

Swiss Confederation

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Switzerland is a small country in the centre of Western Europe with a surface area of about 41,290 square kilometres and a population of 7.3 million people. Its per capita GDP in 2004 was estimated as US\$33,800.¹ It has three spheres of government, each with its own institutions: the federation, 26 cantons,² and approximately 2,900 communes.³ Within each sphere of government there is a separation of powers between the executive, the legislature, and the judiciary. Historically speaking, the Swiss federation⁴ represents a case of bottom-up nation building and a true example of “non-centralization.” When founding the federation in 1848, the cantons kept their statehood, their own constitutions, and most of their political autonomy.

The Swiss constituent units are unequal in two respects. First, they are different in size, in relation to both population and territory. While the most populous cantons (such as Zurich or Bern) each have a population of more than one million people, smaller ones (such as Uri or Appenzell) number only several tens of thousand inhabitants. From a territorial point of view, the biggest canton is the Canton of Grisons (Graubünden). Its surface area of 7,105 square kilometres contrasts with the 37 square kilometres of the smallest constituent unit, Basle-Town. Second, economic differences between the cantons are substantial. The urban cantons of Geneva and the two Basles, together with the metropolitan region of Zurich, are economically stronger than the rest of the country as a whole. In contrast, some rural and mountain regions are relatively poor.⁵

The political stability of Switzerland’s parliamentary system is outstanding. For more than forty years, the Federal Council, the seven-member head of the Swiss government, has been composed of a coalition between the same four political parties, representing together about 75 percent of the electorate. Switzerland belongs to the type of consensus democracy characterized by political power-sharing. Political solutions are not found by majority decisions but through negotiation and compromise among the important political forces. In addition to voting for representatives in regular elections, the Swiss people participate directly in making important political decisions. In this sense, they are part of the federal legislature. Using the instruments of the referendum and the popular initiative, the people can have the last word on the decisions of their parliaments. This reflects the emphasis that the Swiss place on the sovereignty of the people, on the belief that it is the people and not Parliament or the courts that should decide the most important issues.

Federalism is another significant element of Swiss consensus democracy.⁶ Several institutions that are the product of federalism enable the cantons to influence federal governance and to cause attention to be paid to cantonal interests and concerns. The first that should be mentioned is the Council of the States. This is the second chamber of the federal Parliament, in which all cantons are equally represented, irrespective of their size.⁷ As all parliamentary decisions need a majority in both chambers, the small and generally rural cantons have a strong voice in the Council. Similarly, in popular voting on constitutional amendments, a positive decision requires not only the majority of the people but also of the cantons. The cantons also have the right of parliamentary initiative, which allows a single canton to require the federal Parliament to consider a proposal. Eight cantons, acting together, can use the instrument of a cantonal referendum in order to resist certain parliamentary decisions. Last but not least, cantons participate in the process of consultation on legislation, and they influence federal policies through the implementation of federal legislation.

BACKGROUND

The People

Indigenous people in Switzerland speak four languages: 70 percent speak German, 22 percent French, and 7 percent Italian. The fourth language, Romansch, is spoken by a minority of less than 1 percent in the alpine region of Southeast Switzerland.⁸ The language groups are divided between the constituent units of Switzerland in such a way that, in most cantons, an overwhelming majority speaks one language. Hence, it is possible to distinguish between the sixteen German-speaking cantons, the six French-speaking cantons, and the single Italian-speaking canton. The two cantons of Fribourg and Bern use both German and French. One canton, Grisons, is trilingual, using German, Italian, and Romansch.

In relation to religion, the country is 42 percent Roman Catholics and 35 percent Protestant. The rest of the population either adheres to other religions or to no religion. Although these differences are no longer of overriding importance, the religious cleavage, which in earlier times coincided with cantonal borders, was an important cause of conflict until the twentieth century. Roman Catholics and Protestants fought four civil wars against each other. At the time of nation building, religion was still the crucial cleavage in Switzerland, culminating in a cultural struggle (*Kulturkampf*) that went beyond religion to engage different views of society and state.⁹

A Swiss nation-state came into being in 1848, but federalism guaranteed the political autonomy of the cantons and allowed the peoples in the cantons to live with their linguistic and religious differences. Federalism, therefore, helped to overcome the strong political cleavages of religion and language in a peaceful way.¹⁰ Additionally, it enabled the constitution of a Swiss society that originally did not exist. Cantonal identities and differences continue to be important. German speakers, for instance, still use different dialects that distinguish persons from Valais, Basle, or Zurich. Cantonal autonomy implies different political institutions and different cantonal policies as well. Economists often say that many Swiss cantons are too small to be efficient service providers. Will cantonal autonomy and identity therefore vanish? One new, but still limited, trend pointing in this direction is the merging of some communes within cantons - a development that was not conceivable ten years ago. Given the limited capacities of small cantons to cope with the growing complexity of policy, one can imagine a similar development taking place among these cantons. For the time being, however, any notion of cantonal fusion is a long way off.

In 2002, 20 percent of the inhabitants of the country were foreigners. A significant proportion of the Swiss population thus does not participate in the political process. This is problematic from the standpoint of legitimacy and also detracts from the potential for integration through political participation in governing institutions.

In the past, Swiss enterprises actively sought foreign workers. However, with the growth of the foreign population and with the arrival of refugees from Third World countries, substantial political tensions have arisen. The emergence of xenophobic parties and groups, which bring increasing pressure to bear on political authorities to restrict immigration so as to protect against social "alienation," makes it clear that the integration of foreigners into Swiss society is proving much more difficult than was the integration of the indigenous religious and linguistic minorities during the nineteenth century.

History

The origins of Switzerland date back to the thirteenth century, when three tiny alpine regions, later followed by some cities, successfully claimed some privileges from the Habsburg regime. By the time of the French Revolution, ten other regions and cities had followed suit. Together, they formed a loose confederation. In 1798 Napoleon's troops invaded Switzerland, promising to bring democracy. However, the French imposition of a centralized Helvetic Republic was not a success, and in 1803 Napoleon partially restored cantonal autonomy in the Mediation Act. In 1815 the Swiss chose to return to the old confederal system. Considering themselves as sovereign states, of which by then there were 25, they re-established a treaty to guarantee collective security through mutual assistance. By the middle of the

nineteenth century, however, this loose confederation was no longer efficient enough for a majority of the cantons. They pointed to the need for a more powerful federal government to keep up with the demands of state building, modernization, and economic development that were occurring in the surrounding countries of Germany, France, Italy, and Austria.

In 1848 the Swiss federation was created through a constitutional act that was approved by the majority of the cantons and declared binding for all. The creation of this federation involved a political compromise between the two major political forces: the radicals and the conservatives. The former, mainly from urban and Protestant cantons, gave priority to industrialization; the latter, mainly from rural and Roman Catholic regions, feared domination by what was, at that time, a Protestant, liberal majority. For two reasons, federalism was essential. First, it was the political compromise between those wanting a strong central state and those wanting to maintain the status quo. Second, federalism was a durable power-sharing arrangement. It meant the creation of a federal authority, but it also allowed the (now 26) cantons to maintain different cultures, languages, and religions as well as their historical heritage of political autonomy.

The basic concept of the Swiss nation-state, influenced by the historical circumstances outlined above, can be explained by reference to the following four characteristics.¹¹ First, Switzerland is a political nation-state for a culturally segmented society. From the beginning, Switzerland was a multicultural nation-state. It was not based on the principles of a common language, religion, or ethnicity but, rather, on the abstract principle of citizenship. The Constitution of 1848 made it clear that it is the cantons and their peoples who constitute the Swiss federation. Thus, the Swiss nation-state is a political, not a cultural, nation-state.¹²

The second characteristic of the Swiss nation-state is nation building from the bottom up, which respects regional and local autonomy. Initially, only a few powers, such as defence and foreign relations, were given to the federation. The cantons retained statehood and considerable political autonomy, based on their own constitutions, and defined their own powers, including taxation. Even today, any proposal for a new federal responsibility must be formally decided through a constitutional amendment, which needs the approval of the majority of the people, counted both nationally and within the cantons. This approach to nation building is characterized by non-centralization. Federalism within this context is a vertical power-sharing device.

The third characteristic of the Swiss nation-state is strong political participation by leaders and citizens of the cantons in federal decisions. Ivo Duchacek once observed that the "decisive participation" of constituent units in amending the federal constitution is one of the yardsticks of all federal systems.¹³ Swiss federalism goes much farther. The Swiss cantons participate in very many of the affairs of the federation, whether it be amending the Constitution, enacting new legislation, or conducting federal administration. To be valid, all decisions of Parliament need a majority in both houses. Similarly, all voting on popular initiatives or referenda on constitutional amendments require a majority of the cantons as well as of the people. Thus, most important federal decisions are the subject of a double decision rule, reflecting the democratic principle of "one person one vote" and the federal principle of "one vote for each member state".

The final characteristic of the Swiss nation-state is the proportionality of the representation of different political cultures. From the beginning, many federal institutions were designed to provide for the proportional representation of the different language and cultural groups of the cantonal peoples. Thus, the executive branch consists of a collegiate body of seven members who decide collectively on all important government matters. In order to integrate the different language regions, Parliament elects representatives from all of the three important regions of the country. Today, proportional representation of the different language groups today is the practice, although not the law, in all branches of the federal sphere of government and at all levels of the federal administration.

The Swiss are proud of their political institutions. They sometimes idealize direct participation, power sharing, and federalism as delivering the best possible democracy, and they sometimes overestimate the advantages of local and cantonal autonomy. In doing this, they tend to overlook the fact that the Swiss welfare state, in this age of globalization, has undergone many forms of centralization.

Some people make the criticism that, in these circumstances, federalism has become a myth. However, myths can be driving forces in history. In this sense, federalism is not only a functional institution for the Swiss but also one of the strongest symbolic values in the Swiss national culture.

FEDERAL INSTITUTIONS

THE FEDERAL LEGISLATURE

General

According to the Swiss Constitution, the Federal Assembly (*Vereinigte Bundesversammlung*, or *l'Assemblée fédérale*) is the supreme power in the federation, subject only to the powers of the people (Article 148 B-V). The Assembly functions either as one united chamber or as two independent chambers. It holds the legislative power to make all federal laws (with each chamber deciding independently) and appoints the members of the executive branch, the members of the Federal Court and other major federal bodies, and the commander-in-chief of the army in times of war (with the chambers deciding as a united body). Furthermore, the two chambers of Parliament, having exactly the same competences, supervise all the authorities of the Swiss federal government and approve the annual budget prepared by the Federal Council.

However, the political supremacy of the Swiss Parliament gradually diminished near the end of the nineteenth century - a process that culminated, at the latest, during the First World War. There are several reasons for the differences between theory and practice in relation to the power of the Federal Assembly.

The most important factor in the decline of Parliament is probably direct democracy as introduced in 1874. Referenda give the people the last word with regard to legislation. Through a popular initiative, the people can impose constitutional change. These political rights of the people substantially diminish the decision-making powers of both chambers of the legislature. In fact, a referendum presents a considerable risk that parliamentary decisions will be defeated by the people. Parliament tries to reduce this risk by taking decisions that do not depart too far from the status quo.

A second factor in the decline of Parliament is the development of the welfare state, in which executive decisions taken in the course of implementation are often more important than is the legislation itself. And a final factor concerns the primacy of the executive in foreign affairs. Against the background of an increasingly close link between foreign and domestic politics, the stance of the executive on foreign affairs increasingly constrains the decisions of Parliament.¹⁴

For these reasons one cannot really speak of parliamentary supremacy in practice; rather, there is in Switzerland a kind of equilibrium of power between the legislature, the executive, and the people that is similar to what one finds in some states in the United States.

As noted earlier, the Swiss Parliament consists of two equal chambers: the National Council (*Nationalrat*, or *Conseil national*) representing the people and the Council of the States (*Ständerat*, or *Conseil des Etats*) representing the cantons. This bicameralism reflects the equal importance of democratic and federal influences. Both chambers can initiate constitutional amendments and bills and propose the revision of laws. Every bill must be approved by a majority of both chambers. If a bill, or some of its propositions, fails to gain a majority in one of the chambers, the two chambers try to find a compromise through a procedure that, finally, involves negotiation between delegates of the two chambers in a joint committee.¹⁵ In the absence of agreement, the bill does not get through.

The internal organization of both chambers is modelled on the concepts of power sharing and inclusion. For example, the members of all parliamentary committees proportionally represent the different language groups and parties. Even though there are some legal obligations, proportional representation in this context is less a formal norm than it is an informal and flexible political agreement

among the main political forces. The main difference between the two chambers is the mode of election used, and this is described in the following sections.

National Council

The National Council represents the people, and its 200 members are elected every four years on the democratic principle of one person, one vote. The National Council is elected from 26 districts, corresponding to the 26 cantons, and the seats are divided among the cantons according to their population shares. Each canton has at least one representative.

This logic has three consequences. First, the choice given to the electorate varies considerably between the small and large cantons. While the inhabitants of the canton of Appenzell Innerrhoden, with its some 15,000 inhabitants, elect only one parliamentarian, the canton of Zurich, with its more than one million people, sends 34 representatives to the National Council.

Second, the differences in the size of the population of the constituent units influence the operation of the electoral system of proportional representation. The proportionality rule, introduced in 1918 by a popular initiative, should offer a better chance to small parties in the segmented Swiss party system. However, while this objective is realized in the larger cantons such as Zurich, where a party can win a seat with less than 3 percent of the votes, in a small canton with, for instance, only two seats, the same party would need 34 percent of the votes in order to win a seat. In small cantons, therefore, the proportionality rule is very close to a winner-takes-all majority system in which smaller parties risk being left out.

Finally, as the cantons are the constituencies for the election, only candidates with sufficient cantonal support have a chance to be elected. Thus, even if the National Council formally represents the Swiss people as a whole, cantonal politics, cantonal interests, and cantonal parties have a strong impact on its composition and operation.

Council of the States

The Council of the States is composed of two members from every full canton and one member from each half-canton, resulting in a total of 46 members. The members of the Council of the States are considered to be the representatives (or even delegates) of the once-sovereign cantons. Therefore, elections to the Council of the States are cantonal elections, and the cantons have the competence to determine the mode of election (in contrast, in this respect, to the Senate of the United States). Before direct elections became the rule after the Second World War, in many cantons the two delegates to the Council of the States were nominated by the cantonal parliament. By now, however, the Council of the States is elected by the people in all cantons, usually following the principle of majority rule. This means that a candidate must gain the absolute majority of votes in order to win the seat.

The majority-election rule has two important consequences.¹⁶ First, it demonstrates another effect of federalism as the small cantons with two seats are overrepresented in comparison to the larger cantons. Originally, this was meant to protect the interests of the small, Roman Catholic cantons, which feared a central state dominated by liberal, Protestant forces. Second, however, the composition of the Council of the States shows the effect of party strength. While the composition of the National Council reflects the proportional electoral strength of the different parties quite well, the distribution of seats in the Council of the States is usually biased. The major bourgeois parties are able to form a political coalition that gives them an absolute majority in almost every canton. The parties of the political right, on the other hand, which in most cantons get between 20 percent and 40 percent of the vote, lack the electoral potential to constitute a majority coalition. Therefore, the bourgeois parties dominate the Council of the States, while the left forces are underrepresented.

The question is whether these institutional differences have an influence on the practice of the two chambers. A survey of the members of Parliament¹⁷ has concluded that the members of the Council of the States feel themselves primarily as representatives of the cantons, while the National Councillors see themselves as representatives of the people. Thus, subjectively, the differences between the two chambers are as intended by the Constitution. However, this is not borne out by their political behaviour. Of the decisions actually made by the two chambers, the National Council brings up as many federalism concerns as does the Council of the States, and the latter does not particularly insist on cantonal interests. On the basis of this comparison, the Council of the States is not the privileged arena for federal affairs.¹⁸

If the Council of the States does not really make a difference in legislation, one could ask whether it should be reformed or abandoned. Critics suggest that the members of the National Council are not in tune with the constituted bodies of their cantons. One way to strengthen the link between cantonal interests and federal politics would be through the device of dual mandates, making a member of each cantonal government a representative in the Council of the States at the same time. Another possibility would be the introduction of binding mandates.

Dual mandates are rare for two reasons, however. First, the responsibilities of the Council of the States have become more and more demanding in terms of time. Second, citizens have become suspicious of dual mandates. The legislation of some cantons now actually forbids accumulating political power in this way. Nor do citizens tend to support the use of binding guidelines for politicians - or binding mandates, which are contrary to Swiss ideas of a free parliamentary mandate. In any event, in reality, neither the existence nor the functions of the Council of the States are seriously questioned. Although the Council of the States may not serve as a “real” chamber of the cantons, its acceptance is unaffected, and it therefore plays an important symbolic role as a federal chamber.

There is a question whether this level of acceptance would continue if the Council of the States consistently took decisions in opposition to the National Council, thus blocking the legislative process. This is not so fanciful as, today, the differences in population shares and between the interests of the larger and the smaller cantons are much increased over what they used to be. If the small cantons, representing only one-fifth of the Swiss population, were to form a permanent majority, pressing their own interests, the legitimacy of their more-than-proportional representation in the Council of the States would probably be questioned. Hence, a rather cynical conclusion could be that the Council of the States owes its high level of acceptance not least to the fact that it is a federal chamber in the sense of symbolic representation rather than in the sense of real decision making.

THE FEDERAL EXECUTIVE

General

The Federal Council (*Bundesrat*, or *Conseil fédéral*) is elected by the Federal Assembly, the joint assembly of the 246 members of both houses of the federal Parliament. There is no vote of confidence, however, and members of the Federal Council are usually re-elected after the normal four-year period, if they so desire.

As a result, Switzerland fits neither of the ideal types of a presidential or a parliamentary system. Alois Riklin and Alois Ochsner¹⁹ call Switzerland “non-parliamentary” (because the executive is not dependent on legislative confidence) and “non-presidential” (because there is no head of state elected directly by the people). Conversely, one can say that the Swiss Constitution represents a mixed type of democratic system showing elements of both parliamentary and presidential models. On one hand, the Swiss system shares the election mode with parliamentary systems, where the executive is elected by Parliament; on the other hand, once elected, the Federal Council is independent from the legislature, as in a presidential system.

The Federal Council is the supreme executive and governing authority (Article 174 V-G), with far-reaching constitutional powers. It defines the general aims and instruments of federal policy and plans and coordinates the corresponding activities. It determines foreign affairs and defence policy and directs the administration and the implementation of all federal policies. In relation to legislation, it organizes the pre-parliamentary process and makes subordinate legislation.

Constitution of the Federal Council

Although the Federal Council is a collegial executive, each of the seven members is elected individually. After the parliamentary elections, which take place every four years, the councillors are each separately re-elected, requiring an absolute majority. Since 1959 the same four governmental parties of Radicals, Christian-Democrats, Social Democrats, and the People's Party have shared the seats on the Federal Council. The proportional representation of political parties overlaps with that of language. In order to integrate the different linguistic regions, Parliament elects representatives from all of the three important such regions of the country, normally allocating two or three seats to the French-speakers and Italian-speakers collectively.

Political power sharing in the executive is the result not of a constitutional requirement but, rather, of a political arrangement among the ruling parties. Initially, the Radicals established a one-party executive, but gradually the other parties became part of the government. This process was influenced by the mechanism of direct democracy. The participation of different political forces was needed to prevent Opposition-led referenda from systematically blocking federal decisions.

As a result of political power sharing, the proportional composition of the Federal Council did not change until decades after 1959. Individual members normally could be confident of re-election. In 1999 and 2003, however, the People's Party increased its percentage of votes substantially, growing from the smallest to the strongest of the four parties. Holding only one out of the seven seats, the People's Party claimed a second federal councillor. This claim gave rise to highly controversial discussions and was eventually accepted in 2003, at the expense of the Christian-Democrats.

Head of the State

The most unusual characteristic of the Federal Council, as the Swiss executive, is that it is a collegial body, which decides collectively on all important issues. The seven members are elected as equals and without any attribution to a particular department. After their election, the members of the Federal Council decide on the (re)distribution of the departments. They state their preference in order of seniority; however, if there is a contest, the majority principle applies. There is no permanent head of government with special prerogatives. Every year Parliament elects one of the seven councillors as president of the federation. The president is merely *primus inter pares*, with no special political privileges and mainly formal duties. Essentially, the role of the president is to chair the meetings of the collegiate body. The Federal Council, as a collective body, is the Swiss head of state.

In fact, the diversity of Switzerland probably would not permit a head of state constituted by a single person. The Swiss system avoids the risk of concentrating power in the hands of a strong president, while the collegiate character of the Federal Council corresponds to the needs of a multicultural society. Many observers note that, in consequence, there is little continuity of purpose and that government action very often lacks coherence.

Administration

The Swiss federal administration is made up of seven departments, each headed by one of the federal councillors, in addition to a number of autonomous and semi-autonomous agencies. Concerning the scope of the federal administration, several points must be mentioned here.

The first is that, as the Swiss nation-state was built in the course of the nineteenth century, little attention was paid to the federal administration. Consistently, with the pattern of development from the bottom up, the cantons were designated to implement federal policies - a solution that allowed differences in implementation, reflecting cantonal concerns. Thus, the founders of the federation believed that there was no need for a special federal administration. Until the Second World War the federal administration was very small.

Events of the past 50 years, however, have increased both the influence and the size of the federal administration. With the development of the welfare state, the formulation of new policies and proposed legislation has become more complex. Having its own interest in the reform process, and using its particular expertise and resources, the administration defines priorities and options and also influences the choice of policies. Political scientists speak of the appearance of a “political administration” that not only implements the decisions of Parliament but that has also become a political actor. The role of the administration in the legislative process has been further strengthened, moreover, by the formalization of the pre-parliamentary process. The federal administration organizes this process. It proposes the participants for appointment to the expert committees that advise the Federal Council on many aspects of its activities, directs the hearings, and prepares the draft legislation on behalf of the executive for submission to Parliament. Finally, legislation itself often provides general rules in the nature of guidelines, leaving the details open to specification during implementation. Discretion in the course of implementation not only serves the autonomy of the cantons but can also be used by the federal administration in enacting ordinances.

The federal administration has experienced less growth than have the cantonal and communal administrations. Its importance as an actor that influences policy at different stages, however, is not primarily a question of numbers but, rather, a consequence of the growing complexity of government and of the processes of centralization and internationalization.

Given the greater political role of the administration, it is not surprising to find that political criteria also play an increasingly important role in selecting people for administrative positions. The principle of equal treatment of the four official languages is particularly relevant. Most federal departments are subject to an agreement that provides for the proportional representation of ethnolinguistic groups in their organization, both quantitatively (i.e., the number of employees from each ethnolinguistic group) and qualitatively (i.e., the type of employment). This means that proportional representation must be respected at all levels in order to grant the linguistic minorities access to significant positions. In consequence, over the last 30 years the share of Italian-speakers in the top management of the federal administration has more than doubled. A similar phenomenon can be observed in relation to the expert committees, where the share of positions held by the French- and Italian-speaking minorities has also grown.

Other institutions

This section deals with three other institutions that affect the operation of government in the federal sphere in Switzerland. The first concerns the historically important concept of “service public” and how it applies to the federal sphere. The concept implies that a supply of primary infrastructure and of good-quality services should be available at an appropriate price for the whole population - in all regions and on the same conditions. This idea has been central to Swiss federalism for many decades. As a result, communities in remote areas have also profited from the equal availability of postal services, public transport, roads and highways, telecommunications, and energy. The contemporary trend towards liberalization and privatization of government services, however, places a higher value on economic efficiency than it does on equality of access to public goods. Thus, privatization and the rationalization of public services have become a crucial issue and have given rise to contradictory tendencies. On one hand, remote and rarely used postal service offices or railway stations have been closed; on the other hand, decentralization of the federal administration has continued, in the sense that some federal offices have moved from the capital, Bern, to cities in other regions.

The second point concerns the party system in Switzerland. Like the Swiss nation-state itself, the Swiss party system developed from the bottom up. At the beginning of the nineteenth century, political parties originated in the communes and cantons before they coalesced around 1900 in national parties.²⁰ Even today, political parties are organized in a federal manner, with every party having national, cantonal and communal organizations. The party system follows the logic of the decentralized political system in such a way that the lower levels can always exert substantial influence on the upper levels. Thus, even though the Swiss parties are national, their structure, their decentralized configuration of power, and the differences between the cantonal parties are endemic to the political system and have persisted.

In the communes and cantons the parties are important for recruiting political personnel. As a result of the decentralized structure of the party system, the members belong to the cantonal party first and to the national party second. In addition, elections to the federal Parliament are cantonal elections in the sense that it is the cantonal parties that nominate the candidates. Political careers normally start in the communes or cantons. Thus, success within the party at a subnational level is essential for candidates who want to climb the ladder to a further career, including political office in the federal legislature or the federal government.

One final institution that requires mention in this context is the national bank. The bank is largely independent of politics in Switzerland. Nevertheless, both the establishment and the structure of the bank have been shaped by federalism. The federation had no competence in the area of monetary policy until the end of the nineteenth century. While most other industrialized countries accepted the need for a central bank, the idea went against federalist tradition in Switzerland. A proposal for the establishment of such a bank was rejected in a popular vote in 1897; finally, however, the Swiss national bank was founded in 1907. Its structure continues to reflect federalist ideas, with the cantons holding shares in it. Together with the cantonal banks and other public institutions, they constitute a majority in its general assembly. At least two-thirds of the profits made by the bank go to the cantons.

THE FEDERAL JUDICATURE

The federal structure of Switzerland is also reflected in a dual judicial system, with the Federal Court (*Bundesgericht*, or *Tribunal fédéral*) in the national sphere and 26 cantonal court systems. The Federal Court is primarily the appellate court for matters of federal law. In addition, it functions as a constitutional court to protect the federal Constitution against the cantons. Thus, it can engage with cantonal law but only to the extent necessary to decide whether federal law, due process of law, and the human rights laid down in the Constitution have been respected. In an overwhelming majority of cases, the Federal Court confirms cantonal judgments.

The function of the Federal Court should not be underestimated. While the federal executive and legislative branches have neither the legal nor the political means to enforce the cantons to implement federal tasks, the Federal Court can compensate for this in several ways. In particular, it can review a cantonal policy or the cantonal implementation of a federal task on the grounds that it contradicts federal law. As a result, it is sometimes necessary for the court to deal with political rather than with strictly legal questions (e.g., such highly controversial matters as naturalization policy).

The following decision of the Federal Court illustrates the point.²¹ Some communes followed the practice of deciding on each individual application for Swiss citizenship by a popular vote. In 2003 the Federal Court accepted the complaint of a number of citizenship candidates who claimed that this procedure was unconstitutional. The Federal Court reasoned that such decisions have to be substantially justified, which is not possible in a popular vote at the polls. Generally, judgments about fundamental rights and principles of law are relatively uncontested. However, this case not only affected individual rights but also interfered with democratic rights and the right to self-determination of peoples. As a result, the decision attracted vehement reactions, and there was intense political discussion concerning the relationship between fundamental rights, federalism, and direct democracy.

As the supreme authority interpreting the Constitution, the Federal Court and its decisions have an integrating effect in that they lead to a certain amount of homogenization between the cantons.

Nevertheless, the Federal Court cannot declare acts of the Federal Council or the Federal Assembly invalid on constitutional or legal grounds. As mentioned in the introduction, final authority lies with the people and is to be exercised in relation to legislation through the mechanisms of direct democracy. In the view of the Swiss, a law that has been accepted by the people either directly in a popular vote or indirectly by refraining from a referendum vote should not be corrected by judicial review.

INSTITUTIONAL ARRANGEMENTS OF THE CONSTITUENT UNITS

General

The ample political autonomy of the constituent units is best illustrated by the fact that the cantons have their own constitutions. Cantonal constitutions are restricted only by requirements prescribed in the federal Constitution to respect principles of democracy and to guarantee fundamental rights and the rule of law. To this end, cantonal constitutions and any changes to them must be approved by the federal Parliament. The cantons have both their own political organization and their own political authorities. They also have their own tax resources.²² Thus they are guaranteed ample autonomy in legislation, in implementing their own policy preferences in relation to public goods and services, and in financial matters. As a result, the cantons differ substantially in most aspects of their internal structure, ranging from the extent of direct democracy and the degree of autonomy of the municipalities to the procedures for selecting judges.

Legislatures

The most important difference between the federal and cantonal legislatures is that cantonal legislatures have only one chamber of parliament. Consistent with the federal principle, most of the cantons are very decentralized (*Gemeindeautonomie*), which makes for a three-level system in which the lower levels, when compared to the upper level, have substantial autonomy. As a result of the degree of cantonal autonomy, the size and other features of the parliaments of the cantons vary considerably. Thus, the number of seats in cantonal parliaments ranges from 46 in Appenzell Inner Rhodes to 200 in Bern and Argovia. As a corollary, the number of inhabitants per parliamentary seat also varies considerably from, for example, 6,000 in Zurich to 325 in Appenzell Inner Rhodes.

As in the federal sphere, so in the cantonal sphere proportional representation is used for election to the cantonal parliament.²³ However, in many cantons the electoral districts are small, with only a few seats to be assigned. On one hand, this protects regional minorities. For instance, in Grisons a high number of electoral districts ensures the proportional representation of the territorially segmented Italian- and Romansch-speaking minorities. On the other hand, in small electoral districts the proportional representation of political parties is more compromised. In half of the cantonal electoral districts more than 10 percent (or even 20 percent) of the vote is necessary in order to win a seat, making electoral success difficult for smaller parties.²⁴

Political Executive

Generally, cantonal executives are structured in a manner similar to the federal executive. The executive in each canton is a collegial body consisting of representatives of the most important political parties. Each of the five to seven executive members leads one or several departments of the cantonal administration. The number of departments varies among the cantons between five and fourteen. In all the cantons one member of the executive acts as chairperson; this presidency changes every year. The chairperson presides over the meetings of the collegial body but has no particular prerogatives other than to assume the representation of the canton.

The most important difference between the federal and the cantonal executives is the mode of election. While the Federal Council is elected by Parliament, cantonal executives are elected by the people, and majority rule is applied in most of the cantons.²⁵ A candidate must win an absolute majority in the first ballot in order to be elected; in the event of a second ballot, a relative majority is sufficient. In practice, the majority rule is supplemented by the idea of “voluntary proportionality.” This is a political arrangement between the parties to mutually respect a proportional share of the government seats. Although majority rule is formally applied for the elections, the strongest parties offer only a limited number of candidates, thus leaving some seats to the other parties. This leads to a collegial body in which all bigger parties are included in the executive in proportion to their share of the votes. Such agreements among political parties have two objectives: (1) they reduce the risk for each party of their favourite candidate not being elected, and (2) they enhance the legitimacy of cantonal governments, which thus stand a better chance of preserving their legislative projects in the face of a popular vote.

Constitutional rules protect specific minorities in some cantons. For instance, in Berne one seat is reserved for the French-speaking Jura minority, and in Valais at least one seat is granted for the three German-speaking districts.²⁶

Due to the fact that the executive and legislative branches are elected independently of each other, the independence of the executive branch of the cantons vis-à-vis cantonal parliaments is even more pronounced than is the case in the federal sphere. Thus, following Arend Lijphart,²⁷ cantonal political systems are also types of mixed democracies. In contrast to the federation, however, they manifest two important elements of a presidential system: direct election by the people and executive independence from Parliament. With the exception of the very small cantons, the presidents of the governments are not elected by the people but, as is the case with the federal government, by Parliament and by strict rotation.

Direct Democracy

Another important difference between the federal and the cantonal political systems is the extended use of direct democracy in the cantons. While the design of the instruments of direct democracy varies substantially among the cantons, there are three general points of contrast with the federal sphere that influence the functions of both Parliament and the executive branch.

First, contrary to the federal arrangement, the popular initiative in the cantons is applied not only for constitutional amendments but also for modifications of ordinary law. Second, in many cantons the referendum is used to challenge both general laws and individual parliamentary decisions (e.g., a particular financial resolution involving high costs). Finally, in some cantons the people can theoretically recall the government and/or the parliament. This option was used very rarely in the nineteenth century and always failed in the popular vote (e.g., in 1852 in Berne). In the twentieth century no examples are known; therefore, in practice, the instrument no longer exists.

Administration

Most federal policies are implemented by the cantons and the communes. No parallel federal administration with its own regional services, agencies, or courts has been established. This form of cooperation between the federation and the cantons is controversial. In the past, federal legislation was of a rather general nature, leaving considerable room for cantonal implementation. Today, when uniform implementation is required, federal legislation is more detailed, and cantonal actors have to report to federal authorities on its implementation. Nevertheless, cantons typically take the view that their autonomy is endangered if federal legislation is too detailed, giving them no leeway in implementation and, thus, leading to informal centralization. They regard the margin within which they implement federal legislation as an expression of political autonomy – something that ensures their quasi-statehood. Cantons consider the right to be different as a central element of federalism. For these reasons, the cantons want

the federal government to enact minimal standards and goals but not the detailed procedures prescribing the means by which these goals are to be reached.

Judicature

The cantons are free to organize their own judicial system. There is no central influence or control on the structure of the judicature and appointments to the courts.²⁸ Hence, judicial organization varies considerably among the cantons. For instance, in some cantons the people elect the judges; in other cantons the judges are appointed by the parliament, the superior court, or the government. While the number of judges in the cantonal courts varies substantially between the cantons, the period of office typically lasts from two to six years. In recent decades the most important development has been the creation of administrative courts. Review of the legality of administrative action has increasingly been moved from the executive branch to administrative courts in order to increase the judicature's independence from politics.

All cantonal legal systems are multilevel systems, leading ultimately to the Federal Court, which acts as the last national appellate instance on most issues. Every canton is divided into regional court districts integrating a group of communes. Furthermore, in most of the cantons, each commune elects one or several magistrates to deal with minor local conflicts.

LOCAL GOVERNMENT

Much of what has been said about the cantons applies also to the 2,867 communes.²⁹ Communes have been guaranteed autonomy in the federal Constitution since the revision of 1999 (Article 50).³⁰ No commune can be merged with another against its political will. Communes have their own political organization and their own policies with regard to the production and distribution of local public goods. Most important, they have a large degree of autonomy with regard to questions of local taxes and financial policy generally. There are some variations in the degree of autonomy, depending on cantonal law.

There are two basic models of political organization that apply in the communes, according to their size. In larger communities, the institutional structure is quite similar to that of the cantons: the people elect a communal parliament and a collegiate body as the executive.³¹ Decision making and legislative processes are complemented by instruments of direct democracy, both referenda and popular initiatives. As in the federal sphere, the collegial body normally represents an oversized coalition of several political parties, which leads to power sharing in the communes. In bigger communes, the members of the council are full-time professionals and have a professional administration at hand.

In small communes the political organization is mainly non-professional. The administration relies partly or entirely on the service of volunteers. The same can be said for the executive body, which is also a collegial council. Its members fulfill their tasks mainly on a part-time basis and, generally, are not paid for this work. In these small communes a type of "assembly democracy" is practised. Instead of a parliament, all Swiss citizens of a commune participate in a general assembly. This assembly meets once or twice a year to decide on the budget and on the most important issues.

INTERGOVERNMENTAL RELATIONS

In the middle of the nineteenth century divisions between federalist and anti-federalist forces led to a clear distinction and division of power between the federation and the cantons. This concept, however, has subsequently been altered through intensive cooperation between the three spheres of the federal system.

At the core of Swiss cooperative federalism are equalization policies for the different cantons and their regions, following the idea of a commonwealth of all regions and of mutuality.³² Institutionally, this

approach involves different levels of government cooperating in the same policy program. An example is social policy, in which parts of the social security system are national while other parts are local.³³ In many policy fields the federation is responsible for the general legislation while cantons and communes are in charge of special legislation and implementation.

Cooperative federalism has given rise to a broad system of financial compensation between the federation, the cantons, and the communes, which comprises revenue-sharing as well as financial compensation through block grants and subsidies.³⁴ These arrangements serve to adjust differences in financial revenue and expenditure between rich and poor cantons or communes, or to pay the bigger cantons for the services they provide for smaller cantons (which the latter do not provide for themselves).

In addition to these vertical intergovernmental arrangements, there are a number of horizontal instruments of cooperative federalism that enable the cantons to take collective action without the involvement of the federation. One can distinguish two types: intercantonal organizations and agencies and concordats representing a form of contractual cooperation.

The traditional instruments of horizontal cooperative federalism are the concordats: intercantonal treaties functioning as instruments of regional cooperation. Concordats allow subnational units to regulate administrative, legislative, and judicial matters among themselves. However, the instrument has significant limitations. Concordats are most effective if all cantons subscribe, but it is difficult to achieve unanimity. For example, for a long time a concordat was unable to overcome the traditional particularity of half of the cantons starting the school year in spring and the other half starting in autumn. Nevertheless, the instrument of the concordat can serve the needs of cooperation. The cantons are typically driven by the same continuing interest of defending their own competences and of discouraging federal government regulation.

Intercantonal organizations and agencies play an important role as consultative institutions. They provide a forum to share experiences and to coordinate tasks between cantonal politicians and officials. Even 20 years ago one could find more than 500 intercantonal organizations, with the Conference of Cantonal Ministers traditionally being the most influential.³⁵ In the last ten years the Conference of the Cantonal Executives (*Konferenz der Kantonsregierungen* or *Conférence des gouvernements cantonaux*) has been established as yet another organization. It can be understood as an attempt on the part of the cantons to extend their direct influence over the federation, especially in the field of foreign policy, and to ensure a collective and coordinated definition of problems. In the 1990s, when questions of Switzerland's relations to the European Union were a permanent and salient political issue, the cantons significantly increased their influence in foreign policy. Today, this body has not only become a successful lobby group for the cantons but is also an important dialogue partner of the federal government. The conference has certainly strengthened the voice of the cantons, but only in areas of common cantonal interest and then only if they are sufficiently in agreement to speak with one voice.

As the conference cannot issue binding guidelines but only recommendations, it relies on consensus among the cantons and their willingness to take action. This happened, for example, in relation to the reform of the tax system in 2003, when the cantons feared they would lose an important part of their tax revenues. The conference mobilized against the changes. For the first time in history, eleven cantonal parliaments decided to use the possibility of a cantonal referendum to enforce a popular vote. Supported by considerable resistance from other sources, it resulted in a clear majority of the population rejecting the reform and thus helped to put the cantons' claim through.

Locally, one finds a similar pattern of collaboration. Communes organize themselves to decide or to implement policies on a regional basis. Their principal motive is similar: communes prefer to coordinate among themselves rather than to delegate competences to the canton.

Both the traditional form of horizontal cooperation in concordats and such newer forms of collaboration as the Conference of the Cantonal Executives are sometimes criticized on the ground of legitimacy. They are based on collaboration between executives, and cantonal legislatures, representing the people, are not participants. This becomes especially problematic if cooperative arrangements have a substantive effect on the decisions that are made, as is the case with the Conference of Cantonal Executives. However, conference decisions only have the status of recommendations and are not binding.

Hence, formally at least, parliamentary supremacy is not at risk. Final legislative decisions remain in the hands of the cantonal parliaments.

Yet there is a consensus that the participation of parliaments in the processes of intergovernmental relations should be strengthened because intercantonal cooperation, be it in the form of concordats or intercantonal agencies, is increasingly being used in an ever-widening range of fields. Intercantonal cooperation among parliaments is therefore an important issue on the federalist agenda. The first attempts to involve the parliaments in intercantonal cooperation have been made in the French-speaking cantons. In these six cantons there now are joint meetings of the parliaments in order to discuss general questions arising from specific concordats. These arrangements are rather cumbersome, however, and are criticized for not being very effective.

ANALYSIS AND CONCLUSIONS

Constitutional framework

Daniel J. Elazar once said: “Federalism is not only a structure but also a process and a culture.”³⁶ This is true of Swiss federalism. On one hand, federalism is firmly anchored in the Swiss Constitution, which set out basic characteristics that have not changed. Two, in particular, should be mentioned: first, the Constitution guarantees utmost autonomy for the cantons, which retain their right to be different and which participate strongly in the decision making of the federal state; second, Swiss political institutions continue to combine the two modes of decision making - “one person, one vote” and an “equal vote for every subnational unit.” As a result, the small cantons have a disproportionately large influence. On the other hand, Swiss federalism has processes and cultures that go beyond constitutional law. These might be summarized as follows:

Power sharing: Institutionally, federalism is linked to a wider system of power sharing. Federalism is part of the model of “consensus democracy,” which can deal better with the conflicts of a mainly territorially segmented or multicultural society than can other modes of governance.

Non-centralization of powers: The different preferences of the cantons forbid strong processes of centralization. In this first decade of the twenty-first century the federal government controls only about 30 percent of the entire public budget. Cantonal politicians are eager to have their say in federal decision-making processes.

Vertical division of powers: In the nineteenth century federalism was a political compromise that allowed Swiss nation building, despite the strong opposition of rural and Roman Catholic forces. While cultural cleavages have become less important, the autonomy of the cantons has remained an essential element of the political culture. Cantons want to be different; they defend their powers; and they reject the idea of a strong federal government. Thus federalism has kept its significance as an instrument for the vertical division of powers.

Solidarity: A second element of political culture is solidarity and cooperation between the cantons. A complex system of horizontal and vertical financial equalization is designed to compensate for economic inequalities between rich and poor regions. This is the antithesis of economic federalism, which aims to encourage competition between subnational governments.

Swiss federalism is therefore an example of a complex combination of shifting elements: formal and informal, legal and political, and last, but not least, culture and history.

Challenges

There are (at least) three sets of challenges for the future of the institutional arrangements for federalism in Switzerland. The first concerns cantonal autonomy and decentralization. Clearly, in the Swiss context, both offer some important advantages. Most obviously, they allow for regional solutions, responding to specific cantonal interests and concerns. Cantonal and local governments are closer to the people than is

the federal government and are therefore more responsive to the preferences of the regional people. This is especially true under a regime of direct democracy, which allows citizens to express their preferences in cantonal and local legislation. Also, the governments of the different spheres can learn from each other. As new tasks for government emerge, for example, some cantons play a pioneer role. A process of trial and error takes place, the best practice is developed, and finally the other cantons (and probably even the federal government) share the experience produced by the pioneers. In addition, as the federation depends on the willingness of the cantons to implement policy, the voice of the cantons carries weight in the federal legislative process. Thus, decisions in Switzerland are always the result of a compromise and of cooperation not only between the political parties but also between the different cantonal preferences. Cantonal autonomy also allows for cultural difference and diversity of political preferences. The logic of Swiss federalism is as follows: if there are no uniform preferences, then it simply does not make sense to centralize. Federalism, however, has to accept the political differences and the costs associated with them. The rationale for the system is not economic (with an emphasis on efficiency) but political (with an emphasis on understanding federalism as a political project).

However, if federalism is judged from an economic rather than from a political point of view, Switzerland's extensive decentralization may be considered inefficient in that it produces fragmented solutions, with every canton (or even commune) having costly differences in its own system of public services. Examples can be found in the areas of environment, traffic, and employment, where it does not make sense for every canton to implement its own policies. Thus, the opportunity to live differently can result in a lack of coordination and the rejection of necessary centralization.³⁷ In recent years some experts have proposed reducing the number of cantons from 26 to seven. However, the defeat of an official project to merge the two cantons of Geneva and Vaud shows that, at the moment, such a revolutionary idea has no political prospects. Other experts pretend that the major problem is not, in fact, the number of cantons and their differences but, rather, the unequal size of the cantons. Thus, some of the cantons or communes do not have enough resources and capacities to deliver technically complex services. Practice shows that they buy these from stronger or bigger cantons. However, the difficulty with this solution is that, at least in this case, the small cantons can no longer live up to their political autonomy.

Another challenge for the future concerns the potential for small minorities to block federal decision making. While, thanks to mutual learning processes, innovation on the part of the cantons is effective, innovation on the part of the federal government is sometimes difficult. As a federal policy can always be challenged by a referendum, an acceptable compromise with the people and the cantons must be found. To this end, direct democracy and federalist institutions provide strong veto points in the decision-making processes of the federation. As a result, decisions close to the status quo are favoured. In the worst case scenario, there is no decision at all.

A current topic of political discussion can be understood within the context of this last point. It involves the question of whether the powerful position of the small cantons in popular votes, with its need for a double majority, should be reduced or even eliminated. Indeed, in a popular vote, where the double majority rule is mandatory, the federalist principle of "every canton carries the same weight" can contradict the democratic principle of "one person, one vote." Theoretically, against the wishes of an 89 percent democratic majority, a small "federalist" majority of 11 percent of the Swiss people can block a constitutional amendment. There have been only six cases during the last 20 years in which a cantonal majority has overruled a popular majority, and so this is far from being the rule in practice. Nevertheless, in such a case, one citizen from Uri may outweigh more than 30 citizens from Zurich to achieve a majority of the cantons. Yet a reform that involved cutting back the disproportionate influence of the small cantons would most probably be defeated by the opposition of those small cantons. This example illustrates that it is easier to grant minorities institutional privileges than to take them back. Federalization, in this respect, is a one-way street.

Conversely, the urban regions generally and the cities in particular are in a rather weak position within the federal system. Although many problems of the economically important urban regions are salient, these regions, in contrast to the periphery, lack an institutionalized voice. Within this context,

initiatives to enable better coordination between the cities, in order to extend their influence, need to be progressively developed.

The final challenge concerns the relationship between the federation and the cantons. Historically, there was a clear division of powers between the federation and the cantons. Today, the complexity of modern infrastructure, society, and the economy makes it necessary to cooperate. Most federal legislation is implemented by the cantons, accompanied by extensive financial arrangements and revenue sharing. This cooperation, however, is not free from problems. On one hand, one can argue that the implementation of federal tasks increases the political influence and weight of the cantons; on the other hand, cantons feel that their autonomy is in danger if federal legislation becomes too detailed, giving them no leeway and thus leading to informal centralization. The cantons are sceptical of uniform policies: it was the possibility of living differently from each other that led to the success of the federalist solution.

In conclusion, 150 years ago the new Swiss federalist structure was a political compromise between the progressive, mostly Protestant radicals who wanted a strong nation-state and the rural, mostly Roman Catholic conservatives who wanted no federation. Federalism was, therefore, a key to nation building and to the development of a Swiss identity. Meanwhile, Switzerland has developed into a modern society in which most historical conflicts have vanished. But still, the peoples in the cantons want to be different from each other. Cantonal autonomy and self-determination are highly praised values. This is much more important than is the fact that some federalist structures and procedures have severe shortcomings. In this sense, symbolic and integrating values are strong barriers to institutional reforms, even though the latter would make sense from a rational point of view.

Notes

¹ <<http://www.cia.gov/cia/publications/factbook/geos/sz.html#Econ>>, viewed 17 December 2005.

² The 26th canton, Jura, was founded in 1978, when the fight for the separation and autonomy of the northern part of the second largest canton, Bern, ended in the creation of a new canton. There are now 22 full cantons and six so-called half-cantons. The half-cantons are Basel Stadt, Basel Land, Appenzell Ausserrhoden, Appenzell Innerhoden, Obwalden, and Nidwalden. They are historically peculiar in two relevant respects. Their votes count only as a half in calculating the cantonal votations in federal referenda, and they each have only one delegate in the Council of States.

³ For further discussion of Swiss federalism, compare Nicolas Schmitt, "Swiss Confederation," Constitutional Origins, Structure, and Change in Federal Countries, ed. John Kincaid and G. Alan Tarr (Montreal and Kingston: McGill-Queen's University Press, 2005), 348-380; Thomas Fleiner, "Swiss Confederation," Distribution of Powers and Responsibilities in Federal Countries, ed. Akhtar Majeed, Ronald L. Watts, and Douglas M. Brown (Montreal and Kingston: McGill-Queen's University Press, 2005), 266-294; and Daniel J. Elazar, ed., "Federalism in Switzerland," *Publius: The Journal of Federalism* 23 (Spring 1993): entire issue.

⁴ As the word "confederation" in the international use denotes a loose system of independent states, the official title of Switzerland, "Swiss Confederation," is not exactly correct. In this chapter we therefore use the term "Swiss federation."

⁵ While the Canton of Basle-Town in 2000 had a national income of CHF 88,477 per capita, the national income of the Canton Obwalden only equalled CHF 32,872 per capita: Swiss Federal Statistical Office, Statistical Yearbook of Switzerland (Zürich: NZZ Verlag, 2003), 249.

⁶ Ulrich Klöti, "The Government," Handbook of Swiss Politics, ed. Ulrich Klöti, Peter Knoepfel, Hanspeter Kriesi, Wolf Linder, and Yannis Papadopoulos (Zürich: NZZ Verlag, 2004), 152.

⁷ The six half-cantons that for historical reasons have one representative only are an exception.

⁸ If the total resident population, including foreigners, is considered, the percentages change slightly: 65 percent German, 20 percent French, 6 percent Italian, and 0.5 percent Romansch.

⁹ Wolf Linder, Swiss Democracy: Possible Solutions to Conflict in Multicultural Societies, 2nd ed. (Houndmills/Basingstoke/Hampshire/New York: Palgrave Macmillan, 2002), 19-21.

¹⁰ The success of federalism in solving the minority conflicts depends largely on the fact that the minorities are mainly territorially segmented in Switzerland. Federalism is not a solution for all minorities -- only for territorially concentrated minorities that are able to constitute a political majority in a subnational unit. See also Yannis

Papadopoulos, "Connecting Minorities to the Swiss Federal System: A Frozen Conception of Representation and the Problem of 'Requisite Majority,'" Publius: The Journal of Federalism 32 (Summer 2004): 47-65.

¹¹ Wolf Linder, "Federalism: The Case of Switzerland," Decentralization and Power Shift, ed., Alexander B. Brillantes, Simeon A. Ilago, Eden B. Santiago, and Bootes P. Esden (UN Development Programme Philippines, 2003). The modern function of these principles is discussed in Thomas Fleiner, Walter Kälin, Wolf Linder, and Cheryl Saunders, "Federalism, Decentralisation and Conflict Management in Multicultural Societies," Federalism in a Changing World: Learning from Each Other, ed. Raoul Blindenbacher and Arnold Koller (Montreal and Kingston: McGill-Queen's University Press, 2003), 197-215.

¹² Cultural nations comprise people of a specific origin, history, religion, or language. The classification is based on hope in the integrating effect of a common history, origin, or ethnicity. This idea of a nation-state made of "one language, one culture, one religion" largely influenced nation building in France, Italy, and Germany during the nineteenth century. In contrast, a political nation is defined as one in which all the people are citizens, irrespective of language, origin, and the like. In this case, the founders of the Constitution hope that the polity will have an integrating effect. See Urs Altermatt, das Fanal von Sarajevo, Ethnonationalismus in Europa (Zürich: Neue Zürcher Zeitung, 1996), 29-34.

¹³ Ivo D. Duchacek, "Consociational Cradle of Federalism," Publius: The Journal of Federalism 15 (Spring 1985): 44.

¹⁴ Interestingly, the cantons also have a right to foreign relations within their sphere of power. Similar observations can be made about the relations between cantonal parliaments and executives in these cases.

¹⁵ If one chamber proposes changes to a bill, it is sent back to the other chamber before being returned to the first chamber. If the differences still remain after this second round of discussion, the chambers appoint delegates to a joint committee, or *Einigungskonferenz*, which tries to find a common solution.

¹⁶ Wolf Linder, Schweizerische Demokratie. Institutionen – Prozesse – Perspektiven. 2. Auflage (Bern/Stuttgart/Wien: Paul Haupt, 2005), 202-203.

¹⁷ Annina Jegher, Der Einfluss von institutionellen, entscheidungspolitischen und inhaltlichen Faktoren auf die Gesetzgebungstätigkeit der Schweizer Bundesversammlung (Bern: Paul Haupt, 1999).

¹⁸ Reto Wiesli and Wolf Linder, Repräsentation, Artikulation und Durchsetzung kantonaler Interessen in Stände- und Nationalrat, Studie im Auftrag der Parlamentsdienste (Bern: Institut für Politikwissenschaft, 2000).

¹⁹ Alois Riklin and Alois Ochsner, "Parlament," Handbuch Politisches System der Schweiz, ed. Ulrich Klöti (Bern: Haupt, II, 1984), 79.

²⁰ Andreas Ladner, "The Political Parties and the Party System," Handbook of Swiss Politics, ed. Ulrich Klöti, Peter Knoepfel, Hanspeter Kriesi, Wolf Linder, and Yannis Papadopoulos (Zürich: NZZ, 2004), 210-211.

²¹ cf. BGE 129|217 and BGE 129|217.

²² Actually, direct taxes in Switzerland are mostly cantonal and local, while indirect taxes (VAT) are federal.

²³ The exceptions are the cantons of Appenzell Inner Rhodes and the Grisons, which still apply the winner-takes-all rule to elect representatives.

²⁴ Adrian Vatter, Kantonale Demokratien im Vergleich: Entstehungsgründe, Interaktionen und Wirkungen politischer Institutionen in den Schweizer Kantonen (Opladen: Leske and Budrich, 2002), 121.

²⁵ The exceptions are the cantons of Ticino and Zug, where the proportional rule has been applied since the nineteenth century.

²⁶ Georg Lutz and Dirk Strohmann, Wahl- und Abstimmungsrecht in den Kantonen (Bern/Stuttgart/Wien: Paul Haupt, 1998), 27.

²⁷ Arend Lijphart, ed., Parliamentary versus Presidential Government (Oxford: Oxford University Press, 1992).

²⁸ Exceptions are some specialized administrative tribunals (e.g., for rents) for which some central influence exists.

²⁹ Andreas Ladner, "Die Schweizer Gemeinden im Wandel: Konvergenz oder Divergenz?" Swiss Political Science Review 9 (Spring 2003): 233-259.

³⁰ Until 1999 the communes were not mentioned in the Constitution, but the Federal Court protected their autonomy in the manner of a fundamental right.

³¹ The canton of Neuchâtel, where the communal parliament appoints the executive council, is an exception.

³² Linder, Swiss Democracy, 62.

³³ Provisions for retirement are an example. The federal old-age insurance scheme provides a basic pension for everybody who has contributed to it. However, if a retired citizen is too poor to live on the federal allowance, she or

he may get additional grants from the canton, or even national assistance, which is in the competence of the communes.

³⁴ Linder, Swiss Democracy, 54-55, 62.

³⁵Max Frenkel, "Interkantonale Institutionen und Politikbereiche," Handbuch Politisches System Schweiz. Band 3: Föderalismus, ed. Raimund E. Germann and Ernest Weibel (Bern: Paul Haupt, 1986), 330.

³⁶Daniel J. Elazar, "Federalism and Consociational Regimes," Publius: The Journal of Federalism 15 (Spring 1985): 22.

³⁷Linder, Swiss Democracy, 158.