in the *Deutscher Bund* (1815–1866).

<sup>14</sup> See: <https://www.dwds.de/wb/fremdbestimmt>





Graph generated by entering the two terms, using the German Corpus, into Google's Ngram viewer

A similar elision in using *Selbstbestimmung* to refer to both group and individuals recurred a good century later, with a far more frequent use in print. The UN Charter, signed in San Francisco in 1945, stated that the right to self-determination was the right of a people to constitute itself in a state,<sup>15</sup> and the UN Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960 supported «the principles of equal rights and self-determination of all peoples». Approval of the 1960 Declaration came from 89 countries, although it is noteworthy that the colonial powers of Belgium, France, Portugal, and the UK, joined by the US, all withheld their approval at the time. *Selbstbestimmung*, self-determination, was a right that had to be argued and fought for, apparently. Colonized «peoples» would for some time continue to wrestle with the *Fremdbestimmung* of their colonizers, some, like India, wholly shaking free, others, like Senegal or Ghana, choosing to retain ties with the «mother» country after independence. Using «self-determination» to refer to the strivings of groups opposed to continued political control by colonizer administrations was probably dominant in the

<sup>15</sup> The core of the principle of self-determination «consists in the right of a community which has a distinct character to have this character reflected in the institutions of government under which it lives». Ian Brownlie: *An Essay in the History of the Principle of Self-Determination*, in: Charles Henry Alexandrowicz (ed.): *Studies in the History of the Law of Nations*, Dordrecht 1970, 90.

1960s, but did coincide with a increasing sense, especially in university cities and towns in the United States and Western Europe, that individual self-fulfilment, or personal self-determination, was a value to be pursued, perhaps even placed above other values.<sup>16</sup> This eliding of group and individual senses could account for the renewed rise in use since the 1960s, as seen in the graph above.

Political self-determination in the anti-colonialist terms familiar today has its roots both in the resistance of American colonists to having their lives be ruled from Great Britain and in the domestic efforts to replace monarchical, aristocratic, and clerical with popular rule in France.<sup>17</sup> The effort to be rid of *Fremdbestimmung*, whether from across the seas or from Versailles, had the effect of closely tying political self-determination to the idea of freedom. Yet as Isaiah Berlin pointed out in 1958, there are two kinds of liberty: negative and positive. Being free from the *ancien régime* is a quite different matter than the liberty to decide what to do next.<sup>18</sup> «Freedom to» ideas can

<sup>16</sup> The term is widely applied in German, to judge by titles in print in early 2022: *Ich bestimme: Mein komplettes Vorsorgedossier; Praktiken der Selbstbestimmung; Zwischen subjektivem Anspruch und institutionellem Funktionserfordernis; Zwischen «Staatsanstalt» und Selbstbestimmung; Kirche und Staat in Südwestdeutschland vom Alten Reich bis 1870; Menschenwürde und Selbstbestimmung; Selbstbestimmung über Liebe, Partnerschaft und Sexualität im Alter; Durch Gleichberechtigung zur Selbstbestimmung. There is even a claim in *Selbstbestimmung: Raus aus der Fremdbestimmung, rein ins selbstbestimmte Leben – ein Erfolgstraining*, that one can train, perhaps even optimize, one's own self-determination.*

<sup>17</sup> There are much older and localized precedents, whether one thinks of the fifth-century Athenian *polis*, the tenth-century Icelandic *althing*, the emergence of the Swiss *Eidgenossenschaft* in the fourteenth century, or the self-rule practiced by certain Italian cities during the Renaissance. None has had the impact or influence of the American or especially the French Revolution. For a sweeping overview, see Reinhard Bendix: *Kings or People. Power and the Mandate to Rule*, Berkeley 1978.

<sup>18</sup> Ian Carter: Positive and Negative Liberty, in: *The Stanford Encyclopedia of Philosophy* (Winter 2021 Edition): <https://plato.stanford.edu/archives/win2021/entries/liberty-positive-negative/>

be found in the US Constitution, Abbé Sieyès's *Qu'est-ce que le Tiers-État?* Lenin's *What is to Be Done? Burning Questions of Our Movement* pamphlet, and even Ayatollah Khomeini's «We Shall Confront the World with Our Ideology» speech, all of them efforts to provide new political content once an older political *Fremdbestimmung* is no longer valid.

Still, a programmatic political proposal can take decades to realize, especially if it involves mixing the idea of the nation, a notion that only emerged in its modern sense during the French Revolution, together with that of the state. The nineteenth-century statesman Massimo d'Azeglio, when he wrote «L'Italia è fatta. Restano da fare gli italiani» [We have made Italy; now we must make Italians] implied this is a top-down process, a new *Fremdbestimmung* by those now in power who claim to be natives rather than foreigners. If d'Azeglio is right, as a newly united political state comes into being, a new sense of commonality among its people must accompany it, a commonality the new political state likely feels it needs to create.<sup>19</sup> So in its resolution to protect the human rights of indigenous people in Chiapas, members of the Berkeley City Council may have believed they were doing what they could to support a newer, human rights-based commonality.

Still, what on the surface looks like the *Selbstbestimmung* of a people, a recurring theme even if differently interpreted in the 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> centuries, may hide *Fremdbestimmung*. A new state may

Joshua Cherniss, Henry Hardy: Isaiah Berlin, in: The Stanford Encyclopedia of Philosophy (Fall 2020 Edition):

<https://plato.stanford.edu/archives/fall2020/entries/berlin/> Cherniss and Hardy argue (in Section 5.2) that Berlin's liberalism was based «not on championing negative liberty against positive liberty, but on advocating individualism, empiricism and pluralism against collectivism, holism, metaphysical rationalism and monism».

<sup>19</sup> Massimo d'Azeglio didn't think much of the material he had to work with, judging them «20 percent stupid, rascally, and bold, 80 percent stupid, honest, and timid, and such a people has the government it deserves». Found on the d'Azeglio Wikipedia entry which cites David Gilmour: The Pursuit of Italy (2011) 177 as the source. Consulted 27 September 2021.

feel the need to launch a patriotic indoctrination of its citizens to teach them what it now means to be a member of that new nation-state.<sup>20</sup> But not only can such indoctrination take a long time, it will also not occur without opposition. Eugen Weber's wonderful *Peasants into Frenchmen* (1976) describes the stubborn, long-lasting, and determined resistance in rural areas far from Paris throughout much of the 19<sup>th</sup> century not merely to state-imposed measures such as taxes or military service but also to the very idea of a national identity. Many «nationalist» leaders throughout continental Europe during this century were consumed by similar efforts to engender a sentiment of belonging, in some manner, to a much larger community than the immediately local. The modern history of federalist countries (Canada, Switzerland, the United States, India, Germany) are case studies in how such efforts remain works-in-progress.

All of these themes – dignity and indignity, group and individual self-determination and their elision, the internationalism of the UN and its declarations about rights, efforts at individual self-fulfilment, freedom from and freedom to notions, solidarity and commonality with others in combination with resistance to demands for conformity, and more generally the sense of being part of a much wider world – are ways to understand why the Berkeley City Council passes the resolutions about the world that it does. Still, to understand why a city construction project bid makes these seemingly outlandish demands on bidders calls for a greater understanding of Berkeley's relationship to nuclear weapons and power, and to when, how, and why the City Council became radicalized.

<sup>20</sup> The many state laws and practices even today in the United States which call for schoolchildren to recite the Pledge of Allegiance (in German terms, a kind of *Fahneneid*) can be taken as an example.

## Berkeley in Context

### Nuclear Issues

It is both grammatically and historically correct to call Berkeley a university town: the University of California at Berkeley, as it is today known, was founded ten years before the town itself was incorporated. Even the «of California at» part of the name is significant. The land on which the university campus rests on was donated to the state and is therefore not city land,<sup>21</sup> a fact with consequences in and for Berkeley in 1969 and more ironically manifested soon after Berkeley citizens passed the Nuclear Free Berkeley Act in 1986.

Nearly fifty years earlier, nuclear science had made the university famous. The Nobel Prize in Physics was awarded in 1939 to Ernest O. Lawrence for his «invention and development of the cyclotron» at Berkeley, «and for results obtained with it, especially with regard to artificial radioactive elements»,<sup>22</sup> particularly plutonium, but later including what were named berkelium, californium, lawrencium, and seaborgium. Plutonium in particular led Berkeley

<sup>21</sup> On 23 March 1868, the governor signed the Act to create and organize the University of California, stating it «shall be located upon the grounds heretofore donated to the State of California by the President and Board of Trustees of the College of California». On 1 April 1878, the Act to incorporate the Town of Berkeley (it became a city in 1909) in Alameda County begins with «The People of the State of California, represented in the Senate and Assembly» and goes on with «The people residing within the boundaries of that tract of land [...] described in section two of this Act, are hereby constituted a body politic and corporate by the name of the Town of Berkeley». While formally decided by the state legislature, this incorporation was initiated by local residents, another case of a desired *Fremdbestimmung*. For Berkeley's founding, see the 1877–1878 Statutes of California, 888–909.

<sup>22</sup> This is the text at: <https://www.nobelprize.org/prizes/physics/1939/summary/> Under the title Cyclotron Man, Ernest Lawrence graced the cover of Time Magazine on November 1, 1937. His was the first Nobel Prize awarded to a Berkeley faculty member.

physicists to become deeply involved in developing the American nuclear weapons arsenal during and after World War II, including at the Livermore lab located forty miles southeast of Berkeley.

The contrasting career trajectories of two UC Berkeley physicists, Robert Oppenheimer, who worked on the wartime Manhattan Project, and Edward Teller, who worked on developing the hydrogen bomb at Livermore in the 1950s, can also be read as case studies in *Fremdbestimmung*,<sup>23</sup> and because of the oversight it exercised over research, «every item in the U.S. nuclear arsenal has been designed at a facility managed by the University of California».<sup>24</sup> A history of how Berkeley residents responded to this new-found knowledge of the nuclear in the early 1930s, when the Berkeley cyclotron was first conceived, until the late 1950s, apparently remains to be written.

The US government and private companies made considerable efforts soon after World War II to promote the use of the «peaceful atom»<sup>25</sup> and distinguish commercial nuclear power generation from the nuclear weapons used against Japan or developed as part of the Cold War arms race with the Soviet Union. Opinion polls found high approval for the development of nuclear power domestically, even when poll respondents were asked about building such plants

<sup>23</sup> See Ashutosh Jogalekar: The many tragedies of Edward Teller, in: Scientific American (January 15, 2014):

<https://blogs.scientificamerican.com/the-curious-wavefunction/the-many-tragedies-of-edward-teller/>

Teller saw continued nuclear weapons development as in the national interest even long after World War II ended, while Oppenheimer resisted continued cooperation with the US government after Hiroshima and Nagasaki.

<sup>24</sup> Charles Wollenberg: Berkeley: A City in History, Berkeley 2008, 118–119.

<sup>25</sup> Heinz Haber: The Walt Disney story of our friend the ATOM, New York 1957. A 2013 review of this work, subtitled «Disney's 1956 Illustrated Propaganda for Nuclear Energy» and reproducing 22 images from the book, describes it as «a gloriously illustrated 165-page tome extolling the promise of atomic power as a generative rather than destructive force». The review can be found at:

<https://www.themarginalian.org/2013/02/18/our-friend-the-atom-disney/>

near where they lived.<sup>26</sup> However, from the outset of commercial nuclear power generation, Americans conflated nuclear weapons and nuclear power. «Even when discourse focuses on the use of nuclear reactors to produce electricity, the afterimage of the bomb is never far from the surface»,<sup>27</sup> a later analysis noted, and there was considerable media coverage in the 1950s both of nuclear weapons tests as well as of the efforts to ban such tests and reduce nuclear proliferation.<sup>28</sup> Fears of thermonuclear explosion may also have been on the minds of those who from 1958 to 1964 successfully opposed plans by the Pacific Gas and Electric company to build the first commercially viable nuclear power plant in the United States at Bodega Bay, northwest of Berkeley.

The Cuban Missile Crisis (1962) and SALT I Treaty (1972) kept nuclear weapons in the news, and the meltdowns at Three Mile Island (1979) and Chernobyl (1986) did the same for nuclear power. So it is not surprising to find weapons and power generation

<sup>26</sup> Jonathon Baron, Stephen Herzog: Public opinion on nuclear energy and nuclear weapons: The attitudinal nexus in the United States, in: *Energy Research & Social Science* 68 (October 2020) 101576. It is available at: <https://www.sciencedirect.com/science/article/pii/S2214629620301432>  
The Department of Energy's National Nuclear Security Administration has published information about US nuclear tests since 1945, one of which, DOE/NV-774 of August 2013, is about reporters invited to watch nuclear detonations from «News Nob» at the edge of the Nevada Test Site: [https://www.nnss.gov/docs/fact\\_sheets/DOENV\\_774.pdf](https://www.nnss.gov/docs/fact_sheets/DOENV_774.pdf)

<sup>27</sup> William Gamson, Andre Modigliani: Media Discourse and Public Opinion on Nuclear Power: A Constructionist Approach, in: *American Journal of Sociology* 95/1 (July 1989) 12.

<sup>28</sup> In 1954, Indian Prime Minister Jawaharlal Nehru had proposed a «standstill agreement» on nuclear testing, and during the 1956 presidential campaign, Democratic candidate Adlai Stevenson proposed a moratorium. By 1957, President Eisenhower called for a two-year suspension of testing accompanied by a system of inspection, and trilateral negotiations (US, UK, Russia) began that year as well. For a historical summary, see Thomas Graham: Comprehensive Nuclear-Test-Ban Treaty, available at: <https://legal.un.org/avl/ha/ctbt/ctbt.html>

The Campaign for Nuclear Disarmament protest movement was launched in Great Britain in 1958.

conflated in the Nuclear Free Berkeley Act of 1986. That Act both explicitly intended «to oppose the arms race by prohibiting work for nuclear weapons» and to «minimize City contracts with and investments in the nuclear weapons industry»; the Act also specified that the City wanted to do what it could «to prohibit nuclear reactors».<sup>29</sup>

The Act provides that the City of Berkeley «shall grant no contract to any person or business which knowingly engages in work for nuclear weapons». It was certainly conceivable that local contractors bidding on a Berkeley road project might previously have done construction work on the cyclotron or bevatron buildings in the hills above campus. City politicians representing Berkeley's residents did not want whatever the university was doing – in fact, classified weapons research continued to be conducted at UC Berkeley into the 1980s<sup>30</sup> – to determine, even symbolically, what the city's residents thought or decided. Ironically, for some months after the Nuclear Free Berkeley Act came into force, the university continued to run its research nuclear reactor in Etcheverry Hall, a building on campus. What happened on state land was not governed by local law, so the university felt it could ignore a political decision made by the City of Berkeley. Although the university did shut down its reactor the following year, it was clear in some of the answers it gave about this reactor that it did not want to be *fremdbestimmt* by the city, costing the university a degree of goodwill.<sup>31</sup>

<sup>29</sup> Based on Ordinance 5784-NS, these are points A, B, and E of the Purpose of the Nuclear Free Berkeley Act, see:

<https://berkeley.municipal.codes/BMC/12.90.020>

<sup>30</sup> Andrew Greenop: The Berkeley nuclear-free zone has had unfortunate consequences, in: The Daily Californian (August 8, 2018):

<https://www.dailycal.org/2018/08/08/berkeley-nuclear-free-zone-unfortunate-consequences/>

<sup>31</sup> This is put cavalierly. Already in 1979, the environmental organization Friends of the Earth had raised concerns with the Nuclear Regulatory Commission about the location of this reactor and where earthquake fault lines ran through Berkeley. The goodwill argument is based on conclusions reached by risk assessment professionals that concerns of Berkeley citizens were inadequately addressed, at political and technical levels, by the



A few years later, a federal court ruled that a similar nuclear-free ordinance in neighbouring Oakland was invalid because a city ordinance could not interfere with «the Federal Government’s constitutional authority over national defense and atomic energy». But the point was not to challenge the government. The point was to make a statement – «to oppose the nuclear fuel cycle as a whole», as one of the purposes of the Nuclear Free Berkeley Act states – as well as to guide city contracting policies.

The politics of taking a position on such matters was clearly in the air at the time, since the city had decided in 1985 to create a Peace and Justice Commission, its function:

to advise the Berkeley City Council and the Berkeley School Board on all matters relating to issues of peace and social justice, including, but not limited to the issues of ending the arms race, abolishing nuclear weapons, *support for human rights and self-determination throughout the world*, and the reallocation of our national resources so that money now spent on war and the preparation of war is spent on fulfilling human needs and the promotion of peace.<sup>32</sup> [my emphasis]

This is a key answer why the Berkeley City Council feels justified to pass judgment on Myanmar, Chiapas, or South Africa: it is to support self-determination, in its modern, group-based sense, along with human rights everywhere. Much more extraordinary is the chain of reasoning and moral prescriptiveness that was used to justify creating such a commission:

The council finds as follows:

- A. The intentional destruction of cities in war is the rule and not the exception.
- B. State, national and international governmental bodies have failed to control war and in fact, have in many cases, been responsible for war and the conditions of war.

university. See Selina Bendix, Gilbert G. Bendix: Bridging the Gap Between Risk Assessment by Professionals and Acceptance by Law Decision Makers, in: B. John Garrick, Willard C. Gekler: The Analysis, Communication, and Perception of Risk: Proceedings of the Annual Meeting of the Society for Risk Analysis, San Francisco 1989, 451–458.

<sup>32</sup> <https://berkeley.municipal.codes/BMC/3.68.070>

- C. The wealth that could be spent to help the poor, heal the sick, house the homeless, educate the children, and care for the elderly is now spent on ever more costly weapons of mass destruction.
- D. Peace is not a fictitious tranquil end-state, but the process of solving differences constructively, creatively, and non-violently.
- E. Peace is inseparable from justice.
- F. The present threat of nuclear or biological holocaust is not peace, but a condition of war against all humanity.
- G. Initiatives are needed to reverse the drift toward war and to remove the causes of war.
- H. Our best protection lies in initiating, devising, and promulgating peaceful and just policy alternatives.
- I. Individual citizens, unless organized, are virtually powerless in confronting and influencing larger governmental bodies.
- J. It is the responsibility of one and all to labor hard for peace and justice within forums of appropriate scale.
- K. The residents of Berkeley have continually demonstrated their concern for peace and justice based on equality among all peoples.
- L. The residents of Berkeley have welcomed to our City those who have been forced into exile, and who have come fleeing torture and death.
- M. The Berkeley City Council, to act successfully in furthering peace and justice, must have wise counsel, accurate research, vigorous analysis, articulate formulation of issues and proposals for action, and thus the establishment of a Peace and Justice Commission is proper (Ordinance 5705-NS, 1986).<sup>33</sup>

Yet why, or how, did the City of Berkeley come to take such sweeping stances? A generation earlier, in the 1950s, the City Council had been very local in its focus, as one of its elected members later recalled:

Little time was wasted on problems that did not primarily or singularly affect the people of Berkeley [...] We were still sailing along under the old-fashioned idea that local government was established to keep law and order, fight fires, guard public health, pave and light the streets, prevent citizens from exasperating each other, if possible; provide educational facilities for the kids, and do what we could within our means to promote goodness of living.<sup>34</sup>

<sup>33</sup> <https://berkeley.municipal.codes/BMC/3.68.010>

<sup>34</sup> George Pettit: Berkeley in the Good Old Days, in: Harriet Nathan, Stanley Scott (eds.): Experiment and Change in Berkeley. Essays on City Politics 1950–1975, Berkeley 1978, 44 and 41. Pettit also notes that «Berkeley,

Indeed, the City Council remained conservative throughout much of the 1960s, unanimously passing Resolution 40,935 in late 1965, reaffirmed in February of 1967, in support of the Vietnam War policy of the United States.<sup>35</sup>

## Radicalization

The radicalization of city politics did not begin until the early 1970s, a result of events and actions on the UC Berkeley campus that spilled out into the city, deeply affecting and changing how the city perceived its own role. Those who entered city politics then had experienced their lives being determined by others, and in fighting back, wanted to bring their own, alternate visions to fruition. What began as an effort at *Fremdbestimmung* of UC Berkeley faculty and staff around 1950 later took the form of trying to limit student political activism in the early 1960s. What linked them were deep fears of Communist, and specifically Soviet, influence.

## The Loyalty Oath Controversy

From the time that nuclear weapons began to be developed in the United States, there was fear that the Russians would find out and use this knowledge. They had certainly learned enough by 1949 to detonate their own nuclear device. As subsequent investigations

under conservative leadership, had been chosen in 1934 as one of the five cities in the United States where «goodness of living» was most nearly achieved» (45).

<sup>35</sup> That, David Mundstock, a key contemporary chronicler and political insider, dryly noted, «escalated the conflict between the City Council and the progressive, anti-war, anti-development, counter-culture, student, tenant, south campus, and other neighborhood oriented communities». His Berkeley in the 70s: A History of Progressive Electoral Politics, a manuscript written in 1984–1985, is archived at:

<https://berkeleyinthe70s1.homesteadcloud.com>

showed, the fear nuclear secrets were being shared was legitimate: British and American physicists (Klaus Fuchs, Allan Nun May, Theodore Hall), out of various motivations, did provide Russia with relevant technical information.<sup>36</sup> This fear also engendered deep suspicion, especially within the FBI, concerning the political sympathies of those who worked on nuclear weapons,<sup>37</sup> including at Berkeley. Concerns were sufficiently strong for the House Committee on Un-American Activities (HUAC)<sup>38</sup> to launch hearings in 1948 «Regarding Communist Infiltration of Radiation Laboratory and Atomic Bomb Project at the University of California, Berkeley».<sup>39</sup>

<sup>36</sup> The «Venona» counterintelligence project, kept secret even from US political leaders, began working to uncover espionage connected to the Manhattan Project already by 1943.

<sup>37</sup> Richard Rhodes: *The Making of the Atomic Bomb*, New York 1986, and Gregg Herken: *Brotherhood of the Bomb: The Tangled Lives and Loyalties of Robert Oppenheimer, Ernest Lawrence, and Edward Teller*, New York 2002, provide details. In 1954, Robert Oppenheimer would be called before a board of the Atomic Energy Commission to give testimony about his earlier involvement with communist organizations, the possibility he might be a Soviet spy, and whether he should continue to receive a security clearance. He faced 24 charges, and after this review, his security clearance was revoked. For more details, see:

<https://www.atomicheritage.org/history/oppenheimer-security-hearing>

For a re-analysis based on information then recently declassified, see Burton Bernstein: *The Oppenheimer Loyalty-Security Reconsidered*, in: *Stanford Law Review* 42/6 (July 1990) 1383–1484.

<sup>38</sup> US House investigations of communist subversion began as early as 1918 with the Overman Committee and were revived in 1930 by the Fish Committee. The McCormack-Dickstein Committee (1934–1937), though more focused on Nazi propaganda, is also seen as a precursor to the Dies Committee (1938–1944), charged with investigating alleged disloyal and subversive activities by private citizens, public employees, and organizations suspected of having communist ties. In 1945, the Dies Committee became HUAC, a permanent House Committee; renamed the House Internal Security Committee in 1969, it was abolished in 1975.

<sup>39</sup> Not known at the time was that the FBI had established clandestine links to HUAC already by 1947, «for exchanging intelligence on communist espionage and information of political critics». See Kevin Gotham: *Ironies of Oversight: State Power, Democratic Legitimacy and the Creation of*

In early 1947, President Truman, acting either under political pressure or out of conviction, issued an executive order mandating that «all federal employees be analyzed to determine whether they were sufficiently loyal to the government»,<sup>40</sup> a measure designed to root out suspected hidden communist influence. Over the next decade, more than 5 million federal employees would be screened, resulting «in an estimated 2,700 dismissals and 12,000 resignations». The «program exerted its chilling effect on a far larger number of employees than those who were dismissed».<sup>41</sup>

Anti-communist hysteria reached UC Berkeley by 1949. The university is governed by its Board of Regents, and on March 25, President Robert Sproul<sup>42</sup> presented, for their approval, a draft special oath that all university staff, including professors, would swear. As a condition of employment, all state employees, and this included UC Berkeley staff and faculty, had previously been required to swear to uphold the US and the California constitutions. Now they would also swear «that I do not believe in and am not a member of, nor do I support any party or organization that believes in, advocates, or teaches the overthrow of the United States government by force or violence». This text was not shown to the faculty, despite a shared

Congressional Intelligence Committees, in: Berkeley Journal of Sociology 139 (1994) 39. From 1947 (Feb.) to 1950 (Nov.), Richard Nixon, a southern California representative, was a member of the HUAC committee from February 1947 to November 1950 and used this platform to make his anti-communist reputation.

<sup>40</sup> This was Executive Order 9835 (March 21, 1947), called the Loyalty Order. For a brief overview, see: <https://www.history.com/topics/cold-war/red-scare>

<sup>41</sup> These figures are given in Richard Kirkendall: Civil Liberties and the Legacy of Harry S. Truman, 70, cited at: <https://www.trumanlibrary.gov/education/presidential-inquiries/trumans-loyalty-program>

<sup>42</sup> Sproul was President of UC Berkeley from 1930 to 1952. He became the first systemwide President in 1952, overseeing the five UC campuses (there are ten today) and their individual chancellors, though it would not be until 1958 that these Chancellors had genuinely autonomous power.

governance structure, until nearly three months later, and soon after that, the words «I am not a member of the Communist Party» were added.<sup>43</sup>

President Sproul may have been acting to forestall efforts by State Senator Jack Tenney, since 1941 the chairman of California's Committee on Un-American Activities, to obtain an amendment to the state's constitution which would give the state legislature control over the university in loyalty matters. Senator Tenney had long vehemently opposed «subversive» writers, actors, or institutions he believed were communist, and he had launched various loyalty oath bills, including one, which did not pass, to forbid teaching «un-American» subjects in public schools.

The loyalty oath was objectionable to many UC Berkeley staff and faculty. It was not just a violation of principles they held dear, including those laid out in the university's original charter. It was also that in a system ostensibly of shared governance, they were being disposed over without their approval, *fremdbestimmt* in the manner noted earlier. For wartime refugees on the faculty, the demand for political loyalty and the abjuration of communism was a dismaying echo of conditions they had fled; more chilling was that failure to sign this oath jeopardized their continued employment at the university. As Prof. Ernst Kantorowicz, a renowned medievalist, put it indignantly at a Berkeley Academic Senate meeting on June 14, this was a «shameful and undignified action» carried out by bullying Regents that placed a faculty member «into a situation in which [...] he is compelled to give up either his tenure or, together with his freedom of judgment, his human dignity and his responsible sovereignty as a scholar».<sup>44</sup> Faculty self-governance itself was called into question when it

<sup>43</sup> Robert Greenberg: The Loyalty Oath at the University of California: A Report on Events, 1949–1958. Free Speech Movement Archive. Available at: [http://www.fsm-a.org/stacks/AP\\_files/APLoyaltyOath.html](http://www.fsm-a.org/stacks/AP_files/APLoyaltyOath.html) It is based on material published in Appendix A of the Bulletin of the AAUP 42/1 (Spring 1956) 100–107.

<sup>44</sup> Ibid.

became clear that verbal assurances from oath non-signers that they had no connection to communism were not acceptable to the Regents.

By mid-1950, the Regents fired more than 150 employees for non-compliance, including more than thirty professors, though the effect of this drastic action was softened by immediate court filings opposing it. By 1952, the California Supreme Court mandated the reinstatement of those let go, with back pay restored by 1954. Some have concluded in retrospect that the loyalty oath controversy «illustrated [...] the folly of trying to impose policies»,<sup>45</sup> a Kantian argument for the inadequacy of such *Fremdbestimmung*.

Yet relatively quick reinstatement was a pyrrhic victory, as *Fremdbestimmung* over university employees shifted from the Regents to the legislature, which passed the Levering Act in 1950. This redefined public employees as civil defence workers, and given this redefinition, they had to swear a new oath averring they were not now, nor had they been for the previous five years, advocates of overthrowing the government by force or violence. Potentially suspect affiliations also had to be divulged, and while communism was now not mentioned explicitly, the encouragement to incriminate oneself sounded disturbingly similar to a HUAC hunt for subversives. This oath would remain mandatory for the next 15 years, and it was not until 1967 that the California Supreme Court declared the Levering Act unconstitutional.<sup>46</sup> Still, Red Scare politics in

<sup>45</sup> Hiltzik continues: «wholesale disqualifications for one's political beliefs or even political statements haven't been tried since». Michael Hiltzik: A reminder: Anti-communist hysteria almost destroyed the University of California, Los Angeles Times (May 12, 2017): <https://www.latimes.com/business/hiltzik/la-fi-hiltzik-uc-communists-20170512-story.html>

David Saxon, former UC Chancellor, was also cited: the atmosphere at the time, he noted, «did not make people who dissented feel they were welcome».

<sup>46</sup> For more specifically legal background, see Mark Stockgold: «The Hysteria of Our Times»: Loyalty Oaths in California, Publications (2010): <http://digitalcommons.law.ggu.edu/pubs/174>

California followed the trajectory of national politics, losing influence at much the same time as McCarthyism did.<sup>47</sup>

A more far-reaching effect was the erosion of trust. Employees do have to accept a degree of *Fremdbestimmung*, for just as with our wall-building contractor, an employer sets the labour conditions that the prospective employee must accept: the state, as employer, may lay out oaths that its future employees must swear. At the same time, both need to trust each other in this hierarchical relationship. A work contract can legally bind a contractor to a «faithful performance» of the specified work, as the Glendale Avenue bid does, but there are other, less formalized, expectations.

So when the UC faculty expected shared governance to mean regular consultation with and timely information from university administrators or Regents, there was a breach of trust when the university's president acted without consultation, or the Regents disdained faculty solutions. In such circumstances, the negative aspects of *Fremdbestimmung* come to the fore, and a subordinate's will to be self-determining strengthens, even if it is acknowledged that the Regents or the university's president might have difficulties with their own higher authorities in legislatures or courts. As cases in California courts during the 1960s increasingly emphasized, loyalty oaths demanded that potentially sensitive or even self-incriminating information be provided, a requirement that contravened various Amendments (1st, 5th, 14th) to the US Constitution which were intended to protect individuals from divulging their political beliefs, activities, or associations.

<sup>47</sup> M. J. Heale: Red Scare Politics: California's Campaign Against Un-American Activities, 1940–1970, in: *Journal of American Studies* 20/1 (April 1986) 5–32.



## Student activism

Berkeley student activism was first sparked by the hunt for leftist subversives on campus, efforts that echoed the loyalty oath controversy. Even after the main driver of the hysteria, Senator Joseph McCarthy, died in 1957, HUAC continued its nationwide hunt. The committee had the power to subpoena witnesses and a track record of heavy-handed and intimidating tactics.<sup>48</sup> Citizens called before HUAC were grilled about their «political beliefs and activities» and were to «provide the names of others who had taken part in allegedly subversive activities»,<sup>49</sup> much as with the California loyalty oaths at the time. State Senator Tenney was forced out as chairman of California's HUAC-like committee in 1949, and by 1956, California efforts to abolish HUAC began to build.<sup>50</sup>

So, when HUAC, still hunting for subversives, announced it would hold hearings in San Francisco in mid-1960, various Bay Area labour leaders and civil rights activists began planning their protests. SLATE, a UC Berkeley student group which since 1958 had been trying to «shift the focus of student government from campus activities toward political issues like civil rights», was also interested in protesting – not least because Doug Wachter, one of their members and a UC Berkeley sophomore at the time, had been subpoenaed to appear before HUAC in San Francisco.<sup>51</sup> Several hundred Berkeley students came to City Hall but found themselves barred from the hearing room. The police, rather unwisely, then

<sup>48</sup> For a good depiction, see Ellen Schrecker: Congressional Committees and Unfriendly Witnesses (2007 essay):

<https://www.writing.upenn.edu/~afilreis/50s/congcomms.html>

<sup>49</sup> <https://www.history.com/topics/cold-war/huac> provides a survey.

<sup>50</sup> Jerold Simmons: The Origins of the Campaign to Abolish HUAC, 1956–1961, in: The California Connection, Southern California Quarterly 62/2 (Summer 1982) 141–157.

<sup>51</sup> <https://www.berkeleyinsider.org/2018/12/12/how-a-little-known-berkeley-group-sparked-the-1960s-student-movement>

<https://www.berkeleyinsider.org/2018/12/12/how-a-little-known-berkeley-group-sparked-the-1960s-student-movement>

used high-pressure water hoses to blast the protesters down the marble steps in front of City Hall. They also arrested 31 Berkeley students. Film<sup>52</sup> and front-page newspaper coverage<sup>53</sup> of the incident only served to mobilize a still larger group of protesters at City Hall the next day, and the event enraged and politically galvanized students around the country.

When President Kennedy came to the UC Berkeley campus to speak at its Charter Day celebration in 1962, protestors, including from SLATE, criticized HUAC activities, US-Cuba relations, the resumption of nuclear testing and the arms race, and carried signs, some asking «Is Alabama part of the free world?» and «Be frank about Franco», or objected to the «war in Vietnam».<sup>54</sup> It is noteworthy how many of these were critiques of US foreign and military policy: even civil rights were placed in the context of «the free world». Events far from Berkeley, and the US response, were of sufficient concern to protest them already in 1962.

<sup>52</sup> «HUAC subpoenaed TV footage and gave it to a commercial company, which heavily edited it [...] (and) falsely claimed that the demonstrators were Communist-led»: <http://www.slatearchives.org/history.htm>

<sup>53</sup> For a detailed description and photos, see:  
[https://www.sfchronicle.com/chronicle\\_vault/article/Dawn-of-Bay-Area-protest-movement-1960-photos-15264772.php](https://www.sfchronicle.com/chronicle_vault/article/Dawn-of-Bay-Area-protest-movement-1960-photos-15264772.php)  
[https://www.sfchronicle.com/chronicle\\_vault/article/Dawn-of-Bay-Area-protest-movement-1960-photos-15264772.php](https://www.sfchronicle.com/chronicle_vault/article/Dawn-of-Bay-Area-protest-movement-1960-photos-15264772.php)

The chaos was intense enough, this article concludes, that «HUAC never held a hearing outside Washington, D.C., again».

<sup>54</sup> This last is a little ironic, as no official declaration of war against Vietnam was ever made. For the topics, see:

<http://www.slatearchives.org/history.htm>

and the protest signs at:

<https://www.theguardian.com/us-news/gallery/2014/nov/15/berkeley-a-history-of-disobedience-in-pictures>

Internationalist sentiment was not unique to Berkeley: eight of ten Americans at the time thought it better for the US to work with other nations (one in ten said remaining independent was the right course), and 58% – an astonishing number by today's standards – *liked* foreign aid:

<https://www.pewresearch.org/fact-tank/2019/07/05/jfks-america/>

A great deal has been published about the Free Speech Movement among Berkeley students which began on October 1, 1964. It involved a politically engaged former mathematics graduate student named Jack Weinberg, credited with coining the name for this movement as well as the indelible slogan, «Don't trust anyone over 30».<sup>55</sup> The image of him stuck for hours in a car on Sproul Plaza, surrounded by students, with police helplessly standing by, unable to take him off to the police station, and speakers, including Mario Savio, mounting the car to harangue the crowd, has reached near iconic status.<sup>56</sup> Yet the triggering event, again a case of *Fremdbestimmung*, is in various ways far more interesting, as the near-contemporaneous account by a key participant shows:

(The following story is true. All resemblance to persons living and events lived is purely intentional. Only the names have been unchanged to detect the guilty and praise the courageous.)

DATE: SEPTEMBER 14, 1964, first day of Fall Semester.

PLACE: The center of the world, the corner of Bancroft and Telegraph, Berkeley, California.

Actually it's the edge where two worlds meet. It's a wide piece of sidewalk, red brick. Across the street is Berkeley, the city, society, the «real» world. On the other side of the brick plaza is a row of concrete pillars; behind that, the world of the University of California. Back and forth across this sidewalk each day many of this campus's 27,000 students amble from one world to the other. At noon, there's always a rush, and the two worlds blend in a roiling river of people.

The red brick sidewalk has been the traditional spot where student political and social action organizations set up their tables to advocate off-campus action, to solicit funds, and to recruit members. Sometimes an impromptu rally is held here. Here we harangue and cajole and argue.

On that first day of semester Dean of Students, Katherine Towle, issued a series of prohibitions. On campus property we could no longer advocate

<sup>55</sup> [https://en.wikipedia.org/wiki/Jack\\_Weinberg](https://en.wikipedia.org/wiki/Jack_Weinberg)

The 1990 documentary *Berkeley in the Sixties*, directed by Mark Kitchell, contains archival footage and interviews, including with Weinberg.

<sup>56</sup> For a visual history, see:

<https://fsm.berkeley.edu/free-speech-movement-timeline/>

off-campus political and social action, we could not take partisan views in the election, we could not solicit funds or recruit members. The Dean announced that the corner of Telegraph and Bancroft was really University Property; hence the prohibitions applied to our traditional free speech arena.

MONDAY, SEPTEMBER 14 – WEDNESDAY, SEPTEMBER 30

The ruling came down shortly before the climax of the 1964 electoral campaign, and the response of the student organizations was heightened by this fact. Immediately, representatives of some 18 organizations on the campus went to see Mrs. Towle, to seek a redress of grievances. These included groups of the Right, the Left and the Center – Students for Goldwater and the Young Republicans, Young Socialist Alliance and the W. E. B. DuBois Club, Students for Fair Housing and Students for a Democratic Society CORE and SNCC.

We met with *the* Dean and all the little deans; with *the* Chancellor and all the little Chancellors, and finally were granted a few concessions. By September 30 we won the right to set up tables in nine areas on the campus. When we pointed out that members of the University community had taken a partisan view in the election concerning the passage of Proposition 2 (bonds for the University), we won the right to take partisan views in the election. However, we were still prohibited from advocating off-campus political and social action, and soliciting funds and members. We were permitted to hand out informational material.

The early forms of protest against the new regulations were varied. The tactics had to be ones which all groups could use, whether they were of the Left or the Right. We realized from the start that the only way we could defeat administrative rulings was to form a solid coalition of all the groups on the campus, and eliminate, as much as possible, «sectarian politics». It is a great tribute to this student movement that we successfully maintained a coalition. (We lost only one group when we began civil disobedience after October 2 – the University Society of Individualists.) We used those tactics which would be most effective and involve the largest number of people. When one approach did not work too well, we tried another.

There was one all night vigil on the steps of Sproul Hall. Only about 100 people participated. This was followed by a huge noon rally under a giant oak tree, situated between two of the largest academic buildings. The rally culminated in a picket line through the lower student union plaza (opposite Sproul Hall) where Chancellor Strong was addressing a University meeting. A thousand people marched.

It was clear that large numbers of students were concerned about political freedom on the campus – many students who never had and probably never would want to set up a table or advocate off-campus political and social action were participating in the protest. Shortly after the picket-line demonstration, the Associated Student Senate (ASUC) passed a resolution supporting the rights of the students. Some five thousand students signed the ASUC petition. The organizations continued to set up their tables in violation of University regulations, not only at Bancroft and Telegraph, but at other areas on the campus, including in front of Sproul Hall.<sup>57</sup>

Like the loyalty oath controversy, this matter involved university administrators taking positions perceived as limiting constitutionally protected individual rights. Some students, as this excerpt shows, were also alert to the boundary between university and city, and as would soon afterwards become evident, interested in transcending it. In 1964, they may not yet have seen or defined themselves as a collective or general student movement, but the «many tables» Aptheker describes meant the idea of becoming politically active in support of a cause was clearly already in the air.

To «harangue and cajole and argue» meant to actively engage in political speech across the political spectrum, and it was a major misstep for the university administration to tell already politically active students that they could not engage in such speech simply because of where they were doing so.<sup>58</sup> It would take the rest of the semester for this to sink in and spread, but by December of 1964 thousands of students were gathering in protest – and they then also occupied Sproul Hall, the university's administration building located near that sidewalk. It was a turning point, and the situation

<sup>57</sup> Bettina Aptheker: *The FSM: An Historical Narrative*. Originally published as *FSM: The Free Speech Movement at Berkeley* (W.E.B. DuBois Clubs of America, 1965). This manuscript is available at: [https://fsm-a.org/stacks/b\\_aptheker.html](https://fsm-a.org/stacks/b_aptheker.html)

The university, later research discovered, had actively tried to transfer this sidewalk area to the city, but for some reason this was never carried out.

<sup>58</sup> <https://bancroft.berkeley.edu/FSM/chron.html> has a detailed chronology, including Dean Towle's letter.

was particularly galling.<sup>59</sup> This was the university itself, where students practiced *Selbstbestimmung* daily, some even reading Kant, that was not respecting their individual autonomy. It was an indignity, *eine Zumutung*, that students, as individuals and supporters of group action – again that elision of self-determination – were being blocked in the exercise of what they believed was their right to speak freely.

Of course, to return briefly to Isaiah Berlin, it was much easier to protest a restriction than to say what one wanted to do, collectively, once the rules about political speech and under what circumstances it could take place on campus were revised in early 1965. With the question of principle at least addressed, even if not resolved to everyone's satisfaction, the question of content resurfaced, and to some activists, the answer was obvious: the focus shifted to opposition to US involvement in Vietnam and to civil rights. In coordinating marches and protests, and exercising civil disobedience, the Vietnam Day Committee (VDC) wanted to engage in militant action, more specifically «to develop the movement outside of the university campus».<sup>60</sup> This action increasingly involved those who were not, or were no longer, students, and this shift marked the moment when Berkeley city politics radicalized.

After a lengthy and very well-attended «teach-in» on campus about Vietnam, held on May 21–22, 1965, several hundred participants, led by members of the Young Socialist Alliance, marched to

<sup>59</sup> For an excellent, contemporaneous account of the organizational and legal issues involved, along with a chronology, see Terry Lunsford: The «Free Speech» Crises at Berkeley, 1964–65: Some Issues for Social and Legal Research, Berkeley (Center for the Study of Law and Society), December 1965. Available at:

[https://oac.cdlib.org/view?docId=kt9r29p975&brand=oac4&doc.view=entire\\_text](https://oac.cdlib.org/view?docId=kt9r29p975&brand=oac4&doc.view=entire_text)

For the role «Socialists» as such played, see Joel Geier: Radicals and the Berkeley Free Speech Movement, in: Jacobin 42, available at:

<https://jacobinmag.com/2020/12/berkeley-free-speech-movement-1960s-socialist-isc-fsm>

<sup>60</sup> For an overview, consult:

[https://en.wikipedia.org/wiki/Vietnam\\_Day\\_Committee](https://en.wikipedia.org/wiki/Vietnam_Day_Committee)

the Berkeley draft board, where they hanged President Lyndon Johnson in effigy and burned 19 draft cards.<sup>61</sup> This mirrored a protest a few weeks earlier, where after a noon rally on campus on May 5, several hundred protesters had marched to the Berkeley draft board – at 2199 Bancroft, just across the street from the southwest corner of the campus, so they did not have to go far – carrying a black coffin: forty men burned their draft cards there.<sup>62</sup> In August, again organized by the VDC, several hundred people tried on several occasions to stop troop trains on railroad tracks in West Berkeley and Emeryville by standing on the tracks. On October 15, after another teach-in and rally on campus, a very large group – in one account including children, grandmothers, high school students and a busload of Ken Kesey’s Merry Pranksters – tried to march on the Army induction centre in Oakland, though they were stopped by Oakland police before being able to cross the city limit.

One should not be misled into thinking that such actions met with either local or national approval.<sup>63</sup> At this October march on Oakland, members of the Hell’s Angels’ motorcycle gang appeared, yelling «Go back to Russia, you fucking communists!» at the protesters. A poll taken earlier that year found most California respondents disapproved of political demonstrations at UC Berkeley. «The manner in which these people protest is tantamount to

<sup>61</sup> W. J. Rorabaugh: *Berkeley at War: the 1960s*, New York 1989, 92. Due to deferment and exemptions, those who retained student status were more able to avoid having to fight in Vietnam – some perhaps deliberately remaining students longer for just this reason. See David Card and Thomas Lemieux: *Going to College to Avoid the Draft: The Unintended Legacy of the Vietnam War*, in: *American Economic Review* 91/2 (2001) 97–102.

<sup>62</sup> The UC Berkeley Library, as part of a Social Activism Sound Recording Project about Anti-War Protests in the San Francisco Bay Area & Beyond, has a detailed chronology and numerous contemporaneous recordings of the FSM movement and its legacy, provided by Pacifica Radio. They can be accessed at:  
<https://guides.lib.berkeley.edu/c.php?g=819842&p=5922811>

<sup>63</sup> The details here derive from Rorabaugh, *Berkeley at War*, 94–97 and Los Angeles Times articles (April 13, August 7, October 17) as noted in the Social Activism Sound Recording Project chronology.

treason», Joseph Bort, a conservative member of the Alameda County Board of Supervisors was quoted as saying. UC faculty also were sharply divided about the tactics used by the VDC. Like the Free Speech Movement it supplanted, the VDC burned out quickly and was banned from campus barely a year later, in mid-August of 1966. At the national level, and this will sound familiar, HUAC launched an investigation into the VDC that same month, under the heading «Hearings on Assistance to Enemies of U.S. in Undeclared War». <sup>64</sup>

While the case would take time to wend its way through the courts, and specifically involved an alleged act of constitutionally protected free speech, not in Berkeley but in Boston in 1966, the Supreme Court ruled in *United States v. O'Brien* (1968):

We cannot accept the view that an apparently limitless variety of conduct can be labeled «speech» whenever the person engaging in the conduct intends thereby to express an idea [...] it does not necessarily follow that the destruction of a registration certificate is constitutionally protected activity. [...] A sufficiently important governmental interest in regulating the non-speech element can justify incidental limitations on First Amendment freedoms. We think it clear that a government regulation is sufficiently justified if it [...] furthers an important or substantial governmental interest.

In short, burning one's draft card could not be regarded as an act of free speech. Further, in 1966, J. Edgar Hoover, head of the FBI and a staunch hunter of «subversives», wrote in a memo that: «Agitators on other campuses take their lead from activities which occur at Berkeley», and the election of Ronald Reagan as California governor that year, «presents the Bureau with an opportunity to take positive steps to thwart the ever increasing agitation by subversive elements on the campuses [...] throughout the United States». <sup>65</sup>

Meanwhile, further anti-war demonstrations were held in Berkeley, including renewed marches on the Oakland Army Induction

<sup>64</sup> Gerard de Groot: The Limits of Moral Protest and Participatory Democracy: The Vietnam Day Committee, in: *Pacific Historical Review* 64/1 (February 1995) 95, footnote 1.

<sup>65</sup> Tom Hayden: *The Long Sixties: From 1960 to Barack Obama*, New York 2009, 41.



Center. On February 23, 1966, there was a peaceful march by Berkeley women<sup>66</sup> carrying banners and posters reading «Bring Our Men Home» and «Resist the Draft: Refuse to Kill or Die in Vietnam» and «Cease Bombing. Bring the Troops Home *Now!*» The «Stop the Draft Week» protests from October 16–20, 1967, were less peaceful: protestors skirmished with the Oakland police and some were arrested.

Anti-war sentiment was also expressed as part of a growing political mobilization within the black community. These were both peaceful and less peaceful responses to *Fremdbestimmung* by white society, political messages not generated on campus and carried out into the surrounding city. Rather, they came from the neighbouring city of Oakland and were carried onto the UC Berkeley campus.<sup>67</sup>

On October 29, 1966, for example, Stokely Carmichael, aged 25 and head of the SNCC, gave a speech to thousands of students at UC Berkeley's Greek Theater. Carmichael had helped found the Black Panther Party in Oakland. In front of a large banner reading BLACK POWER, and among many other messages, he told students to say «hell no to the draft».<sup>68</sup> Half a year later, Martin Luther King, Jr. appeared on Sproul Plaza, telling his many student listeners «we

<sup>66</sup> Such activism by women had earlier roots in Berkeley. Pat Cody, of Cody's Books on Telegraph Avenue, wrote: «As a founder of Women for Peace, I can remember our first activity, a request on November 1, 1961, to [Berkeley] City Hall to convey to Washington our urgent appeal for peace [... and] to ask the withdrawal of 20,000 US «advisors» from Vietnam. [...] Our choice of an appeal to City Hall («but we don't make foreign policy!») was, in a sense, intended to bring the war home. [...] We wanted to mobilize support in our own community for peace, to talk to representatives just one rung above us in the governmental ladder, to demonstrate that it was from us and our local officials that power flowed up to Washington.» Pat and Fred Cody: *A View from the Avenue*, in: H. Nathan, S. Scott: *Experiment and Change in Berkeley*, Berkeley 1978, 174.

<sup>67</sup> The impact of the black population in Berkeley on local politics, especially on who was elected to the City Council by whom and for what reasons, deserves a chapter of its own, but a good place to start is David Mundstock's Berkeley in the 70s manuscript, at: <https://berkeleyinthe70s1.homesteadcloud.com>

<sup>68</sup> <http://americanradioworks.publicradio.org/features/blackspeech/scarmichael.html> provides a transcript of this speech.

must escalate our protest against the war» and that there was a need to «engage in creative discontent». That such political speech was now possible on campus was a Free Speech Movement legacy, but a turning point was reached on October 22, 1968, when the leader of the Black Panther Party, Eldridge Cleaver, spoke on Sproul Plaza about «Blacks in America». Cleaver had been invited to teach Social Analysis 139X, a course called «Dehumanization and Regeneration of the American Social Order», at the university as part of an effort to encourage educational experimentation.<sup>69</sup>

The university's Regents opposed that invitation, as did the governor, declaring that students would not get credit for Cleaver's class. Indeed, the California governor described Eldridge Cleaver as «an advocate of racism and violence» whose appointment to teach was «an affront and an insult to the people of California».<sup>70</sup> That governor, Ronald Reagan, did more than anyone else to cement the idea that UC Berkeley was a place of radicals, and in so doing, inadvertently helped further radicalize and unify the city – in opposition to him.

As candidate for governor, Reagan promised to «clean up the mess at Berkeley», and in a particularly memorable campaign speech in San Francisco on May 12, 1966, claimed there was «a small minority of beatniks, radicals and filthy speech advocates» who «have brought shame on a great university». He also cited a Senate subcommittee report which claimed that: «The campus has become a rallying point for communists and a center for sexual misconduct».<sup>71</sup>

<sup>69</sup> Initially by a student, Larry Magid, but approved by the Board of Educational Development, a faculty committee created by the Academic Senate. See Julie Reuben: *The Limits of Freedom*, in: Robert Cohen, Reginald Zelnik (eds.): *The Free Speech Movement: Reflections on Berkeley in the 1960s*, Berkeley 2002, 485.

<sup>70</sup> *Ibid.*, 486.

<sup>71</sup> The San Francisco television station KRON-TV recorded this speech; the footage can be found at:

<https://diva.sfsu.edu/collections/sfbatv/bundles/229317>

For more analysis, see Michelle Reeves: «Obey the Rules or Get Out»: Ronald Reagan's 1966 Gubernatorial Campaign and the «Trouble in Berkeley», *Southern California Quarterly* 92/3 (Fall 2020) 275–305.

His real political success, though, was to place responsibility for student unrest on the administration of then-Governor Pat Brown, framing it as evidence of a «leadership gap». The state's higher education system, Reagan argued, had failed taxpayers and parents, and as a much later analysis accurately put it, «the problem of student unrest on the Berkeley campus [...] brilliantly highlighted the populist themes of Reagan's campaign: morality, law and order, strong leadership, traditional values, and anti-intellectualism».<sup>72</sup> Berkeley-sceptical Californians in the rest of the state were persuaded, electing Reagan as governor with 58% of the vote. Only three of California's 58 counties – including Alameda County, where Berkeley lies – did not give him a majority.

In mid-May 1969 – and it's conceivable that Eldridge Cleaver's speech on campus tipped the scales – Reagan finally had his chance to *do* something about that mess. The details are complicated, but in brief, the university made an ill-advised decision about nearby land it owned lying between Dwight, Haste and Bowditch streets; this generated protests on campus over what would come to be called People's Park.<sup>73</sup> Governor Reagan, in what one could call *Fremdbestimmung* with a vengeance, decided the appropriate response was to send 2,700 National Guard troops, equipped with tear gas, onto the UC Berkeley campus.

And then, far more consequentially, these troops moved down Telegraph Avenue. To fight the police at an Army recruiting centre in Oakland or to demonstrate at Berkeley's draft board was to tangle with local authorities. As a local historian would later put it, Reagan proved «more effective at radicalizing students than at taming them», and it was both traumatic and radicalizing – though consistent with the Wikipedia definition of heteronomy – to have, and see, National Guard troops take over city streets.

<sup>72</sup> Gerard De Groot: Ronald Reagan and Student Unrest in California, 1966–1970, in: Pacific Historical Review 65/1 (1996) 107.

<sup>73</sup> For contemporary reporting, see People's Park Newsreels 1969 at: <https://www.peoplespark.org/wp/>

While there had been earlier attempts to do so,<sup>74</sup> this was the point at which «citizen-activists» began to enter city politics. The *New York Times* commented in 1971 that «when Berkeley radicals, many of them veterans of the street battles, moved successfully into electoral politics last spring, it was a big story. Many saw it [...] as proof that you could work within the system for radical change. [...] City Council meetings will never be quite the same again».<sup>75</sup>

In fact, it took a number of rather chaotic meetings before the various factions and interests on the left could unite and then manage to elect three members to the City Council.<sup>76</sup> For the next 15 years, city politics were dominated by two factions, the more moderate Berkeley Democratic Club of business interests allied with «old liberals», and the more progressive – it sounded better than «radical» – Berkeley Citizens' Action.<sup>77</sup> A long-time Berkeley resident, recently asked about the politics of that era, commented: «Berkeley has people who are left – or further left.»<sup>78</sup> The electorate would prove fairly evenly split between the two factions, with

<sup>74</sup> There was an unsuccessful effort in 1966 to elect graduate student Robert Sheer to Congress. He received 40 percent of the vote in the primary and a majority in Berkeley itself, highlighting the vulnerability of incumbent Jeffrey Cohelan. This was exploited by Ron Dellums, who, as its most radical member, would go on to serve for 27 years (1971–1998) in the US House of Representatives. See Ch. Wollenberg: Berkeley, 150–151.

<sup>75</sup> Sol Stern: When radicals are elected to the hated system [...], in: *New York Times* (August 29, 1971) Section SM, 14.

<sup>76</sup> Soon after being elected, the Berkeley City Council made the news when three of its members, in protesting US foreign and domestic policy, remained seated and refused to say the Pledge of Allegiance that had routinely opened weekly Council meetings. At the next meeting, a vote was taken to abolish the pledge entirely in order not to have this be repeated weekly. The City Council also deadlocked on controversial issues, such as adopting a Peoples' Peace Treaty with the People of Vietnam, an initiative the old Council majority had refused to put on the April 1971 ballot. See David Mundstock's manuscript at: <https://berkeleyinthe70s1.homesteadcloud.com>

<sup>77</sup> Ch. Wollenberg: Berkeley, 151.

<sup>78</sup> Zoom conversation with Nancy Swearengen (August 8, 2021). She dryly added that this was one reason she now lived in Oakland.

black voters often providing the decisive swing vote, and «for most of this period», as city chronicler Charles Wollenberg notes, «moderates controlled the city council, but progressives set the political agenda».<sup>79</sup>

The focus in Berkeley, dating back to 1962, on events occurring abroad and on US presidential responses to such events, including actions taken or approved by Congress, the negative response to Governor Reagan's efforts to «clean up the mess» at Berkeley even though that «mess» in the 1960s was regarded as a constitutionally protected exercise of free speech, and the spillover from campus activism into the city itself as part of the protests of US involvement in Vietnam, all served to encourage taking stances in opposition to what might be seen as the prevailing political order. It is not overly surprising, given this history, to find similar stances be taken later, as one can see by selected subjects of City Council resolutions after the mid-1980s:

#### Examples of Berkeley City Council Resolutions II

Subject	Resolution Number	Year passed
Request Pres. Bush not to initiate war in the Persian Gulf and urge Congress to adopt sound energy policies	55,703	1991
Request the US government ensure certain provisions be included in the multilateral agreement on investments	59,755	1998
Request California's Senators hold hearings on the removal of landmines in foreign countries	60,256	1999
Oppose the Central American Free Trade Agreement	62,721	2004
Support establishing a United States Department of Peace	62,973	2005
Seek prosecution of war criminals for torture	67,320	2015

<sup>79</sup> Ch. Wollenberg: Berkeley, 151.

The 1999 Oppressive States Ordinance falls in this time period, and like the 1986 Nuclear Free Berkeley Act, it is framed in the language of peace as well as justice and freedoms:

The citizens of the City of Berkeley, believing that their quality of life is diminished when peace and justice are not fully present in the world, adopted Ordinance No. 5985-N.S. to promote universal respect for human rights and fundamental freedoms, and to stimulate public debate regarding the paramount importance of the rule of law and the need to end injustices and egregious violations of human rights wherever they may occur.<sup>80</sup>

To have peace and justice be «fully present in the world» as a standard, or an aspiration, is a rather tall order. Put in this self-determined manner, it also serves as a justification for why the Berkeley City Council passes judgemental resolutions about «morally repugnant regimes». In 1999, they included not just Tibet but also Myanmar, Nigeria, and Indonesia. Indeed, «the City of Berkeley declares the right to measure the moral character of its business partners in determining with whom it seeks to have business relations».<sup>81</sup> Similarly, an explicit brief for criticizing US foreign policy, because it accords too little weight to certain principles or ideals, can be found in the Preamble to the Oppressive States Ordinance:

The citizens of the City of Berkeley believe that the foreign policy of the United States of America should be grounded upon equality, respect for human rights, and the abhorrence of exploitation and all forms of oppression. However, the foreign policy of the United States of America with regard to particular countries, or governments, fails to accord sufficient importance to promoting equality, respect for human rights and the abhorrence of exploitation and all forms of oppression.

So by the mid-1980s, the City of Berkeley had appointed itself as a watchdog, its role to monitor American and foreign governments for their success, but perhaps more often for their failure, in living up to specified ideals. No contradiction is seen if that means,

<sup>80</sup> Preamble, Section 1(A). Ordinance 5985-N.S. is the 1990 Human Rights Ordinance.

<sup>81</sup> From Resolution 57,881 about Myanmar, passed 28 February 1995 but repealed 12 January 1999.

*fremdbestimmend*, trying to determine and steer the actions of those far outside the city limits.

### Assessments

In the end, four contractors bid on the Glendale Avenue project. The lowest bidder, who received the contract, was from a Bay Area city south of Berkeley, so it is hard to know whether the city's unusual additional requirements scared away other potential bidders: at least some contractors can clearly live with them, accepting this *Fremdbestimmung*. Besides, there are instances when the city chooses to waive such compliance requirements.<sup>82</sup>

The larger question is what the city gains by adopting such resolutions, or even enshrining them within the city procurement process. If the ordinances brought nothing or had negative consequences, they could be altered or rescinded. Changes do occur. Only Tibet is still defined as living under a «morally repugnant regime»; the other three countries have meanwhile been dropped from the list of Oppressive States.

One could see a David-and-Goliath narrative at work here, a kind of defiant *Selbstbestimmung* on the part of a city otherwise

<sup>82</sup> The Berkeley Public Library wanted to use RFID scanning technology the 3M corporation had developed when introducing a new checkout system in 2005, but 3M could not sign the Nuclear Free Disclosure Form: long in the past, it had sold products which could detect the explosion of a nuclear weapon. So the city, each time it signed a contract with 3M, waived this disclosure form requirement. In 2008 and 2009, in the eyes of quite vocal local activists, that meant the City Council undermined Berkeley's nuclear-free status. It also meant that, unwittingly, when you checked out material from the Berkeley Public Library, you were part of a debate about the connection of the city with nuclear weapons. See articles and links at:

<https://www.berkeleydailyplanet.com/issue/2008-12-11/article/31777?headline=Library-RFID-Funds-and-Nuclear-Weapons-The-Prospective-Connection>

and at:

<https://berkeleycitizen.org/community/community3.htm#rfidsilent>

subjugated to mightier outside forces. The standard narrative of how the United States emerged is of this kind, a story about the truculent responses by colonists to illegitimate, heavy-handed efforts from afar to steer and determine their lives, a tale of *Zumutung ohne Zustimmung*. With a kind of restrained dignity, the Declaration of Independence reshaped this sense of aggrievement into a claim that the «just powers» of government (read: the exercise of power) derive from «the consent of the governed».

The Oath Controversy at Berkeley did not rise to this level. It was more a story of David (the university staff and faculty) realizing, shocked, just how much smaller he was than Goliath (the Regents and President Sproul), the only saving grace (the law) a rock belatedly thrown (by the courts). Nevertheless, a higher power (the state legislature under the Levering Act) still wanted David (now as civil defence worker) to confess what was in his heart and mind if he wanted to obtain, or keep, a job working for the state.

The David-and-Goliath theme in the case of bidders for City of Berkeley contracts similarly demands loyalty, at least to telling the truth. While a contractor may be sceptical about city claims about the policies pursued by foreign countries or be personally relatively unconcerned about the safety of transporting nuclear waste through the city's streets, misrepresentation on the city forms of one's business connections to nuclear power or nuclear weapons, or to Tibet, carry significant penalties.<sup>83</sup> There is, one might say, little room in this relationship for David's self-determination.

The theme of obtaining a confession, of ferreting out the truth, of knowing what is in a person's heart or mind,<sup>84</sup> is a thread running

<sup>83</sup> Misrepresentation on the Nuclear Free and Oppressive States forms is under penalty of perjury – a felony offense in California that can be punished by up to four years in prison and/or a fine of up to \$10,000 – and perjury on the latter form can lead to being barred for five years from future bidding.

<sup>84</sup> There is even something biblical about this, appropriate in a land of the faithful: «The heart is deceitful above all things and beyond cure. I, the Lord, search the heart and examine the mind, to reward each person



through the repeated suspicions of what is taking place on the UC Berkeley campus. The sympathies and affiliations of Berkeley physicists working on the Manhattan Project came under scrutiny already during the war, and hardened into HUAC suspicions, beginning in 1948, of communist infiltration of nuclear research on campus. Though HUAC was on the wane by the time Berkeley students began becoming politically active in the late 1950s, it did not keep it from holding hearings to investigate SLATE and the VDC, trying to ferret out what could be driving the activism.<sup>85</sup> The FBI's J. Edgar Hoover, President Harry Truman, gubernatorial candidate Ronald Reagan, even the Hell's Angels: all were convinced that communists, subversives, were at work at UC Berkeley, undermining America. So it is ironic, if not a little tragic, that in their hearts and minds those nuclear physicists and student protesters felt that they were acting to support the United States, or at least acting based on some of its bedrock rights and ideals.<sup>86</sup>

From another perspective, clearly evident in the justificatory language underlying the Peace and Justice Commission, the Nuclear Free Berkeley Act, and the Oppressive States Ordinance, is that Berkeley is engaged in a discourse, driven by moral and ethical issues first raised on campus, that exalts justice and fights oppression, praises equality and respect, seeks peace, supports the rule of law, and values humanity and responsibility. As a lifelong resident put it, in Berkeley's relationship to the world, «we're measured for things we don't *have* to do».<sup>87</sup> If that is radical, it is also noble, a pursuit of the highest of social and political goals.

according to their conduct, according to what their deeds deserve» (Jeremiah 17: 9–10).

<sup>85</sup> As Aptheker's account clearly shows, that activism spanned the political spectrum – but the investigators only cared about looking into those on the political left.

<sup>86</sup> Clearly there were those enamoured of other ideas, that it was good to give the Soviets secrets in order to achieve a balance of power, for example, or that socialist ideas about community might help provide a balancing force to American individualism.

<sup>87</sup> Zoom conversation with Christopher Ratcliff (8 August 2021).

And yet ... In the 1980s and 1990s, there were passionate debates in Berkeley about rent control in which, as one of the city's chroniclers perceptively noted,

both sides used arguments based on broad moral principle: the basic right to shelter versus the basic rights of property. It was as if rent control was an issue equivalent in moral weight to free speech, racial justice, or the Vietnam War. The transformation of often-mundane matters of local administration into issues of high moral principle is surely one of the legacies of the sixties.<sup>88</sup>

As the Urban Dictionary waspishly notes, this pursuit of principle may come at the expense of fixing the potholes. There have been far more critical views, too:

The tone of Berkeley's political exchanges is moralistic rather than moral, coercive rather than persuasive. Thus the progressive left, in its desire to make Berkeley an example of social justice for other cities to follow, has tended to view the city more as a place to conduct experiments and unsettle existing procedures, rather than as a corporate entity to be administered competently in the interests of all its inhabitants. The result is a concentration on issues that have or can be made to have symbolic overtones. The other side of this attitudinal coin is a relative lack of interest in fiscal and tax matters, a preference for browbeating city agencies, rather than cooperating with them to increase their usefulness.<sup>89</sup>

Granted, this was a view from the later 1970s, while the «radicals» (or progressives) on the City Council were still finding their way, and it marks just how much things had changed since the 1950s. Lyford's characterization goes on to describe how political activists on the left focus on ideology, power structures, and generalized issues – peace, justice, humanity – «many having more to do with foreign policy than local affairs»,<sup>90</sup> which can explain the roots, though not the persistence, of a certain type of Berkeley City Council resolution.

<sup>88</sup> Ch. Wollenberg: Berkeley, 154.

<sup>89</sup> Joseph Lyford: Letters from a Berkeley Collection, in: H. Nathan, S. Scott, Experiment and Change in Berkeley, 462 and 480. Lyford was a UC Berkeley journalism professor from 1966 to 1983.

<sup>90</sup> J. Lyford: Letters, 454.

For that, one needs to consider for whom such decisions are meant. «These kinds of resolutions have nothing to do with the people of Berkeley, they're much more about getting attention for the city»,<sup>91</sup> one long-time Berkeley resident recently opined. Her view dovetails with an assessment from more than forty years ago: the progressive left in Berkeley «was absorbed with [...] playing to audiences beyond the city limits».<sup>92</sup> Yet if that means «we're not ignoring the world; we're drawing attention to it»,<sup>93</sup> it also bespeaks a hankering in Berkeley to remain at centre stage, to trumpet that *we* are nuclear free, *we* work to end apartheid, *we* boycott products, *we* pressure our senators to do something about landmines. To some, that sounds like hubris. More charitably, it suggests that the city cultivates a self-image of being out in front – one definition of «progressive» – as a way of political life.

But perhaps, if we take the People's Republic moniker a little more seriously, or at least draw a weak, if appropriate, analogy to the shift from Trotskyist internationalism to Stalin's «socialism in one country», recent Berkeley ordinances suggest the progressive spirit lives on at a more modest and realistic level, oriented to nudging the behavior just of those *inside* the city limits in more virtuous directions. Or so one could understand the 1988 Polystyrene Foam, Degradable and Recyclable Food Packaging Ordinance (to eliminate styrofoam packaging for food takeaways) and the 2019 Single-Use Disposable Foodware and Litter Reduction Ordinance (to reduce the trash and litter generated by cups and disposable cutlery). Or,

<sup>91</sup> Zoom conversation with Nancy Swearingen (August 8, 2021).

<sup>92</sup> J. Lyford: Letters, 515. His late-1970s assessment that «the assumption that what happened in Berkeley must be important to the world diverted attention from the relatively small but important details at home» sounds much like Wollenberg's assessment (see footnote 88) of rent control debates in the 1980s and 1990s.

<sup>93</sup> Zoom conversation with Christopher Ratcliff (8 August 2021). He admitted this might be opportunistic, self-serving, a kind of «brand maintenance» on the part of Berkeley politicians. At the same time, much in the spirit of the 1960s Berkeley he grew up in, he added: «it's also about thinking in whole systems».

to cite Lincoln's appeal to «the better angels of our nature» that underlies so many of the hopes attached to Berkeley City Council resolutions, the 2020 Healthy Checkout Ordinance (at larger stores) which tries to reduce our tendency to buy food and drink that isn't good for us as we wait in line to buy our groceries.

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